

Stricken language would be deleted from and underlined language would be added to present law.  
Act 389 of the Regular Session

State of Arkansas  
91st General Assembly  
Regular Session, 2017

*As Engrossed: H2/16/17*  
**A Bill**

SENATE BILL 280

By: Senator E. Williams  
*By: Representative Lynch*

### **For An Act To Be Entitled**

AN ACT PROHIBITING CRUELTY TOWARDS CERTAIN TYPES OF  
EQUINES UNDER THE CRIMINAL LAW; AND FOR OTHER  
PURPOSES.

### **Subtitle**

PROHIBITING CRUELTY TOWARDS CERTAIN TYPES  
OF EQUINES UNDER THE CRIMINAL LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-4-702(b), concerning enhanced penalties for offenses committed in the presence of a child, is amended to read as follows:

(b) Any person who commits the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine under § 5-62-104 may be subject to an enhanced sentence of an additional term of imprisonment not to exceed five (5) years if the offense is committed in the presence of a child.

SECTION 2. Arkansas Code § 5-4-703(a)(16), concerning additional fines for offenses committed in the presence of a child, is amended to read as follows:

(16) Aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104; or

SECTION 3. Arkansas Code § 5-62-104 is amended to read as follows:

5-62-104. Offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine



- Definition.

(a) A person commits the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine if he or she knowingly tortures any dog, cat, or ~~horse~~ equine.

(b) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or ~~horse~~ equine:

(1) Shall be guilty of a Class D felony;

(2) May be ordered to perform up to four hundred (400) hours of community service; and

(3) Both:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(c) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or ~~horse~~ equine for a subsequent offense occurring within five (5) years from a previous offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class C felony and shall be:

(1) Ordered to receive a psychiatric or psychological evaluation; and

(2) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(d) The cost of any psychiatric or psychological evaluation, counseling, or treatment ordered under this section shall be paid by the person ordered to receive the psychiatric or psychological evaluation, counseling, or treatment.

(e) For purposes of this section, each alleged act of the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine committed against more than one (1) dog, cat, or ~~horse~~ equine may constitute a separate offense.

(f)(1) For the sole purpose of calculating the number of previous offenses under subsection (b) of this section, all offenses of aggravated cruelty to a dog, cat, or ~~horse~~ equine that are committed against one (1) or

more dogs, cats, or ~~horses~~ equines, as part of the same criminal episode are a single offense.

(2) As used in this section, "criminal episode" means an act that constitutes the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, committed by a person against one (1) or more dogs, cats, or ~~horses~~ equines within a period of twenty-four (24) hours.

SECTION 4. Arkansas Code § 5-62-106(d) and (e), concerning the disposition of an animal, are amended to read as follows:

(d)(1) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, and if that person is also the owner of the animal subject to the offense, the court shall divest the person of ownership of the animal, and the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(2) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, and the person is not the owner of the animal subject to the offense, the court shall order that the animal be returned to the owner, if practicable, or, if not practicable, the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems

appropriate.

(e) The court shall order an animal seized under this section returned to the owner if the owner:

- (1) Filed a petition under subsection (a) of this section;
- (2) Paid all reasonable expenses incurred in caring for the animal; and
- (3) Is found not guilty of the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, or the proceedings against the owner have otherwise terminated.

SECTION 5. Arkansas Code § 5-62-107 is amended to read as follows:

5-62-107. Immunity for reporting cruelty to animals or aggravated cruelty to a dog, cat, or ~~horse~~ equine.

Except as provided in § 5-54-122, a person who in good faith reports a suspected incident of cruelty to animals, § 5-62-103, or aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, to a local law enforcement agency or to the Department of Arkansas State Police is immune from civil and criminal liability for reporting the incident.

SECTION 6. Arkansas Code § 5-62-111 is amended to read as follows:

5-62-111. Prevention of cruelty.

(a) A person may lawfully interfere to prevent the imminent or ongoing perpetration of any offense of cruelty to animals, § 5-62-103, or aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, upon any animal in his or her presence.

(b) Upon a conviction, a person who knowingly interferes with or obstructs a person acting under subsection (a) of this section is guilty of a Class A misdemeanor.

SECTION 7. Arkansas Code § 5-62-116 is amended to read as follows:

5-62-116. Diseased animals – Sale.

(a) Upon conviction, a person who knowingly sells or offers for sale, or uses, or exposes, or causes or procures to be sold or offered for sale, or used, or to be exposed, any ~~horse~~ equine or other animal having the disease known as “glanders” or “farcy” or any other contagious or infectious disease

known to the person to be dangerous to human life, or that is diseased past recovery, is guilty of a Class A misdemeanor.

(b)(1) Upon discovery or knowledge of the animal's condition, any animal having glanders or farcy shall be humanely killed by the owner or person having charge of the animal, or arrangements shall be made to have the animal euthanized.

(2) Upon conviction, an owner or person having charge of the animal and knowingly omitting or refusing to comply with this section is guilty of a Class A misdemeanor.

SECTION 8. Arkansas Code § 5-62-126 is amended to read as follows:  
5-62-126. Acts of God – Emergency conditions.

An owner of an animal or person in control of an animal is not guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, if the owner of the animal or the person in control of the animal was reasonably precluded as the result of an act of God or emergency conditions from engaging in an act or omission that might prevent an allegation of the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104.

SECTION 9. Arkansas Code § 9-28-409(e)(3)(KK), concerning criminal record and child maltreatment checks, is amended to read as follows:

(K)(K) Offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104;

*/s/E. Williams*

**APPROVED: 03/06/2017**