

# House Bill 3248

Sponsored by Representatives CLEM, WITT; Representatives BARKER, BOONE (at the request of Carol Jones)

## 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**.

Renames crime of interfering with an assistance, a search and rescue or a therapy animal to interfering with an assistance, a search and rescue or a therapy animal in the second degree. Expands crime and increases penalties to maximum of five years' imprisonment, \$125,000 fine, or both, if person has certain previous convictions at time of offense.

Creates crime of interfering with an assistance, a search and rescue or a therapy animal in the first degree. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both. Increases penalties to maximum of 10 years' imprisonment, \$250,000 fine, or both, if person has certain previous convictions at time of offense. Adds crime to list of offenses for which instrumentalities of crime may be criminally forfeited.

Specifies costs and expenses included in economic damages for purposes of restitution for conviction of interfering with an assistance, a search and rescue or a therapy animal.

## A BILL FOR AN ACT

1  
2 Relating to interfering with trained animals; creating new provisions; and amending ORS 30.822,  
3 131.602 and 167.352.

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

5 **SECTION 1. Sections 3 to 6 of this 2017 Act shall be known and may be cited as "Kyoto's**  
6 **Law."**

7 **SECTION 2. (1) Sections 3 to 6 of this 2017 Act are added to and made a part of ORS**  
8 **167.310 to 167.390.**

9 **(2) ORS 167.352 is added to and made a part of sections 3 to 6 of this 2017 Act.**

10 **SECTION 3. As used in sections 3 to 6 of this 2017 Act:**

11 **(1) "Assistance animal" has the meaning given that term in ORS 659A.143.**

12 **(2) "Maliciously" has the meaning given that term in ORS 167.322.**

13 **(3) "Physical injury" has the meaning given that term in ORS 167.310.**

14 **(4) "Search and rescue animal" means an animal that has been professionally trained for,**  
15 **and is actively used for, search and rescue purposes.**

16 **(5) "Serious physical injury" has the meaning given that term in ORS 167.310.**

17 **(6) "Therapy animal" means an animal other than an assistance animal that has been**  
18 **professionally trained for, and is actively used for, therapy purposes.**

19 **(7) "Torture" has the meaning given that term in ORS 167.322.**

20 **SECTION 4. ORS 167.352 is amended to read:**

21 167.352. (1) A person commits the crime of interfering with an assistance, a search and rescue  
22 or a therapy animal **in the second degree** if the person intentionally, [or] knowingly **or**  
23 **recklessly:**

24 (a) [*Injures or*] Attempts to injure an animal the person knows or reasonably should know is an  
25 assistance animal, a search and rescue animal or a therapy animal;

26 (b) Interferes with, **or allows an animal in the person's care or control to interfere with,**

**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 an assistance animal while the assistance animal is being used to provide assistance to a person  
2 with a disability; [or]

3 (c) Interferes with, **or allows an animal in the person’s care or control to interfere with,**  
4 a search and rescue animal or a therapy animal while the animal is being used for search and rescue  
5 or therapy purposes[.]; **or**

6 (d) **Allows an animal in the person’s care or control to cause physical injury to an animal**  
7 **the person knows or reasonably should know is an assistance, a search and rescue or a**  
8 **therapy animal.**

9 [(2) *As used in this section, “assistance animal” has the meaning given that term in ORS*  
10 *659A.143.*]

11 [(3) *As used in this section and ORS 30.822:*]

12 [(a) *“Search and rescue animal” means that the animal has been professionally trained for, and is*  
13 *actively used for, search and rescue purposes.*]

14 [(b) *“Therapy animal” means an animal other than an assistance animal that has been profes-*  
15 *sionally trained for, and is actively used for, therapy purposes.*]

16 [(4)] (2)(a) **Except as provided in paragraph (b) of this subsection,** interfering with an as-  
17 sistance, a search and rescue or a therapy animal is a Class A misdemeanor.

18 (b) **Interfering with an assistance, a search and rescue or a therapy animal in the second**  
19 **degree is a Class C felony if the person has a prior conviction under this section or section**  
20 **5 of this 2017 Act at the time of the offense.**

21 **SECTION 5.** (1) **A person commits the crime of interfering with an assistance, a search**  
22 **and rescue or a therapy animal in the first degree if the person:**

23 (a) **Maliciously kills an assistance, a search and rescue or a therapy animal;**

24 (b) **Intentionally or knowingly tortures an assistance, a search and rescue or a therapy**  
25 **animal;**

26 (c) **Intentionally, knowingly or recklessly causes physical injury to an animal the person**  
27 **knows or reasonably should know is an assistance, a search and rescue or a therapy animal;**  
28 **or**

29 (d) **Recklessly allows an animal in the person’s care or control to cause serious physical**  
30 **injury to or kill an animal the person knows or reasonably should know is an assistance, a**  
31 **search and rescue or a therapy animal.**

32 (2)(a) **Except as provided in paragraph (b) of this subsection,** interfering with an assist-  
33 **ance, a search and rescue or a therapy animal in the first degree is a Class C felony.**

34 (b) **Interfering with an assistance, a search and rescue or a therapy animal in the first**  
35 **degree is a Class B felony if the person has a prior conviction under this section or ORS**  
36 **167.352 at the time of the offense.**

37 **SECTION 6.** For the purposes of determining restitution under ORS 137.101 to 137.109 for  
38 a violation of ORS 167.352 or section 5 of this 2017 Act:

39 (1) **If the crime involving the animal results in the death of the animal or if injuries**  
40 **sustained prevent the animal from returning to service as an assistance animal, the eco-**  
41 **nomic damages include, but are not limited to, the replacement value of an equally trained**  
42 **animal, without any differentiation for the age or the experience of the animal. In addition,**  
43 **the owner may recover any other costs and expenses, including, but not limited to, costs of**  
44 **temporary replacement services, whether provided by another animal or a person, incurred**  
45 **as a result of the loss of or injury to the animal.**

1       **(2) If the crime involving the animal results in injuries from which the animal recovers**  
 2 **and returns to service, economic damages include, but are not be limited to, the veterinary**  
 3 **medical expenses, costs of temporary replacement services, whether provided by another**  
 4 **animal or a person, and any other costs and expenses incurred by the owner as a result of**  
 5 **the injury to the animal.**

6       **SECTION 7.** ORS 30.822 is amended to read:

7       30.822. (1) In addition to and not in lieu of any other penalty provided by state law, the owner  
 8 of a search and rescue animal or a therapy animal, as defined in [ORS 167.352] **section 3 of this**  
 9 **2017 Act**, may bring an action for economic and noneconomic damages against any person who  
 10 steals or, without provocation, attacks the search and rescue animal or therapy animal. The owner  
 11 may also bring an action for such damages against the owner of any animal that, without provoca-  
 12 tion, attacks a search and rescue animal or therapy animal. The action authorized by this subsection  
 13 may be brought by the owner even if the search and rescue or therapy animal was in the custody  
 14 or under the supervision of another person when the theft or attack occurred.

15       (2) If the theft of or unprovoked attack on a search and rescue animal or therapy animal de-  
 16 scribed in subsection (1) of this section results in the death of the animal or the animal is not re-  
 17 turned or if injuries sustained in the theft or attack prevent the animal from returning to service  
 18 as a search and rescue animal or therapy animal, the measure of economic damages shall include,  
 19 but need not be limited to, the replacement value of an equally trained animal, without any differ-  
 20 entiation for the age or the experience of the animal.

21       (3) If the theft of or unprovoked attack on a search and rescue animal or therapy animal de-  
 22 scribed in subsection (1) of this section results in injuries from which the animal recovers and re-  
 23 turns to service, or if the animal is stolen and is recovered and returns to service, the measure of  
 24 economic damages shall include, but need not be limited to, the costs of temporary replacement  
 25 services, veterinary medical expenses and any other costs and expenses incurred by the owner as  
 26 a result of the theft of or injury to the animal.

27       (4) No cause of action arises under this section if the owner or the person having custody or  
 28 supervision of the search and rescue animal or therapy animal was committing a criminal or civil  
 29 trespass at the time of the attack on the animal.

30       (5) The court may award reasonable attorney fees to the prevailing party in an action under this  
 31 section.

32       **SECTION 8.** ORS 131.602, as amended by section 6, chapter 47, Oregon Laws 2016, is amended  
 33 to read:

34       131.602. The crimes to which ORS 131.550 (12)(b) applies are:

- 35       (1) Bribe giving, as defined in ORS 162.015.
- 36       (2) Bribe receiving, as defined in ORS 162.025.
- 37       (3) Public investment fraud, as defined in ORS 162.117.
- 38       (4) Bribing a witness, as defined in ORS 162.265.
- 39       (5) Bribe receiving by a witness, as defined in ORS 162.275.
- 40       (6) Simulating legal process, as defined in ORS 162.355.
- 41       (7) Official misconduct in the first degree, as defined in ORS 162.415.
- 42       (8) Assisting another person to commit suicide, as defined in ORS 163.193.
- 43       (9) Custodial interference in the second degree, as defined in ORS 163.245.
- 44       (10) Custodial interference in the first degree, as defined in ORS 163.257.
- 45       (11) Buying or selling a person under 18 years of age, as defined in ORS 163.537.

- 1 (12) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- 2 (13) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- 3 (14) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- 4 (15) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- 5 (16) Possession of materials depicting sexually explicit conduct of a child in the first degree, as
- 6 defined in ORS 163.688.
- 7 (17) Possession of materials depicting sexually explicit conduct of a child in the second degree,
- 8 as defined in ORS 163.689.
- 9 (18) Theft in the second degree, as defined in ORS 164.045.
- 10 (19) Theft in the first degree, as defined in ORS 164.055.
- 11 (20) Aggravated theft in the first degree, as defined in ORS 164.057.
- 12 (21) Extortion, as defined in ORS 164.075.
- 13 (22) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 14 (23) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 15 (24) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 16 (25) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 17 (26) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 18 (27) Laundering a monetary instrument, as defined in ORS 164.170.
- 19 (28) Engaging in a financial transaction in property derived from unlawful activity, as defined
- 20 in ORS 164.172.
- 21 (29) Burglary in the second degree, as defined in ORS 164.215.
- 22 (30) Burglary in the first degree, as defined in ORS 164.225.
- 23 (31) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 24 (32) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 25 (33) Arson in the second degree, as defined in ORS 164.315.
- 26 (34) Arson in the first degree, as defined in ORS 164.325.
- 27 (35) Computer crime, as defined in ORS 164.377.
- 28 (36) Robbery in the third degree, as defined in ORS 164.395.
- 29 (37) Robbery in the second degree, as defined in ORS 164.405.
- 30 (38) Robbery in the first degree, as defined in ORS 164.415.
- 31 (39) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 32 (40) Unlawful recording of a live performance, as defined in ORS 164.869.
- 33 (41) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 34 (42) A violation of ORS 164.886.
- 35 (43)(a) Endangering aircraft in the first degree, as defined in ORS 164.885.
- 36 (b) Endangering aircraft in the second degree, as defined in ORS 164.885.
- 37 (44) Interference with agricultural operations, as defined in ORS 164.887.
- 38 (45) Forgery in the second degree, as defined in ORS 165.007.
- 39 (46) Forgery in the first degree, as defined in ORS 165.013.
- 40 (47) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 41 (48) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 42 (49) Criminal possession of a forgery device, as defined in ORS 165.032.
- 43 (50) Criminal simulation, as defined in ORS 165.037.
- 44 (51) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 45 (52) Fraudulent use of a credit card, as defined in ORS 165.055.

- 1 (53) Negotiating a bad check, as defined in ORS 165.065.
- 2 (54) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 3 (55) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 4 (56) Falsifying business records, as defined in ORS 165.080.
- 5 (57) Sports bribery, as defined in ORS 165.085.
- 6 (58) Sports bribe receiving, as defined in ORS 165.090.
- 7 (59) Misapplication of entrusted property, as defined in ORS 165.095.
- 8 (60) Issuing a false financial statement, as defined in ORS 165.100.
- 9 (61) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 10 (62) A violation of ORS 165.543.
- 11 (63) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 12 (64) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 13 (65) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 14 (66) Identity theft, as defined in ORS 165.800.
- 15 (67) A violation of ORS 166.190.
- 16 (68) Unlawful use of a weapon, as defined in ORS 166.220.
- 17 (69) A violation of ORS 166.240.
- 18 (70) Unlawful possession of a firearm, as defined in ORS 166.250.
- 19 (71) A violation of ORS 166.270.
- 20 (72) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or  
21 firearms silencer, as defined in ORS 166.272.
- 22 (73) A violation of ORS 166.275.
- 23 (74) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 24 (75) A violation of ORS 166.370.
- 25 (76) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 26 (77) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 27 (78) Possession of a hoax destructive device, as defined in ORS 166.385.
- 28 (79) A violation of ORS 166.410.
- 29 (80) Providing false information in connection with a transfer of a firearm, as defined in ORS  
30 166.416.
- 31 (81) Improperly transferring a firearm, as defined in ORS 166.418.
- 32 (82) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 33 (83) A violation of ORS 166.429.
- 34 (84) A violation of ORS 166.470.
- 35 (85) A violation of ORS 166.480.
- 36 (86) A violation of ORS 166.635.
- 37 (87) A violation of ORS 166.638.
- 38 (88) Unlawful paramilitary activity, as defined in ORS 166.660.
- 39 (89) A violation of ORS 166.720.
- 40 (90) Prostitution, as defined in ORS 167.007.
- 41 (91) Commercial sexual solicitation, as defined in ORS 167.008.
- 42 (92) Promoting prostitution, as defined in ORS 167.012.
- 43 (93) Compelling prostitution, as defined in ORS 167.017.
- 44 (94) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 45 (95) Unlawful gambling in the second degree, as defined in ORS 167.122.

- 1 (96) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 2 (97) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 3 (98) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 4 (99) Possession of a gambling device, as defined in ORS 167.147.
- 5 (100) Possession of a gray machine, as defined in ORS 167.164.
- 6 (101) Cheating, as defined in ORS 167.167.
- 7 (102) Tampering with drug records, as defined in ORS 167.212.
- 8 (103) A violation of ORS 167.262.
- 9 (104) Research and animal interference, as defined in ORS 167.312.
- 10 (105) Animal abuse in the first degree, as defined in ORS 167.320.
- 11 (106) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 12 (107) Animal neglect in the first degree, as defined in ORS 167.330.
- 13 (108) Interfering with an assistance, a search and rescue or a therapy animal **in the second**
- 14 **degree**, as defined in ORS 167.352.
- 15 (109) Involvement in animal fighting, as defined in ORS 167.355.
- 16 (110) Dogfighting, as defined in ORS 167.365.
- 17 (111) Participation in dogfighting, as defined in ORS 167.370.
- 18 (112) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 19 (113) Interference with livestock production, as defined in ORS 167.388.
- 20 (114) A violation of ORS 167.390.
- 21 (115) Participation in cockfighting, as defined in ORS 167.431.
- 22 (116) A violation of ORS 471.410.
- 23 (117) Failure to report missing precursor substances, as defined in ORS 475.955.
- 24 (118) Illegally selling drug equipment, as defined in ORS 475.960.
- 25 (119) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 26 (120) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 27 (121) A violation of ORS 475.752, if it is a felony or a Class A misdemeanor.
- 28 (122) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 29 (123) A violation of ORS 475.916.
- 30 (124) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 31 (125) A violation of ORS 475.904.
- 32 (126) Misuse of an identification card, as defined in ORS 807.430.
- 33 (127) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
- 34 defined in ORS 807.500.
- 35 (128) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- 36 (129) Using an invalid license, as defined in ORS 807.580.
- 37 (130) Permitting misuse of a license, as defined in ORS 807.590.
- 38 (131) Using another's license, as defined in ORS 807.600.
- 39 (132) Criminal driving while suspended or revoked, as defined in ORS 811.182.
- 40 (133) Aggravated driving while suspended or revoked, as defined in ORS 163.196.
- 41 (134) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
- 42 felony.
- 43 (135) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 44 (136) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- 45 (137) A violation of ORS 180.440 (2) or 180.486 (2).

1 (138) A violation described in ORS 475.806 to 475.894, if it is a felony.

2 (139) Subjecting another person to involuntary servitude in the first degree, as defined in ORS  
3 163.264.

4 (140) Subjecting another person to involuntary servitude in the second degree, as defined in ORS  
5 163.263.

6 (141) Trafficking in persons, as defined in ORS 163.266.

7 (142) Luring a minor, as defined in ORS 167.057.

8 (143) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.

9 (144) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.

10 **(145) Interfering with an assistance, a search and rescue or a therapy animal in the first**  
11 **degree, as defined in section 5 of this 2017 Act.**

12 ~~[(145)]~~ (146) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to  
13 ~~[(144)]~~ (145) of this section if the attempt, conspiracy or solicitation is a felony or a Class A  
14 misdemeanor.

15 **SECTION 9. Sections 5 and 6 of this 2017 Act and the amendments to ORS 167.352 and**  
16 **131.602 by sections 4 and 8 of this 2017 Act apply to offenses committed on or after the ef-**  
17 **fective date of this 2017 Act.**

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