A-Engrossed
House Bill 3384
Ordered by the House April 12
Including House Amendments dated April 12

Sponsored by Representative CONRAD; Representative GOMBERG

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.

[Creates crime of aggravated animal neglect in the first degree. Punishes by maximum of five years’ imprisonment, $125,000 fine, or both.]

Creates crime of interfering with an investigation into an offense against an animal. Punishes by maximum 364 days’ imprisonment, $6,250 fine, or both.

Establishes certain changes related to crime of animal abuse in the first degree.

Establishes certain changes related to crime of aggravated animal abuse in the first degree.

Establishes certain changes related to crime of animal neglect in the first degree.

Prohibits person convicted of violating certain animal cruelty statutes from possessing or residing with animal of same genus against which crime was committed or domestic animal for certain period of time. Allows person subject to prohibition to request changes to prohibition under certain circumstances.

Requires court to impose fine of $100 for each animal on person convicted of certain offenses against animal. Provides that moneys paid as fines must be deposited in Criminal Fine Account for allocation to Proper Animal Husbandry Fund.

Requires [Department of State Police] Oregon State University Extension Service to establish program for awarding grants to organizations that teach proper animal husbandry and animal care to youths.


A BILL FOR AN ACT

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

SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 167.310 to 167.390.

SECTION 2. (1) A person commits the crime of interfering with an investigation into an offense against an animal if the person intentionally or knowingly conceals an animal, transports an animal or takes other action to prevent a peace officer, as defined in ORS 161.015, or a licensed veterinarian from examining an animal suspected of being the subject of a violation under ORS 167.310 to 167.390.

(2) Interfering with an investigation into an offense against an animal is a Class A misdemeanor.

SECTION 3. ORS 167.320 is amended to read:

167.320. (1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person [intentionally, knowingly or] recklessly[;]

[(a)] causes serious physical injury or death to an animal[; or]

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

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(b) Cruelly causes the death of an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, animal abuse in the first degree is a Class C felony if:

(a) The person committing the animal abuse has previously been convicted of one or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322, or the equivalent laws of another jurisdiction;

(b) The person knowingly commits the animal abuse in the immediate presence of a minor child.

For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.

(5) When animal abuse in the first degree is a felony, the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

(6) Notwithstanding subsection (5) of this section, when animal abuse in the first degree is a felony because of circumstances described in subsection (4)(b) of this section, the Oregon Criminal Justice Commission shall classify the offense as crime category 7 of the sentencing guidelines grid.

SECTION 4.

ORS 167.322 is amended to read:

167.322. (1) A person commits the crime of aggravated animal abuse in the first degree if the person intentionally or knowingly:

(a) Maliciously kills an animal; or

(b) Intentionally or knowingly tortures an animal.

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

(3) Notwithstanding subsection (2) of this section, the Oregon Criminal Justice Commission shall classify the offense of aggravated animal abuse in the first degree as crime category 7 of the sentencing guidelines grid if:

(a) The person committing the animal abuse has previously been convicted of one or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.320, or the equivalent laws of another jurisdiction;

(b) The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.

(3) (4) As used in this section[.]

(a) “Maliciously” means intentionally acting with a depravity of mind and reckless and wanton
disregard of life.)

[(b), “torture” means an action taken for the primary purpose of inflicting pain.

SECTION 5. ORS 167.330 is amended to read:

167.330. (1) A person commits the crime of animal neglect in the first degree if, except as other-

wise authorized by law, the person intentionally, knowingly, recklessly or with criminal

negligence:

(a) Fails to provide minimum care for an animal in the person's custody or control and the

failure to provide care results in serious physical injury or death to the animal; or

(b) Tethers a domestic animal in the person’s custody or control and the tethering results in

serious physical injury or death to the domestic animal.

(2) Animal neglect in the first degree is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the first degree is a Class

C felony if:

(a) The person committing the offense has previously been convicted of one or more offenses

under this section, ORS 167.325 or the equivalent laws of another jurisdiction;

(b) The offense was part of a criminal episode involving 10 or more animals; or

(c) The person committing the offense acts intentionally, knowingly or recklessly as to

the serious physical injury or death of the animal; or

(d) The person knowingly commits the offense in the immediate presence of a minor child.

For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the

neglect is seen or directly perceived in any other manner by the minor child.

(4) The Oregon Criminal Justice Commission shall classify animal neglect in the first degree

under subsection (3) of this section:

(a) As crime category 6 if 10 to 40 animals were the subject of the neglect.

(b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense

is a felony because of circumstances described in subsection (3)(a) or (c) of this section.

SECTION 6. ORS 167.332 is amended to read:

167.332. (1) Except as provided in subsections (3) and (4) of this section:

(a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315,

167.340 or 167.355 or of a misdemeanor under ORS 167.320, 167.325 or 167.330 or this section

may not possess or reside with any animal of the same genus against which the crime was committed

or any domestic animal for a period of five years following entry of the conviction.

(b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322,

167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 may not possess or

reside with any animal of the same genus against which the crime was committed or any domestic

animal for a period of 15 years following entry of the conviction. However, the sentencing court may

reduce the prohibition period if the person successfully completes mental health treatment approved by

the court.

(2) Except as provided in subsection (5)(d) of this section, a person who possesses or resides

with an animal in violation of this section commits a Class C misdemeanor. When a person is

convicted of possessing or residing with an animal in violation of this section, as part of the sen-

tence the court may order the removal of that animal from the person’s possession or residence

and as a condition of the person’s probation may prohibit the person from possessing any animal of

the same genus that the person unlawfully possessed under this section or against which the

The [animal possession] prohibition described in subsection (1) of this section does not apply to a person's first conviction if the person is the owner of a commercial livestock operation and the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed against livestock.

A person subject to [an animal possession] a prohibition described in subsection (1) of this section may file a motion with the sentencing court requesting a waiver of the prohibition. The person must file a sworn affidavit in support of the motion stating that:

(A) The person's conviction leading to the [possession] prohibition involved only livestock;

(B) During the two years before the conviction triggering the prohibition, the person was the owner of a commercial livestock operation;

(C) The person has not been convicted, in the previous five years, of a crime involving animals or domestic violence or a crime where the victim was under 18 years of age; and

(D) The person's conviction was the result of:

(i) Criminal liability for the conduct of another person under ORS 161.155 (2)(c);

(ii) Criminal liability of a corporation as described in ORS 161.170, and the person is a corporation; or

(iii) Animal neglect as described in ORS 167.325 or 167.330 and the person's criminal conduct was not knowing or intentional.

(b) When a person files a motion and affidavit described in paragraph (a) of this subsection, the sentencing court shall hold a hearing. At the hearing, the sentencing court shall grant the motion if the person proves by clear and convincing evidence that:

(A) Continued enforcement of the prohibition against possessing or residing with livestock would result in substantial economic hardship that cannot otherwise be mitigated;

(B) The person no longer poses any risk to animals; and

(C) The person is capable of providing and willing to provide necessary, adequate and appropriate levels of care for all livestock that would come within the person’s custody or control if the petition is granted.

(c) When deciding a motion filed under this subsection, the sentencing court may consider the person’s financial circumstances and mental health in determining whether the person is capable of adequately caring for livestock.

(d) If the sentencing court grants the motion described in this subsection, the waiver of the prohibition against possessing or residing with animals shall apply only to livestock. The sentencing court shall further order that for five years the person must consent to reasonable inspections by law enforcement and the United States Department of Agriculture to ensure the welfare of the livestock under the person’s custody or control. A refusal to consent to a reasonable inspection described in this paragraph is contempt of court and, if the person is found in contempt, shall result in the sentencing court revoking the waiver of the [possession] prohibition.

(e) As used in this subsection, “commercial livestock operation” means a licensed business engaged in the raising, breeding or selling of livestock for profit.
(A) File a sworn affidavit in support of the motion stating that, apart from the underly-
ing offense, the person has not been previously convicted of violating ORS 167.315, 167.333,
167.340, 167.355, 167.365 or 167.428, of a misdemeanor under ORS 167.320, 167.325 or 167.330 or
of a felony under ORS 167.320, 167.325 or 167.330, or the equivalent laws of another jurisdi-
c tion.

(B) Serve a copy of the motion upon the office of the prosecuting attorney who prose-
c cuted the offense.

(b) When a person files a motion described in paragraph (a) of this subsection, the sen-
tencing court shall hold a hearing. At the hearing, the sentencing court shall consider:

(A) The nature of the underlying offense;

(B) The number of animals in the underlying offense;

(C) The degree of violence and criminal intent involved in the underlying offense;

(D) Other criminal and relevant noncriminal behavior of the person both before and after
the underlying conviction;

(E) The period of time during which the person has not reoffended;

(F) Whether the person has successfully completed a court-approved treatment program
related to animal care and welfare; and

(G) Any other relevant factors.

(c) If, after a hearing described in paragraph (b) of this subsection, the sentencing court
is satisfied by clear and convincing evidence that the person no longer poses any risk to
animals under the person's custody or control, the sentencing court shall:

(A) Enter an order terminating the prohibition, reducing the length of the prohibition,
amending the prohibition to exclude certain categories of animals or amending the prohibi-
tion to exclude certain specific animals.

(B) Order that, for five years, the person must consent to reasonable inspections by law
enforcement and the United States Department of Agriculture to ensure the welfare of any
animals under the person's custody or control. A refusal to consent to a reasonable in-
spection described in this subparagraph constitutes contempt of court and, if the person is
found in contempt, shall result in the sentencing court revoking the order described in sub-
paragraph (A) of this paragraph.

(d) A person whose motion under this subsection has been granted and who possesses
or resides with an animal in violation of an order described in paragraph (c)(A) of this sub-
section commits a Class A misdemeanor. If a person is convicted of a violation described in
this paragraph, as part of the sentence the sentencing court may order the removal of the
animal from the person's possession or residence.

SECTION 7. ORS 167.350 is amended to read:

ORS 167.350. (1)(a) In addition to and not in lieu of any other sentence it may impose, a court [may]
shall require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to
forfeit any rights of the defendant in the animal subjected to the violation, and to repay the rea-
sonable costs incurred by a government agency, a humane investigation agency or its agent or a
person prior to judgment in caring for each animal associated with the criminal proceeding.

(b) If a government agency or a humane investigation agency or its agent provides care and
treatment for impounded or seized animals, a court that orders a defendant to repay reasonable
costs of care under paragraph (a) of this subsection may not reduce the incurred cost amount based
on the agency having received donations or other funding for the care.
When the court orders the defendant’s rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant’s rights in the animal to any person who resides with the defendant.

This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime.

In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay any reasonable costs incurred by a government agency, a humane investigation agency or its agent or a person in providing minimum care to the animal that are not included in a repayment order under subsection (1) of this section.

Notwithstanding ORS 161.625 and 161.635, in addition to and not in lieu of any other sentence of fine or imprisonment it may impose, a court shall require a person convicted under ORS 167.310 to 167.390 to pay a fine of $100 for each animal involved in the offense for which the person was convicted.

A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court’s judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in ORS 167.347 and subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435.

SECTION 8. ORS 137.300 is amended to read:

The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the following purposes, in the following order of priority:

(a) Allocations for public safety standards, training and facilities.

(b) Allocations for criminal injuries compensation and assistance to victims of crime and children reasonably suspected of being victims of crime.

(c) Allocations for the forensic services provided by the Oregon State Police, including, but not limited to, services of the Chief Medical Examiner.

(d) Allocations for the maintenance and operation of the Law Enforcement Data System.

After making allocations under subsection (2) of this section, the Legislative Assembly shall allocate moneys from the Criminal Fine Account for the following purposes:
(a) Allocations to the Law Enforcement Medical Liability Account established under ORS 414.815.

(b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

(c) Allocations to the Department of Corrections for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities and drug and alcohol programs.

(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(f) Allocations to the Arrest and Return Account established under ORS 133.865.

(g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

(h) Allocations to the State Court Technology Fund established under ORS 1.012.

(4) Notwithstanding subsections (2) and (3) of this section, the Legislative Assembly shall:

(a) Allocate all moneys deposited into the Criminal Fine Account as payment of fines on Class E violations to the Drug Treatment and Recovery Services Fund established under ORS 430.384.

(b) Allocate all moneys deposited into the Criminal Fine Account as payment of fines imposed under ORS 167.350 (4) to the Proper Animal Husbandry Fund established under section 10 of this 2023 Act.

(5) It is the intent of the Legislative Assembly that allocations from the Criminal Fine Account under subsection (3) of this section be consistent with historical funding of the entities, programs and accounts listed in subsection (3) of this section from monetary obligations imposed in criminal proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be distributed to counties based on the amounts that were transferred to counties by circuit courts during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

(6) Moneys in the Criminal Fine Account may not be allocated for the payment of debt service obligations.

(7) The Department of Revenue shall deposit in the General Fund all moneys remaining in the Criminal Fine Account after the distributions listed in subsections (2), (3) and (4) of this section have been made.

(8) The Department of Revenue shall establish by rule a process for distributing moneys in the Criminal Fine Account. The department may not distribute more than one-eighth of the total biennial allocation to an entity during a calendar quarter.

SECTION 9. (1) The Oregon State University Extension Service shall establish a program for awarding grants to organizations that teach proper animal husbandry and animal care to youths.

(2) The extension service shall establish criteria for awarding grants, keep records of grants awarded and establish requirements for reporting on the use of grant moneys by grantees.

SECTION 10. The Proper Animal Husbandry Fund is established in the State Treasury, separate and distinct from the General Fund. The Proper Animal Husbandry Fund consists of moneys allocated to the fund for payment of fines imposed under ORS 167.350 (4), moneys appropriated or otherwise transferred to the fund by the Legislative Assembly and other amounts deposited in the fund from any source. Moneys in the fund are continuously ap-
propriated to the Higher Education Coordinating Commission for distribution to the Oregon State University Extension Service for purposes described in section 9 of this 2023 Act.

SECTION 11. ORS 430.384 is amended to read:

430.384. (1) The Drug Treatment and Recovery Services Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Drug Treatment and Recovery Services Fund shall be credited to the fund.

(2) The Drug Treatment and Recovery Services Fund shall consist of:

(a) Moneys deposited into the fund pursuant to ORS 305.231;

(b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475C.726 (3)(b);

(d) Moneys allocated from the Criminal Fine Account pursuant to ORS 137.300 (4)(a); and

(e) All other moneys deposited into the fund from any source.

(3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for the purposes set forth in ORS 430.389.

(4)(a) Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or transfer to the fund an amount sufficient to fully fund the grants program required by ORS 430.389.

(b) The total amount deposited and transferred into the fund shall not be less than $57 million for the first year chapter 2, Oregon Laws 2021, is in effect.

(c) In each subsequent year, the minimum transfer amount set forth in paragraph (b) of this subsection shall be increased by not less than the sum of:

(A) $57 million multiplied by the percentage, if any, by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the calendar year 2020; and

(B) The annual increase, if any, in moneys distributed pursuant to ORS 475C.726 (3)(b).

SECTION 12. ORS 105.597 is amended to read:

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

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

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

(b) [Killing maliciously as defined in ORS 167.322 or] Committing torture as defined in ORS 167.322.

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

(d) Possession of a domestic animal as defined in ORS 167.310 by a person described under ORS 167.332.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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