

House Bill 2719

Sponsored by Representative MCLAIN (at the request of Jeannine Murrell) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies crime of aggravated animal abuse in the first degree to include maliciously causing physical injury to animal. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Requires person convicted of certain animal crimes to register with law enforcement agencies. Requires disclosure of registration information on request and authorizes disclosure via Internet.

Imposes registration fee and continuously appropriates fee moneys to Department of State Police for purposes of Act.

Creates crime of failure to report as animal abuser. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to crimes committed against animals; creating new provisions; amending ORS 105.597,
3 132.320, 167.322 and 192.848; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 167.322 is amended to read:

6 167.322. (1) A person commits the crime of aggravated animal abuse in the first degree if the
7 person:

8 (a) Maliciously kills an animal; or

9 (b) [*Intentionally or knowingly tortures*] **Maliciously causes physical injury to** an animal.

10 (2) Aggravated animal abuse in the first degree is a Class C felony and the Oregon Criminal
11 Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

12 (3) As used in this section,[:]

13 [(a)] "maliciously" means intentionally acting with a depravity of mind and reckless and wanton
14 disregard of life.

15 [(b)] "*Torture*" means an action taken for the primary purpose of inflicting pain.]

16 **SECTION 2.** ORS 105.597 is amended to read:

17 105.597. In addition to any places described in ORS 105.555, the following are declared to be
18 nuisances and shall be enjoined and abated as provided in ORS 105.550 to 105.600:

19 (1) Any place being used on a continuous, regular or sporadic basis for carrying out any of the
20 following activities, except with regard to activities and animals described under ORS 167.335,
21 whether or not carried out with a particular mental state:

22 (a) Causing physical injury or serious physical injury, both as defined in ORS 167.310, or cruelly
23 causing death.

24 (b) **Maliciously** killing [*maliciously*] **or maliciously causing physical injury** as defined in ORS
25 167.322 [*or committing torture as defined in ORS 167.322*].

26 (c) Failing to provide minimum care as defined in ORS 167.310.

27 (d) Possession of a domestic animal as defined in ORS 167.310 by a person described under ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 167.332.

2 (2) Any place appearing to be vacant at which a domestic animal or equine, both as defined in
3 ORS 167.310, are present and have been left without provision for minimum care as defined in ORS
4 167.310.

5 (3) Any place being used on a continuous, regular or sporadic basis for carrying out any of the
6 following activities, whether or not carried out with a particular mental state:

7 (a) Training or keeping an animal for use in an exhibition of fighting as defined in ORS 167.355.

8 (b) Preparing for, occupation for, promoting, conducting or participating in an exhibition of
9 fighting as defined in ORS 167.355.

10 (c) Possessing, keeping, breeding, training, buying, selling or offering for sale a fighting dog as
11 defined in ORS 167.360.

12 (d) Promoting, conducting, participating in or performing services in furtherance of a dogfight
13 as defined in ORS 167.360.

14 (e) Occupation, keeping or use of the place for a dogfight as defined in ORS 167.360.

15 (f) Exchanging for commerce raw fur of a domestic cat or dog as defined in ORS 167.390, or
16 products that include the fur of a domestic cat or dog, if the fur is obtained through a process that
17 kills or maims the domestic cat or dog.

18 (g) Possessing, keeping, rearing, training, buying, selling or offering for sale a fighting bird as
19 defined in ORS 167.426.

20 (h) Promoting, conducting, participating in or performing services in furtherance of a cockfight
21 as defined in ORS 167.426.

22 (i) Occupation, keeping or use of the place for a cockfight as defined in ORS 167.426.

23 (4) Any place being used on a continuous, regular or sporadic basis for carrying out any of the
24 following activities:

25 (a) Sexual assault of an animal as described in ORS 167.333.

26 (b) Possession of dogfighting paraphernalia as described under ORS 167.372.

27 (c) Selling or offering for sale equipment other than paraphernalia described in paragraph (b)
28 of this subsection with the intent that the equipment be used to train a fighting dog as defined in
29 ORS 167.360.

30 (d) Possessing, controlling or otherwise having charge at the same time of more than 50 sexually
31 intact dogs that are two or more years of age for the primary purpose of reproduction.

32 (e) Manufacturing, buying, selling, bartering, exchanging, possessing or offering for sale a gaff
33 or slasher as those terms are defined in ORS 167.426, or other sharp implement designed for at-
34 tachment to the leg of a fighting bird as defined in ORS 167.426, with the intent that the gaff, slasher
35 or other sharp implement be used in a cockfight as defined in ORS 167.426.

36 (f) Manufacturing, buying, selling, bartering, exchanging, possessing or offering for sale equip-
37 ment other than equipment described in paragraph (e) of this subsection with the intent that the
38 equipment be used to train or handle a fighting bird as defined in ORS 167.426 or to enhance the
39 fighting ability of a fighting bird.

40 **SECTION 3. As used in sections 3 to 8 of this 2017 Act:**

41 (1) **“Animal abuser” means a person convicted of an animal crime.**

42 (2) **“Animal crime” means:**

43 (a) **Animal abuse in the first degree as defined in ORS 167.320;**

44 (b) **Aggravated animal abuse in the first degree as defined in ORS 167.322;**

45 (c) **Assaulting a law enforcement animal as defined in ORS 167.339;**

1 (d) Involvement in animal fighting as defined in ORS 167.355;

2 (e) Dogfighting as defined in ORS 167.365;

3 (f) Participation in dogfighting as defined in ORS 167.370;

4 (g) Possessing dogfighting paraphernalia as defined in ORS 167.372;

5 (h) Cockfighting as defined in ORS 167.428;

6 (i) Participation in cockfighting as defined in ORS 167.431;

7 (j) Sexual assault of an animal as defined in ORS 167.333; or

8 (k) An attempt to commit a crime described in paragraphs (a) to (j) of this subsection.

9 (3) "Another United States court," "attends," "correctional facility" and "works" have
10 the meanings given those terms in ORS 163A.005.

11 (4) "Convicted" includes a finding of guilty except for insanity.

12 **SECTION 4.** (1) A person who resides in this state and has been convicted of an animal
13 crime, or a statutory counterpart to an animal crime in another jurisdiction, shall make an
14 initial report, in person, to the Department of State Police, a city police department or a
15 county sheriff's office as follows:

16 (a) If the person is convicted of an animal crime in this state and, as a result of the
17 conviction, the person is:

18 (A) Discharged, released or placed on probation or any other form of supervised or con-
19 ditional release, the person shall make an initial report in the county in which the person is
20 discharged, released or placed on probation or other form of supervised or conditional re-
21 lease, no later than 10 days after the date the person is discharged, released or placed on
22 probation or other form of supervised or conditional release.

23 (B) Confined in a correctional facility, the person shall make the initial report in the
24 county in which the person is discharged or otherwise released from the facility, no later
25 than 10 days after the date the person is discharged or otherwise released.

26 (b) If the person is convicted of a statutory counterpart to an animal crime in another
27 United States court and, at the time of the conviction, the person is:

28 (A) Not a resident of this state, the person shall make the initial report to the Depart-
29 ment of State Police in Marion County, Oregon, no later than 10 days after the date the
30 person moves into this state.

31 (B) A resident of this state, the person shall make the initial report to the Department
32 of State Police in Marion County, Oregon, no later than 10 days after the date the person is
33 discharged, released or placed on probation or any other form of supervised or conditional
34 release by the other United States court or, if the person is confined in a correctional facility
35 by the other United States court, no later than 10 days after the date the person is dis-
36 charged or otherwise released from the facility.

37 (2) After making the initial report required by subsection (1) of this section, the person
38 shall report, in person, to the Department of State Police, a city police department or a
39 county sheriff's office, in the county of the person's last reported residence:

40 (a) Within 10 days of a change of residence; and

41 (b) Once each year within 10 days of the person's birth date.

42 (3) When a person who has been convicted of an animal crime, or a statutory counterpart
43 to an animal crime in another jurisdiction, resides in another state and attends school or
44 works in this state, the person shall report, in person, to the Department of State Police, a
45 city police department or a county sheriff's office, in the county in which the person attends

1 school or works, no later than 10 days after:

2 (a) The first day of school attendance or the 14th day of employment; and

3 (b) A change in school enrollment or employment.

4 (4) The law enforcement agency to which a person reports under this section shall complete an animal crime registration form concerning the person when the person reports under this section. As part of the registration and reporting requirements of this section:

7 (a) The person required to report shall:

8 (A) Provide the information necessary to complete the animal crime registration form and sign the form as required; and

10 (B) Submit to the requirements described in paragraph (b) of this subsection.

11 (b) The Department of State Police, the city police department or the county sheriff's office:

13 (A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

15 (B) May photograph the person's face or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

18 (C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.

20 (5) The obligation to report under this section is terminated if the conviction that gave rise to the obligation is reversed or vacated.

22 **SECTION 5.** (1) The Department of State Police shall create an animal crime registration form for use by law enforcement agencies under section 4 (4) of this 2017 Act. The form must include a place to list all the names used by the animal abuser.

25 (2) No later than three working days after registering an animal abuser under section 4 of this 2017 Act, a city police department or a county sheriff's office shall:

27 (a) Send the original copy of the registration form to the Department of State Police; or

28 (b) Forward the registration information to the Department of State Police by any means and, within 10 working days after registration, send the original copy of the registration form to the Department of State Police.

31 (3) The Department of State Police shall enter into the Law Enforcement Data System the animal crime information obtained from the animal crime registration forms. The department shall remove from the Law Enforcement Data System the animal crime information obtained from the animal crime registration form submitted under sections 3 to 8 of this 2017 Act if the conviction or adjudication that gave rise to the registration obligation is reversed or vacated or if the registrant is pardoned.

37 (4) The Department of State Police may adopt rules to carry out the provisions of sections 3 to 8 of this 2017 Act.

39 **SECTION 6.** (1) The Department of State Police, a city police department or a county sheriff's office shall release, upon request, any information that may be necessary to protect the public concerning animal abusers who reside in a specific area or concerning a specific animal abuser.

43 (2) The Department of State Police may use the Internet to make the following information about an animal abuser available to the public:

45 (a) The person's name and address;

1 (b) A physical description of the person;

2 (c) The type of vehicle that the person is known to drive;

3 (d) Any conditions or restrictions of the person's probation, parole, post-prison super-
4 vision or conditional release;

5 (e) A description of the person's primary and secondary targets;

6 (f) A description of the person's method of offense;

7 (g) A current photograph of the person;

8 (h) If the person is under supervision, the name or telephone number of the person's
9 parole and probation officer; and

10 (i) If the person is not under supervision, contact information for the Department of
11 State Police.

12 (3) The Department of State Police shall assess a person who is required to report under
13 section 4 of this 2017 Act and who is not under supervision a fee of \$70 each year. Moneys
14 received by the Department of State Police under this subsection are continuously appro-
15 priated to the department for the purpose of carrying out the department's duties under
16 sections 3 to 8 of this 2017 Act.

17 **SECTION 7.** (1) A person who is required to report in accordance with the applicable
18 provisions of section 4 of this 2017 Act and who has knowledge of the reporting requirements
19 commits the crime of failure to report as an animal abuser if the person:

20 (a) Fails to make the initial report to a law enforcement agency;

21 (b) Fails to report following a change of school enrollment or employment status;

22 (c) Moves to a new residence and fails to report the move and the person's new address;

23 (d) Fails to make an annual report;

24 (e) Fails to provide the accurate information necessary to complete the animal crime
25 registration form;

26 (f) Fails to sign the animal crime registration form as required; or

27 (g) Fails to submit to fingerprinting or to having a photograph taken of the person's face
28 or any identifying scars, marks or tattoos.

29 (2) It is an affirmative defense in a prosecution under:

30 (a) Subsection (1)(a) of this section that a person required to report under section 4
31 (1)(b)(A) or (B) of this 2017 Act reported, in person, to the Department of State Police, a city
32 police department or a county sheriff's office, in the county of the person's residence, if the
33 person otherwise complied with all reporting requirements.

34 (b) Subsection (1)(c) of this section that the person reported, in person, to the Depart-
35 ment of State Police, a city police department or a county sheriff's office, in the county of
36 the person's new residence, if the person otherwise complied with all reporting requirements.

37 (3)(a) Except as otherwise provided in paragraph (b) of this subsection, failure to report
38 as an animal abuser is a Class C felony.

39 (b) Failure to report as an animal abuser under subsection (1)(d) or (e) of this section is
40 a Class A misdemeanor.

41 **SECTION 8.** (1) The purpose of sections 3 to 8 of this 2017 Act is to assist law enforce-
42 ment agencies in preventing the commission of future animal crimes.

43 (2) When the court imposes sentence upon a person convicted of an animal crime, the
44 court shall ensure that the person completes a form that documents the person's obligation
45 to report under section 4 of this 2017 Act. No later than three working days after the person

1 **completes the form required by this subsection, the court shall ensure that the form is sent**
 2 **to the Department of State Police.**

3 **(3) At the initial intake for incarceration or release on any type of supervised release,**
 4 **the person shall complete a form that documents the person’s obligation to report under**
 5 **section 4 of this 2017 Act. The Department of State Police shall develop and provide the form.**
 6 **No later than three working days after the person completes the form, the person responsi-**
 7 **ble for the intake process shall send the form to the Department of State Police.**

8 **(4) A public agency and its employees are immune from liability, both civil and criminal,**
 9 **for the good faith performance of the agency’s or the employee’s duties under sections 3 to**
 10 **8 of this 2017 Act.**

11 **SECTION 9.** ORS 132.320 is amended to read:

12 132.320. (1) Except as provided in subsections (2) to (12) of this section, in the investigation of
 13 a charge for the purpose of indictment, the grand jury shall receive no other evidence than such
 14 as might be given on the trial of the person charged with the crime in question.

15 (2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician,
 16 firearms identification expert, examiner of questioned documents, fingerprint technician, or an ex-
 17 pert or technician in some comparable scientific or professional field, concerning the results of an
 18 examination, comparison or test performed by such person in connection with a case which is the
 19 subject of a grand jury proceeding, shall, when certified by such person as a report made by such
 20 person or as a true copy thereof, be received in evidence in the grand jury proceeding.

21 (3) An affidavit of a witness who is unable to appear before the grand jury shall be received in
 22 evidence in the grand jury proceeding if, upon application by the district attorney, the presiding
 23 judge for the judicial district in which the grand jury is sitting authorizes the receipt after good
 24 cause has been shown for the witness’ inability to appear. An affidavit taken in another state or
 25 territory of the United States, the District of Columbia or in a foreign country must be
 26 authenticated as provided in ORS chapter 194 before it can be used in this state.

27 (4) A grand jury that is investigating a charge of criminal driving while suspended or revoked
 28 under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of
 29 a report of the peace officer concerning the peace officer’s investigation of the violation of ORS
 30 811.182 by the defendant.

31 (5) A grand jury may receive testimony of a witness by means of simultaneous television trans-
 32 mission allowing the grand jury and district attorney to observe and communicate with the witness
 33 and the witness to observe and communicate with the grand jury and the district attorney.

34 (6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992,
 35 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the de-
 36 fendant failed to appear as required by law and setting forth facts sufficient to support that con-
 37 clusion.

38 (7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence
 39 through the testimony of one peace officer involved in the criminal investigation under grand jury
 40 inquiry information from an official report of another peace officer involved in the same criminal
 41 investigation concerning the other peace officer’s investigation of the matter before the grand jury.
 42 The statement of a person suspected of committing an offense or inadmissible hearsay of persons
 43 other than the peace officer who compiled the official report may not be presented to a grand jury
 44 under this paragraph.

45 (b) If the official report contains evidence other than chain of custody, venue or the name of the

1 person suspected of committing an offense, the grand jurors must be notified that the evidence is
 2 being submitted by report and that the peace officer who compiled the report will be made available
 3 for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace
 4 officer under this paragraph, the peace officer may present sworn testimony by telephone if requir-
 5 ing the peace officer’s presence before the grand jury would constitute an undue hardship on the
 6 peace officer or the agency that employs or utilizes the peace officer.

7 (8)(a) A grand jury that is investigating a charge of failure to report as a sex offender under
 8 ORS 163A.040 may receive in evidence certified copies of the form required by ORS 163A.050 (2) and
 9 sex offender registration forms and an affidavit of a representative of the Oregon State Police, as
 10 keepers of the state’s sex offender registration records, certifying that the certified copies of the
 11 forms constitute the complete record for the defendant.

12 **(b) A grand jury that is investigating a charge of failure to report as an animal abuser**
 13 **under section 7 of this 2017 Act may receive in evidence certified copies of the forms required**
 14 **by section 8 of this 2017 Act and animal crime registration forms and an affidavit of a rep-**
 15 **resentative of the Oregon State Police, as keepers of the state’s animal crime registration**
 16 **records, certifying that the copies of the forms constitute the complete record for the de-**
 17 **fendant.**

18 (9) The grand jury shall weigh all the evidence submitted to it; and when it believes that other
 19 evidence within its reach will explain away the charge, it should order such evidence to be
 20 produced, and for that purpose may require the district attorney to issue process for the witnesses.

21 (10) A grand jury that is investigating a charge of driving while under the influence of
 22 intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer re-
 23 garding any or all of the following:

24 (a) Whether the defendant was driving.

25 (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.

26 (c) The administration of tests under any provision of ORS chapter 813 and the results of such
 27 tests.

28 (d) The officer’s observations of physical or mental impairment of the defendant.

29 (11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial in-
 30 stitution for the purpose of authenticating records of the financial institution.

31 (b) As used in this subsection, “financial institution” means a financial institution as defined in
 32 ORS 706.008, an entity that regularly issues, processes or services credit cards or any other com-
 33 parable entity that regularly produces financial records.

34 (12)(a) A defendant who has been arraigned on an information alleging a felony charge that is
 35 the subject of a grand jury proceeding and who is represented by an attorney has a right to appear
 36 before the grand jury as a witness if, prior to the filing of an indictment, the defense attorney serves
 37 upon the district attorney written notice requesting the appearance. The notice shall include an
 38 electronic mail address at which the defense attorney may be contacted.

39 (b) A district attorney is not obligated to inform a defendant that a grand jury proceeding in-
 40 vestigating charges against the defendant is pending, in progress or about to occur.

41 (c) Upon receipt of the written notice described in paragraph (a) of this subsection, the district
 42 attorney shall provide in writing the date, time and location of the defendant’s appearance before
 43 the grand jury to the defense attorney at the indicated electronic mail address. In the event of a
 44 scheduling conflict, the district attorney shall reasonably accommodate the schedules of the de-
 45 fendant and the defense attorney if the accommodation does not delay the grand jury proceeding

beyond the time limit for holding a preliminary hearing described in ORS 135.070 (2).

(d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection, in order to accommodate a scheduling conflict, upon the request of the defendant the time limit for holding a preliminary hearing described in ORS 135.070 (2) may be extended by a maximum of an additional five judicial days and the district attorney and the defendant may stipulate to an extension of greater duration. During a period of delay caused by a scheduling conflict under this subsection, ORS 135.230 to 135.290 shall continue to apply concerning the custody status of the defendant.

SECTION 10. ORS 192.848 is amended to read:

192.848. (1) The Attorney General may not disclose the actual address or telephone number of a program participant, except under either of the following circumstances:

(a) Upon receipt of a court order signed by a judge pursuant to a finding of good cause. Good cause exists when disclosure is sought for a lawful purpose that outweighs the risk of the disclosure and, in the case of a request for disclosure received from a federal, state or local law enforcement agency, district attorney or other public body, when information is provided to the court that describes the official purpose for which the actual address or telephone number of the program participant will be used. If a judge finds that good cause exists, the terms of the court order shall address, as much as practicable, the safety and protection of the program participant. In cases where the Attorney General has not received prior notice of a court order, not later than three business days after receiving the order, the Attorney General may object to the order and request a hearing before the judge who signed the order.

(b) Where the program participant is required to disclose the actual address of the program participant as part of a registration for:

(A) Sex offenders as required under ORS 163A.005 to 163A.235[.]; or

(B) Animal abusers as required under sections 3 to 8 of this 2017 Act.

(2) A person to whom an actual address or telephone number of a program participant has been disclosed pursuant to a court order may not disclose the actual address or telephone number to any other person unless permitted to do so by order of the court.

(3) The Attorney General shall notify a program participant within one business day after the Attorney General discloses an actual address under subsection (1)(a) of this section.

(4) Upon request by a public body, the Attorney General may verify whether or not a person is a program participant when the verification is for official use only.

SECTION 11. (1) The amendments to ORS 105.597 and 167.322 by sections 1 and 2 of this 2017 Act apply to conduct occurring on or after the effective date of this 2017 Act.

(2) Sections 3 to 8 of this 2017 Act and the amendments to ORS 132.320 and 192.848 by sections 9 and 10 of this 2017 Act apply to persons convicted of an animal crime that is committed on or after the effective date of this 2017 Act.

SECTION 12. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.