IC 35-46-3

Chapter 3. Offenses Relating to Animals

IC 35-46-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 12 of this chapter by P.L.7-2007 apply only to:

(A) offenses; and

(B) acts that would be a crime if committed by an adult;

that are committed after June 30, 2007.

(2) The amendments made to sections 8 and 12 of this chapter by P.L.171-2007 apply only to crimes committed after June 30, 2007. However, the amendments made to section 12(d) of this chapter by P.L.171-2007 apply only to:

(A) crimes; and

(B) delinquent acts that would be crimes if committed by an adult;

that are committed after June 30, 2007.

As added by P.L.220-2011, SEC.616. Amended by P.L.63-2012, SEC.70.

IC 35-46-3-0.5

Definitions

Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Abandon" means to desert an animal or to leave the animal permanently in a place without making provision for adequate long term care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.

(2) "Beat" means to unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury. The term does not include reasonable training or disciplinary techniques.

(3) "Mutilate" means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal's body parts or to render any part of the animal's body useless. The term includes bodily injury involving:

(A) serious permanent disfigurement;

(B) serious temporary disfigurement;

(C) permanent or protracted loss or impairment of the function of a bodily part or organ; or

(D) a fracture.

(4) "Neglect" means:

(A) endangering an animal's health by failing to provide or arrange to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink;

(B) restraining an animal for more than a brief period in a

manner that endangers the animal's life or health by the use of a rope, chain, or tether that:

(i) is less than three (3) times the length of the animal;

(ii) is too heavy to permit the animal to move freely; or

(iii) causes the animal to choke;

(C) restraining an animal in a manner that seriously endangers the animal's life or health;

(D) failing to:

(i) provide reasonable care for; or

(ii) seek veterinary care for;

an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat; or

(E) leaving a dog or cat outside and exposed to:

(i) excessive heat without providing the animal with a means of shade from the heat; or

(ii) excessive cold if the animal is not provided with straw or another means of protection from the cold;

regardless of whether the animal is restrained or kept in a kennel.

(5) "Torture" means:

(A) to inflict extreme physical pain or injury on an animal with the intent of increasing or prolonging the animal's pain; or

(B) to administer poison to a domestic animal (as defined in section 12(d) of this chapter) or expose a domestic animal to a poisonous substance with the intent that the domestic animal ingest the substance and suffer harm, pain, or physical injury.

As added by P.L.171-2007, SEC.5. Amended by P.L.111-2009, SEC.10.

IC 35-46-3-1

Harboring a non-immunized dog

Sec. 1. A person who knowingly or intentionally harbors a dog that is over the age of six (6) months and not immunized against rabies commits harboring a non-immunized dog, a Class C infraction. However, the offense is a Class B misdemeanor if the dog causes bodily injury by biting a person.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.94.

IC 35-46-3-2

Repealed

(Repealed by P.L.193-1987, SEC.17.)

IC 35-46-3-3

"Animal"

Sec. 3. As used in this chapter, "animal" does not include a human being.

As added by P.L.193-1987, SEC.6.

IC 35-46-3-4
"Animal fighting contest"

Sec. 4. As used in this chapter, "animal fighting contest" means a conflict between two (2) or more animals. The term does not include a conflict that is unorganized or accidental.

As added by P.L.193-1987, SEC.7.

IC 35-46-3-4.3
"Animal fighting paraphernalia"

Sec. 4.3. As used in this chapter, "animal fighting paraphernalia" means equipment used to train or condition animals for participation in an animal fighting contest.

As added by P.L.76-2002, SEC.2.

IC 35-46-3-4.5
"Law enforcement animal"

Sec. 4.5. (a) As used in this chapter, "law enforcement animal" means an animal that is owned or used by a law enforcement agency for the principal purposes of:

(1) aiding in:
(A) the detection of criminal activity;
(B) the enforcement of laws; and
(C) the apprehension of offenders; and
(2) ensuring the public welfare.

(b) The term includes, but is not limited to, the following:
(1) A horse.
(2) An arson investigation dog.
(3) A bomb detection dog.
(4) A narcotic detection dog.
(5) A patrol dog.

As added by P.L.213-1997, SEC.2. Amended by P.L.9-2003, SEC.1.

IC 35-46-3-5
Exceptions from chapter; electrocution

Sec. 5. (a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

(1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.
(2) Conduct authorized under IC 15-20-2.
(3) Veterinary practices authorized by standards adopted under IC 25-38.1-2-14.
(4) Conduct authorized by a local ordinance.
(5) Acceptable farm management practices.
(6) Conduct authorized by IC 15-17, and rules adopted under IC 15-17 for state or federally inspected livestock slaughtering facilities and state or federal animal disease control programs.
(7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).
(8) Destruction of a vertebrate defined as a pest under

IC 15-16-5-24.

(9) Destruction of or injury to a fish.

(10) Destruction of a vertebrate animal that is:

(A) endangering, harassing, or threatening livestock or a domestic animal; or

(B) destroying or damaging a person's property.

(11) Destruction of an animal by an animal control program, including an animal control facility, an animal shelter, or a humane society.

(12) Destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering.

(13) Conduct not resulting in serious injury or illness to the animal that is incidental to exhibiting an animal for show, competition, or display, or that is incidental to transporting the animal for show, competition, or display.

(14) Parking an animal.

(15) Humane destruction of an animal that the person owns.

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

As added by P.L.193-1987, SEC.8. Amended by P.L.2-1993, SEC.188; P.L.1-1995, SEC.76; P.L.137-1996, SEC.74; P.L.41-1998, SEC.1; P.L.2-2007, SEC.378; P.L.171-2007, SEC.6; P.L.2-2008, SEC.79; P.L.111-2009, SEC.11.

IC 35-46-3-6

Impoundment of animals; probable cause hearing; penalties; custody; bond

Sec. 6. (a) This section does not apply to a violation of section 1 of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or IC 15-20-1-4 may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was

posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or IC 15-20-1-4, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-20-1 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-20-1 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-17-4-1 or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-20-1, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating or imposing conditions on the person's right to possession, title, custody, or care of:

(A) an animal that was involved in the offense; or

(B) any other animal in the custody or care of the person.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization

that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

As added by P.L.193-1987, SEC.9. Amended by P.L.176-1993, SEC.6; P.L.166-1993, SEC.5; P.L.14-2000, SEC.75; P.L.76-2002, SEC.3; P.L.171-2007, SEC.7; P.L.2-2008, SEC.80.

IC 35-46-3-7

Abandonment or neglect of vertebrate animals; defense

Sec. 7. (a) A person who:

(1) has a vertebrate animal in the person's custody; and

(2) recklessly, knowingly, or intentionally abandons or neglects the animal;

commits cruelty to an animal, a Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Level 6 felony if the person has a prior unrelated conviction under this chapter.

(b) It is a defense to a prosecution for abandoning a vertebrate animal under this section that the person who had the animal in the person's custody reasonably believed that the vertebrate animal was capable of surviving on its own.

(c) For purposes of this section, an animal that is feral is not in a person's custody.

As added by P.L.193-1987, SEC.10. Amended by P.L.171-2007, SEC.8; P.L.111-2009, SEC.12; P.L.158-2013, SEC.558.

IC 35-46-3-8

Purchase or possession of animals for fighting contests

Sec. 8. A person who knowingly or intentionally purchases or possesses an animal for the purpose of using the animal in an animal fighting contest commits a Level 6 felony.

As added by P.L.193-1987, SEC.11. Amended by P.L.171-2007, SEC.9; P.L.158-2013, SEC.559.

IC 35-46-3-8.5

Possession of animal fighting paraphernalia

Sec. 8.5. A person who knowingly or intentionally possesses animal fighting paraphernalia with the intent to commit a violation of section 9 of this chapter commits possession of animal fighting paraphernalia, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

As added by P.L.76-2002, SEC.4. Amended by P.L.6-2012, SEC.228.

IC 35-46-3-9

Promotion, use of animals, or attendance with animal at animal fighting contest

Sec. 9. A person who knowingly or intentionally:

(1) promotes or stages an animal fighting contest;

(2) uses an animal in a fighting contest; or

(3) attends an animal fighting contest having an animal in the person's possession;

commits a Level 6 felony.

As added by P.L.193-1987, SEC.12. Amended by P.L.158-2013, SEC.560.

IC 35-46-3-9.5

Promoting an animal fighting contest

Sec. 9.5. A person who knowingly or intentionally:

(1) possesses animal fighting paraphernalia with the intent to commit a violation of section 9 of this chapter; and

(2) possesses, harbors, or trains a dog, cock, fowl, or bird bearing:

(A) a scar;

(B) a wound; or

(C) an injury;

consistent with participation in or training for an animal fighting contest;

commits promoting an animal fighting contest, a Level 6 felony.

As added by P.L.76-2002, SEC.5. Amended by P.L.6-2012, SEC.229; P.L.158-2013, SEC.561.

IC 35-46-3-10

Attendance at fighting contest

Sec. 10. A person who knowingly or intentionally attends a fighting contest involving animals commits cruelty to an animal, a Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Level 6 felony if the person has a prior unrelated conviction under this chapter.

As added by P.L.193-1987, SEC.13. Amended by P.L.111-2009, SEC.13; P.L.158-2013, SEC.562.

IC 35-46-3-11

Cruelty to a law enforcement animal

Sec. 11. (a) A person who knowingly or intentionally:

(1) strikes, torments, injures, or otherwise mistreats a law enforcement animal; or

(2) interferes with the actions of a law enforcement animal while the animal is engaged in assisting a law enforcement officer in the performance of the officer's duties;

commits a Class A misdemeanor.

(b) An offense under subsection (a)(1) is a Level 6 felony if the act results in:

(1) serious permanent disfigurement;

(2) unconsciousness;

(3) permanent or protracted loss or impairment of the function of a bodily member or organ; or

(4) death;

of the law enforcement animal.

(c) It is a defense that the accused person:

(1) engaged in a reasonable act of training, handling, or discipline; and

(2) acted as an employee or agent of a law enforcement agency.

(d) In addition to any sentence or fine imposed for a conviction of an offense under this section, the court:

(1) may order the person convicted to make restitution to the person or law enforcement agency owning the animal for reimbursement of veterinary bills; and

(2) shall order the person convicted to make restitution to the person or law enforcement agency owning the animal for reimbursement of the cost of replacing the animal, which may include the cost of training the animal, if the animal is permanently disabled or killed.

As added by P.L.193-1987, SEC.14. Amended by P.L.213-1997, SEC.3; P.L.9-2003, SEC.2; P.L.161-2013, SEC.8; P.L.158-2013, SEC.563; P.L.168-2014, SEC.86.

IC 35-46-3-11.3

Cruelty to a search and rescue dog

Sec. 11.3. (a) As used in this section, "search and rescue dog" means a dog that receives special training to locate or attempt to locate by air scent or ground or water tracking a person who is an offender or is lost, trapped, injured, or incapacitated.

(b) A person who knowingly or intentionally:

(1) interferes with the actions of a search and rescue dog while the dog is performing or is attempting to perform a search and rescue task; or

(2) strikes, torments, injures, or otherwise mistreats a search and rescue dog;

commits a Class A misdemeanor.

(c) An offense under subsection (b)(2) is a Level 6 felony if the act results in:

(1) serious permanent disfigurement;

(2) unconsciousness;

(3) permanent or protracted loss or impairment of the function of a bodily member or organ; or

(4) death;

of the search and rescue dog.

(d) It is a defense that the accused person:

(1) engaged in a reasonable act of training, handling, or disciplining the search and rescue dog; or

(2) reasonably believed the conduct was necessary to prevent injury to the accused person or another person.

(e) In addition to any sentence or fine imposed for a conviction of an offense under this section, the court may order the person to make restitution to the person who owns the search and rescue dog for reimbursement of:

(1) veterinary bills; and

(2) replacement costs of the dog if the dog is disabled or killed.

As added by P.L.9-2003, SEC.3. Amended by P.L.158-2013, SEC.564.

IC 35-46-3-11.5

Cruelty to a service animal

Sec. 11.5. (a) As used in this section, "service animal" means an animal that a person who is impaired by:

(1) blindness or any other visual impairment;

(2) deafness or any other aural impairment;

(3) a physical disability; or

(4) a medical condition;

relies on for navigation, assistance in performing daily activities, or alert signals regarding the onset of the person's medical condition.

(b) A person who knowingly or intentionally:

(1) interferes with the actions of a service animal; or

(2) strikes, torments, injures, or otherwise mistreats a service animal;

while the service animal is engaged in assisting an impaired person described in subsection (a) commits a Class A misdemeanor.

(c) An offense under subsection (b)(2) is a Level 6 felony if the act results in the:

(1) serious permanent disfigurement;

(2) unconsciousness;

(3) permanent or protracted loss or impairment of the function of a bodily member or organ; or

(4) death;

of the service animal.

(d) It is a defense that the accused person:

(1) engaged in a reasonable act of training, handling, or disciplining the service animal; or

(2) reasonably believed the conduct was necessary to prevent injury to the accused person or another person.

As added by P.L.143-1996, SEC.2. Amended by P.L.9-2003, SEC.4; P.L.158-2013, SEC.565.

IC 35-46-3-12

Torture or mutilation of a vertebrate animal; killing a domestic animal

Sec. 12. (a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

(1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and

(2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor.

However, the offense is a Level 6 felony if:

(1) the person has a previous, unrelated conviction under this section; or

(2) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Level 6 felony.

(d) As used in this subsection, "domestic animal" means an animal that is not wild. The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species.

A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Level 6 felony.

(e) It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

(f) When a court imposes a sentence or enters a dispositional decree under this section, the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult;

to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

As added by P.L.193-1987, SEC.15. Amended by P.L.41-1998, SEC.2; P.L.132-2002, SEC.1; P.L.7-2007, SEC.1; P.L.171-2007, SEC.10; P.L.111-2009, SEC.14; P.L.158-2013, SEC.566.

IC 35-46-3-12.5

Domestic violence animal cruelty

Sec. 12.5. A person who knowingly or intentionally kills a vertebrate animal with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member commits domestic violence animal cruelty, a Level 6 felony.

As added by P.L.171-2007, SEC.11. Amended by P.L.158-2013, SEC.567.

IC 35-46-3-13

Removal of attack dog's vocal cords; animal cruelty

Sec. 13. (a) A person who knowingly or intentionally removes the vocal cords of a trained attack dog commits cruelty to an animal, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that the accused person reasonably believes that the conduct was necessary to prevent a seriously injured dog from prolonged injury.

As added by P.L.76-2002, SEC.7.

IC 35-46-3-14

Bestiality

Sec. 14. A person who knowingly or intentionally performs an act involving:

(1) a sex organ of a person and the mouth or anus of an animal;

(2) a sex organ of an animal and the mouth or anus of a person;

(3) any penetration of the human female sex organ by an animal's sex organ; or

(4) any penetration of an animal's sex organ by the human male sex organ;

commits bestiality, a Level 6 felony.

As added by P.L.171-2007, SEC.12. Amended by P.L.158-2013, SEC.568.

IC 35-46-3-15

Electrocution or decompression of animals

Sec. 15. (a) This section does not apply to the following:

(1) A state or federally inspected livestock slaughtering facility (for conduct authorized by IC 15-17-5 and rules adopted under that chapter).

(2) An animal disease diagnostic laboratory established under IC 21-46-3-1.

(3) A postsecondary educational institution.

(4) A research facility licensed by the United States Department of Agriculture.

(b) As used in this section, "animal" has the meaning set forth in IC 35-46-3-3.

(c) A person who knowingly or intentionally destroys or authorizes the destruction of an animal by:

(1) placing the animal in a decompression chamber and lowering the pressure of or the oxygen content in the air surrounding the animal; or

(2) electrocution;

commits a Class B misdemeanor.

As added by P.L.2-2008, SEC.13.