

1 HB439
2 126556-4
3 By Representatives Williams (J), Fincher, Ison, Patterson,
4 Gaston, Baughn, Harper, Burdine, Williams (P), Collins,
5 Tuggle, Davis, Love, Nordgren, England, Farley, Ball,
6 Johnson (W), Weaver and Todd
7 RFD: Judiciary
8 First Read: 28-FEB-12

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8 SYNOPSIS: Under existing law, there is no requirement
9 to report torture or cruelty to an animal.

10 This bill would require certain persons to
11 report torture or cruelty to an animal.

12 This bill would define the terms "torture"
13 and "cruelty."

14 This bill would provide that a person with
15 direct knowledge to make a report of animal abuse
16 may not be subjected to civil or criminal
17 liability.

18 This bill would provide that a person or
19 entity who fails to report torture or cruelty to an
20 animal would be subject to a fine.

21 Amendment 621 of the Constitution of Alabama
22 of 1901, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of
24 Alabama of 1901, as amended, prohibits a general
25 law whose purpose or effect would be to require a
26 new or increased expenditure of local funds from
27 becoming effective with regard to a local

1 governmental entity without enactment by a 2/3 vote
2 unless: it comes within one of a number of
3 specified exceptions; it is approved by the
4 affected entity; or the Legislature appropriates
5 funds, or provides a local source of revenue, to
6 the entity for the purpose.

7 The purpose or effect of this bill would be
8 to require a new or increased expenditure of local
9 funds within the meaning of the amendment. However,
10 the bill does not require approval of a local
11 governmental entity or enactment by a 2/3 vote to
12 become effective because it comes within one of the
13 specified exceptions contained in the amendment.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 Relating to animal abuse; to require certain persons
20 to report torture or cruelty to an animal; to define the terms
21 "torture" and "cruelty"; to provide that a person who has
22 direct knowledge to make a report of animal abuse may not be
23 subjected to civil or criminal liability; to provide that a
24 person who fails to report torture or cruelty to an animal
25 would be subject to a fine; and in connection therewith would
26 have as its purpose or effect the requirement of a new or
27 increased expenditure of local funds within the meaning of

1 Amendment 621 of the Constitution of Alabama of 1901, now
2 appearing as Section 111.05 of the Official ReCompilation of
3 the Constitution of Alabama of 1901, as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. (a) The Legislature finds and declares
6 that:

7 (1) Reputable studies in the fields of psychology,
8 sociology, and criminology have consistently demonstrated that
9 violent offenders often have childhood or adolescent histories
10 involving serious, intentional acts of animal cruelty, and one
11 study indicates that animal abuse may be characteristic of the
12 developmental histories of up to 66 percent of violent
13 offenders.

14 (2) The Federal Bureau of Investigation has
15 recognized the link between animal abuse and later acts of
16 violence since the 1970s, when its analysis of serial killers
17 revealed that most had killed or tortured animals during their
18 lives.

19 (3) More recent studies have revealed consistent
20 patterns of animal cruelty and abuse in the criminal histories
21 of perpetrators of other forms of violence, including child
22 abuse, spousal abuse, and elder abuse, and a ground breaking
23 study conducted in 1983 of 53 New Jersey families being
24 treated for child abuse found that, in 88 percent of these
25 families, animal abuse was also present.

26 (4) Studies in this area have additionally found a
27 common history of documented animal abuse among sexually

1 violent offenders, with one study showing that nearly one-half
2 of rapists and almost one-third of pedophiles had also engaged
3 in acts of cruelty towards animals.

4 (5) As reported by the Humane Society of the United
5 States and the American Society for the Prevention of Cruelty
6 to Animals, persons who participate in animal fighting - a
7 lucrative business endeavor that centers around the ongoing
8 and sadistic abuse, torture, and killing of innocent animals
9 for profit - are also often participants in other crimes that
10 are associated with violence, including drug and gun crimes,
11 gambling offenses, and homicide offenses, and many such
12 offenders will continue to participate in animal fighting
13 endeavors and violence-related offenses even after raids,
14 arrests, and jail time.

15 (6) The American Psychiatric Association has listed
16 animal abuse in its diagnostic manual of major psychiatric
17 disorders, as a symptom of Conduct Disorder, which is a
18 disorder that is characterized by a general and ongoing
19 disregard for societal rules and the feelings of others.

20 (7) Because evidence shows that persons who commit
21 animal abuse offenses are likely to engage in recidivist acts
22 of violence against either or both animals or humans, such
23 persons pose a clear and significant threat to public safety,
24 and, as a result, have a reduced expectation of privacy upon
25 being convicted of or found civilly liable for these offenses.

26 (8) Knowledge of an animal abuse offender's presence
27 in the community could be a significant factor in protecting

1 oneself, one's family members, and one's companion animals or
2 livestock, from recidivist acts of the offender, and the
3 technology afforded by the Internet would make this
4 information readily accessible to private persons and
5 entities, and enable them to undertake appropriate remedial
6 precautions to prevent or avoid placing potential victims at
7 risk.

8 (9) A system requiring the registration of animal
9 abuse offenders, which utilizes complete and accurate data,
10 will provide law enforcement with additional information that
11 may be critical to preventing and appropriately responding to
12 incidents of violence in the community, and will allow law
13 enforcement officials to alert the public as to the presence
14 of these violent offenders within the community, when
15 necessary to promote the public safety.

16 (10) The registration of animal abuse offenders and
17 the public disclosure of information pertaining to these
18 offenders is a necessary and appropriate means of assuring the
19 protection of the public and at-risk animals, and such
20 registration and disclosure of information is not intended to
21 punish or additionally sanction the offender's behavior, or to
22 allow or encourage members of the public to seek retribution
23 against the offender, or to be used for any purposes other
24 than the protection of the public and at-risk animals, and
25 should not be construed to be punitive.

26 (b) The Legislature therefore determines that, in
27 order to further the Legislature's primary interest of

1 protecting vulnerable populations from potential harm, it is
2 both necessary and proper to provide for the establishment and
3 implementation of an animal abuser registry system that will
4 require the continuing registration of animal abuse offenders,
5 and allow for the public disclosure of certain information
6 pertaining to these offenders in order to promote the public
7 safety.

8 Section 2. (a) For purposes of this act, the
9 following words shall have the following meanings:

10 (1) CRUELTY. Every act, omission, or neglect,
11 including abandonment, where unnecessary or unjustifiable pain
12 or suffering is caused on or to an animal or where unnecessary
13 pain or suffering is allowed to continue to an animal, as
14 determined by the State Veterinarian or other veterinarian.

15 (2) TORTURE. The act of doing physical injury to an
16 animal by the infliction of inhumane treatment or gross
17 physical abuse meant to cause the animal intensive or
18 prolonged pain or serious physical injury, or thereby causing
19 death due to the act.

20 (b) For purposes of this act, the terms "cruelty"
21 and "torture" do not include conduct which is otherwise
22 permitted under the agricultural or animal husbandry laws,
23 customs, or practices of this state or the United States,
24 including, but not limited to, catfish, cattle, goats, horses,
25 pigs, hogs, poultry, sheep, pen-raised game, and other farm
26 animals. Furthermore, the terms "cruelty" and "torture" do not
27 include conduct which is permitted under the fishing, hunting,

1 and trapping laws, customs, or practices of this state or the
2 United States.

3 Section 3. All veterinarians, doctors, physicians,
4 surgeons, medical examiners, coroners, dentists, osteopaths,
5 optometrists, chiropractors, podiatrists, nurses, school
6 teachers and officials, peace officers, law enforcement
7 officials, pharmacists, social workers, day care workers or
8 employees, mental health professionals, members of the clergy
9 as defined in Rule 505 of the Alabama Rules of Evidence,
10 licensed veterinarians, and veterinary technicians or any
11 other individuals who have direct knowledge that an animal
12 with which the individual, with whom the professional is
13 providing services to, has come in contact has been subjected
14 to torture or cruelty shall within one business day report the
15 suspected abuse to a law enforcement agency, either orally or
16 in writing, and shall include, if known, all of the following:

17 (1) The number or identification and description of
18 each animal involved.

19 (2) The name, address, and telephone number of the
20 owner or other person responsible for the care of the animal.

21 (3) The nature and extent of the suspected torture
22 or cruelty.

23 (4) Any explanation given for the torture or
24 cruelty.

25 (5) Any other information that the person making the
26 report believes may be helpful in establishing the cause of

1 the suspected torture or cruelty or the identity of the person
2 causing the abuse.

3 Section 4. (a) A law enforcement agency receiving a
4 report of suspected torture or cruelty of an animal shall
5 investigate the nature and cause of the suspected torture or
6 cruelty.

7 (b) If the law enforcement agency finds reasonable
8 cause to believe that torture or cruelty has occurred, the law
9 enforcement agency shall process the case in the same manner
10 as any other criminal investigation.

11 Section 5. (a) A person or entity that acts in good
12 faith and has reasonable grounds for making a report of
13 torture or cruelty is not liable in any civil or criminal
14 proceeding brought as a result of making the report.

15 (b) The requirement of this act does not include
16 conduct which is otherwise permitted under the agricultural or
17 animal husbandry laws, customs, or practices of this state or
18 the United States, including, but not limited to, catfish,
19 cattle, goats, horses, pigs, hogs, poultry, sheep, pen-raised
20 game, and other farm animals. Furthermore, the requirement of
21 this act does not include conduct which is permitted under the
22 fishing, hunting, and trapping laws, customs, or practices of
23 this state or the United States.

24 Section 6. Failure to file a report of torture or
25 cruelty of an animal as required by this act shall be
26 punishable by a fine of not less than one thousand dollars
27 (\$1,000).

1 Section 7. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

9 Section 8. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.