

Senator Gene Davis proposes the following substitute bill:

ANIMAL CRUELTY REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Utah Criminal Code relating to cruelty to an animal.

Highlighted Provisions:

This bill:

- defines terms;
- recodifies cruelty to an animal provisions of the Utah Criminal Code;
- removes animal cruelty provisions related to hazing;
- provides increased penalties, including, under some circumstances, a third degree

felony penalty, for a cruelty to an animal violation that:

- is committed intentionally or knowingly; and
- results in serious bodily injury to, or the death of, the animal;
- amends provisions relating to disposing of an animal subjected to a cruelty to an animal violation and establishes an order of priority for the possible methods of disposal;
- modifies provisions related to enhanced penalties for certain cruelty to an animal offenses, including deleting obsolete notice provisions; and
- makes technical changes.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 **AMENDS:**

31 **76-3-203.3**, as last amended by Laws of Utah 2007, Chapter 229

32 **76-5-107.5**, as last amended by Laws of Utah 1997, Chapters 240 and 289

33 **76-10-1602**, as last amended by Laws of Utah 2007, Chapter 129

34 **77-23a-8**, as last amended by Laws of Utah 2004, Chapters 104 and 140

35 **ENACTS:**

36 **76-9-308**, Utah Code Annotated 1953

37 **76-9-309**, Utah Code Annotated 1953

38 **RENUMBERS AND AMENDS:**

39 **76-9-310**, (Renumbered from 76-9-301, as last amended by Laws of Utah 1996, Second
40 Special Session, Chapter 7)

41 **76-9-311**, (Renumbered from 76-9-301.1, as enacted by Laws of Utah 1987, Chapter
42 22)

43 **76-9-312**, (Renumbered from 76-9-301.5, as last amended by Laws of Utah 1996,
44 Second Special Session, Chapter 7)

45 **76-9-313**, (Renumbered from 76-9-301.6, as last amended by Laws of Utah 1998,
46 Chapter 282)

47 **76-9-314**, (Renumbered from 76-9-301.7, as enacted by Laws of Utah 1996, Second
48 Special Session, Chapter 7)

49 **76-9-315**, (Renumbered from 76-9-301.8, as last amended by Laws of Utah 1999,
50 Chapter 302)

51 **76-9-316**, (Renumbered from 76-9-304, as last amended by Laws of Utah 1977,
52 Chapter 87)

53 **76-9-317**, (Renumbered from 76-9-305, as last amended by Laws of Utah 1977,
54 Chapter 87)

55 **76-9-318**, (Renumbered from 76-9-306, as last amended by Laws of Utah 2000,
56 Chapter 192)

57 **76-9-319**, (Renumbered from 76-9-307, as last amended by Laws of Utah 2007,
58 Chapter 22)

59

60 *Be it enacted by the Legislature of the state of Utah:*

61 Section 1. Section **76-3-203.3** is amended to read:

62 **76-3-203.3. Penalty for hate crimes.**

63 As used in this section:

64 (1) "Primary offense" means those offenses provided in Subsection (4).

65 (2) (a) A person who commits any primary offense with the intent to intimidate or
66 terrorize another person or with reason to believe that his action would intimidate or terrorize
67 that person is subject to Subsection (2)(b).

68 (b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

69 (ii) a class B misdemeanor primary offense is a class A misdemeanor.

70 (3) "Intimidate or terrorize" means an act which causes the person to fear for his
71 physical safety or damages the property of that person or another. The act must be
72 accompanied with the intent to cause or has the effect of causing a person to reasonably fear to
73 freely exercise or enjoy any right secured by the Constitution or laws of the state or by the
74 Constitution or laws of the United States.

75 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

76 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106,
77 76-5-107, and 76-5-108;

78 (b) any misdemeanor property destruction offense under Sections 76-6-102 and
79 76-6-104, and Subsection 76-6-106(2)(b);

80 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

81 (d) any misdemeanor theft offense under Section 76-6-412;

82 (e) any offense of obstructing government operations under Sections 76-8-301,
83 76-8-302, 76-8-304, 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;

84 (f) any offense of interfering or intending to interfere with activities of colleges and
85 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

86 (g) any misdemeanor offense against public order and decency as defined in Title 76,
87 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

(h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Telephone Abuse;
(i) any ~~[cruelty to animals]~~ misdemeanor cruelty to an animal or animal torture offense
under Section ~~[76-9-301]~~ 76-9-310; and

(j) any weapons offense under Section 76-10-506.

(5) This section does not affect or limit any individual's constitutional right to the
lawful expression of free speech or other recognized rights secured by the Constitution or laws
of the state or by the Constitution or laws of the United States.

Section 2. Section **76-5-107.5** is amended to read:

76-5-107.5. Prohibition of "hazing" -- Definitions -- Penalties.

(1) A person is guilty of hazing if that person intentionally, knowingly, or recklessly
commits an act or causes another to commit an act that:

(a) (i) endangers the mental or physical health or safety of another; ~~[or]~~

(ii) involves any brutality of a physical nature such as whipping, beating, branding,
calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or
exposure to the elements; ~~[or]~~

(iii) involves consumption of any food, liquor, drug, or other substance or any other
physical activity that endangers the mental or physical health and safety of an individual; or

(iv) involves any activity that would subject the individual to extreme mental stress,
such as sleep deprivation, extended isolation from social contact, or conduct that subjects
another to extreme embarrassment, shame, or humiliation; ~~[or]~~ and

~~[(v) involves cruelty to any animal as provided in Section 76-9-301; and]~~

(b) (i) is for the purpose of initiation, admission into, affiliation with, holding office in,
or as a condition for continued membership in any organization; or

(ii) if the actor knew that the victim is a member of or candidate for membership with a
school team or school organization to which the actor belongs or did belong within the
preceding two years.

(2) It is not a defense to prosecution of hazing that a person under 21, against whom
the hazing was directed, consented to or acquiesced in the hazing activity.

(3) An actor who hazes another is guilty of a:

~~[(a) class C misdemeanor if the conduct violates Section 76-9-301;]~~

~~[(b)]~~ (a) class B misdemeanor if there are no aggravating circumstances;

[~~(e)~~] (b) class A misdemeanor if the act involves the operation or other use of a motor vehicle;

[~~(d)~~] (c) third degree felony if the act involves the use of a dangerous weapon as defined in Section 76-1-601;

[~~(e)~~] (d) third degree felony if the hazing results in serious bodily injury to a person; or

[~~(f)~~] (e) second degree felony if hazing under Subsection (3)[~~(e)~~](d) involves the use of a dangerous weapon as defined in Section 76-1-601.

(4) A person who in good faith reports or participates in reporting of an alleged hazing is not subject to any civil or criminal liability regarding the reporting.

(5) (a) This section does not apply to military training or other official military activities.

(b) Military conduct is governed by Title 39, Chapter 6, Utah Code of Military Justice.

(6) (a) A prosecution under this section does not bar a prosecution of the actor for:

(i) any other offense for which the actor may be liable as a party for conduct committed by the person hazed; or

(ii) any offense, caused in the course of the hazing, that the actor commits against the person who is hazed.

(b) Under Subsection (6)(a)(i) a person may be separately punished, both for the hazing offense and the conduct committed by the person hazed.

(c) Under Subsection (6)(a)(ii) a person may not be punished both for hazing and for the other offense, but shall be punished for the offense carrying the greater maximum penalty.

Section 3. Section **76-9-308** is enacted to read:

Part 3. Offenses Against or Involving Animals

76-9-308. Title.

This part is known as "Offenses Against or Involving Animals."

Section 4. Section **76-9-309** is enacted to read:

76-9-309. Definitions.

As used in this part:

(1) "Abandon" means to deposit, leave, or drop off any live animal:

(a) without providing for the care of that animal; or

(b) in a situation where conditions present an immediate, direct, and serious threat to

the life, safety, or health of the animal.

(2) (a) "Animal" means a live, nonhuman, vertebrate creature.

(b) "Animal" does not include:

(i) animals owned, kept, managed, or used for agricultural purposes and cared for in accordance with accepted animal husbandry practices, including animals kept or owned for agricultural purposes as part of a small farm or activity that is operated without expectation of it being a primary source of income;

(ii) animals used for rodeo purposes and cared for in accordance with accepted animal husbandry practices;

(iii) animals kept or owned by a zoological park that is:

(A) accredited by the American Zoo and Aquarium Association and cared for in accordance with accepted animal husbandry practices; or

(B) owned or operated by a member of the American Zoo and Aquarium Association and cared for in accordance with accepted animal husbandry practices;

(iv) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife;

(v) animals kept or owned for the purpose of training hunting dogs or raptors, cared for in accordance with accepted animal husbandry practices; or

(vi) animals that are:

(A) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under U.S.C. 2133; and

(B) cared for in accordance with accepted animal husbandry practices.

(3) "Custody" means ownership, possession, or control over an animal.

(4) "Legal privilege" means an act:

(a) authorized by state law, including Division of Wildlife Resources statutes and rules; and

(b) conducted in compliance with local ordinances.

(5) "Necessary food, water, care, and shelter" means the following, taking into account the species, age, and physical condition of the animal:

(a) appropriate and essential food and water;

(b) veterinary care; and

181 (c) adequate protection, including appropriate shelter, against extreme weather
182 conditions.

183 (6) "Serious bodily injury" is as defined in Section 76-1-601.

184 (7) "Torture" means, under circumstances evidencing extreme cruelty or depravity, to
185 intentionally or knowingly inflict on an animal, or subject an animal to, extreme physical pain
186 or serious bodily injury.

187 Section 5. Section **76-9-310**, which is renumbered from Section 76-9-301 is
188 renumbered and amended to read:

189 **[76-9-301]. 76-9-310. Cruelty to an animal.**

190 (1) A person is guilty of cruelty to ~~[animals]~~ an animal if the person intentionally,
191 knowingly, recklessly, or with criminal negligence:

192 (a) fails to provide necessary food, care, or shelter for an animal in ~~[his]~~ the person's
193 custody;

194 (b) abandons an animal in the person's custody;

195 (c) transports or confines an animal in a cruel manner;

196 (d) injures an animal;

197 (e) causes any animal, not including a dog, to fight with another animal of like kind for
198 amusement or gain; or

199 (f) causes any animal, including a dog, to fight with a different kind of animal or
200 creature for amusement or gain.

201 (2) A violation of Subsection (1) is:

202 (a) a class A misdemeanor if:

203 (i) the violation is committed intentionally or knowingly; and

204 (ii) as a result of the violation, the animal suffers serious bodily injury or death;

205 ~~[(a)]~~ (b) a class B misdemeanor if the violation is committed intentionally or
206 knowingly, under circumstances that do not constitute a class A misdemeanor under Subsection
207 (2)(a); and

208 ~~[(b)]~~ (c) a class C misdemeanor if committed recklessly or with criminal negligence.

209 (3) A person is guilty of aggravated cruelty to an animal if the person:

210 (a) tortures an animal;

211 (b) administers poison or poisonous substances to an animal without having a legal

privilege to do so;

(c) kills or causes to be killed an animal without having a legal privilege to do so.

(4) A violation of Subsection (3) is:

(a) a third degree felony if:

(i) the violation is committed intentionally or knowingly; and

(ii) as a result of the violation, the animal suffers serious bodily injury or death;

~~[(a)]~~ (b) a class A misdemeanor if the violation is committed intentionally or knowingly, under circumstances that do not constitute a third degree felony under Subsection (4)(a);

~~[(b)]~~ (c) a class B misdemeanor if committed recklessly; [and] or

~~[(c)]~~ (d) a class C misdemeanor if committed with criminal negligence.

(5) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(6) For purposes of Subsection (5)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(7) This section does not affect or prohibit the training, instruction, and grooming of animals, so long as the methods used are in accordance with accepted husbandry practices.

(8) (a) This section does not affect or prohibit the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal.

(b) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(9) (a) Upon conviction under this section, the court may ~~[in its discretion, in addition to other penalties]:~~

~~[(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;]~~

~~[(b) require the defendant]~~

(i) order that the defendant comply with the requirements of Subsection (9)(b); and

(ii) impose any additional penalties as the court finds appropriate to the case before it.

(b) The court may order the defendant:

(i) to undergo a psychological evaluation and receive treatment addressing the issues involved in animal abuse and to pay the costs of the evaluation and treatment to the extent the court finds the defendant is able to do so;

(ii) to forfeit any rights the defendant has to the animal subjected to a violation of this section [and];

(iii) to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section; and

~~[(c) order the defendant]~~

(iv) to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court[; and].

~~[(d) order the animal to be placed]~~

(c) The court may enter an order disposing of an animal subjected to a violation of this section.

(d) An order disposing of an animal under Subsection (9)(c) shall provide for

disposition in the following order of priority, with Subsection (9)(d)(i) being the first priority;

(i) place the animal for the purpose of adoption or care in the custody of a county and municipal animal control agency[;] or an animal welfare agency registered with the state[; sold];

(ii) sell the animal at public auction[; ~~or humanely destroyed.~~]; or

(iii) euthanize the animal humanely.

(10) This section does not prohibit the use of animals in lawful training.

~~[(11) As used in this section:]~~

~~[(a) "Abandons" means to intentionally deposit, leave, or drop off any live animal:]~~

~~[(i) without providing for the care of that animal; or]~~

~~[(ii) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.]~~

~~[(b) (i) "Animal" means a live, nonhuman vertebrate creature.]~~

~~[(ii) "Animal" does not include animals kept or owned for agricultural purposes and cared for in accordance with accepted husbandry practices, animals used for rodeo purposes, and does not include protected and unprotected wildlife as defined in Section 23-13-2.]~~

~~[(c) "Custody" means ownership, possession, or control over an animal.]~~

~~[(d) "Legal privilege" means an act authorized by state law, including Division of Wildlife Resources statutes and rules, and conducted in conformance with local ordinances.]~~

~~[(e) "Necessary food, care, and shelter" means appropriate and essential food and other needs of the animal, including veterinary care, and adequate protection against extreme weather conditions.]~~

Section 6. Section **76-9-311**, which is renumbered from Section 76-9-301.1 is renumbered and amended to read:

~~[76-9-301.1].~~ 76-9-311. Dog fighting -- Training dogs for fighting -- Dog fighting exhibitions.

(1) It is unlawful for any person to:

(a) own, possess, keep, or train a dog with the intent to engage it in an exhibition of fighting with another dog;

(b) cause a dog to fight with another dog or cause a dog to injure another dog for amusement or gain;

(c) tie, attach, or fasten any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog; or

(d) permit or allow any act which violates Subsection (1)(a), (b), or (c) on any premises under ~~[his]~~ the person's charge; or to control, aid, or abet any such act.

(2) Possession of any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of Subsections (1) (b) and (1) (c).

(3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine imposed may not exceed \$25,000.

(4) It is unlawful for a person to knowingly and intentionally be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this section. A person who violates this subsection is guilty of a class B misdemeanor.

(5) Nothing in this section prohibits any of the following:

(a) the use of dogs for management of livestock by the owner, his employees or agents, or any other person in the lawful custody of livestock;

(b) the use of dogs for hunting; or

(c) the training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

Section 7. Section **76-9-312**, which is renumbered from Section 76-9-301.5 is renumbered and amended to read:

~~[76-9-301.5].~~ **76-9-312. Spectator at organized animal fighting exhibitions.**

(1) It is unlawful for a person to knowingly be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by Subsection ~~[76-9-301]~~ 76-9-310(1)(e) and (f), or to be present at ~~[such]~~ an exhibition, regardless of whether any entrance fee has been charged.

(2) A person who violates ~~[this]~~ Subsection (1) is guilty of a class B misdemeanor.

Section 8. Section **76-9-313**, which is renumbered from Section 76-9-301.6 is

renumbered and amended to read:

~~[76-9-301.6].~~ 76-9-313. Dog fighting exhibition -- Authority to arrest and take possession of dogs and property.

(1) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for ~~[such]~~ an exhibition and, without a warrant, arrest all persons present.

(2) (a) Notwithstanding the provisions of Section ~~[76-9-305]~~ 76-9-317, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection ~~[76-9-301]~~ 76-9-310(1)(f) or Section ~~[76-9-301.1]~~ 76-9-311.

(b) The officer, at the time of the taking of property pursuant to Subsection (2)(a), shall state his name and provide other identifying information to the person in charge of the dogs or property taken.

(3) (a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.

(b) The affidavit shall include:

(i) the name of the person charged in the complaint;

(ii) a description of all property taken;

(iii) the time and place of the taking of the property;

(iv) the name of the person from whom the property was taken;

(v) the name of the person who claims to own the property, if known; and

(vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section ~~[76-9-301]~~ 76-9-310 or ~~[76-9-301.1]~~ 76-9-311, and the grounds for the belief.

(4) (a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.

(b) The person designated in Subsection (4)(a) shall assume immediate custody of the property, and retain the property until further order of the court.

(c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.

(d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

Section 9. Section **76-9-314**, which is renumbered from Section 76-9-301.7 is renumbered and amended to read:

[76-9-301.7]. 76-9-314. Cruelty to animals -- Enhanced penalties.

(1) "Conviction":

(a) means a conviction by plea [or by verdict.] of guilty, nolo contendere, guilty and mentally ill, or no contest, or a verdict of guilty; and

(b) includes a plea that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(2) ~~[A]~~ (a) Except as provided in Subsection (2)(b), a person who commits any violation of Section [76-9-301] 76-9-310, Section [76-9-301.5] 76-9-312, or Subsection [76-9-301.1] 76-9-311(1) or (4) within the state and on at least one previous occasion has been convicted of violating Section [76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) shall be] 76-9-310, Section 76-9-312, or Subsection 76-9-311(1) or (4), or has been convicted in another jurisdiction of an offense that is substantially similar to any of these offenses, is subject to an enhanced penalty [as provided in] under Subsection (3).

(b) The enhancements described in this section do not apply to a violation of:

(i) Subsection 76-9-310(2)(a), (4)(a), or (4)(b); or

(ii) Subsection 76-9-311(3).

(3) The enhanced degree of offense for offenses committed under this section are:

(a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and

(b) if the offense is a class B misdemeanor, it is a class A misdemeanor.

~~[(4) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide written notice upon the information or indictment that the defendant is subject to an enhanced degree of offense or penalty under Subsection (3). The notice shall be served upon~~

the defendant or his attorney not later than ten days prior to trial.]

~~[(b) If the notice is not included initially, the court may subsequently allow the prosecutor to amend the charging document to include the notice if the court finds:]~~

~~[(i) that the amended charging documents, including any statement of probable cause, provide notice that the defendant is subject to an enhanced penalty provided under this section; and]~~

~~[(ii) that the defendant has not otherwise been substantially prejudiced by the amendment.]~~

Section 10. Section **76-9-315**, which is renumbered from Section 76-9-301.8 is renumbered and amended to read:

~~[76-9-301.8].~~ 76-9-315. Bestiality -- Definitions -- Penalty.

(1) A person commits the crime of bestiality if the actor engages in any sexual activity with an animal with the intent of sexual gratification of the actor.

(2) For purposes of this section only:

(a) "Animal" means any live, nonhuman vertebrate creature, including fowl.

(b) "Sexual activity" means physical sexual contact:

(i) between the actor and the animal involving the genitals of the actor and the genitals of the animal;

(ii) the genitals of the actor or the animal and the mouth or anus of the actor or the animal; or

(iii) through the actor's use of an object in contact with the genitals or anus of the animal.

(3) A crime of bestiality is a class B misdemeanor.

Section 11. Section **76-9-316**, which is renumbered from Section 76-9-304 is renumbered and amended to read:

~~[76-9-304].~~ 76-9-316. Allowing vicious animal to go at large.

~~[Any]~~ (1) An owner of a vicious animal~~[, knowing its propensities, who]~~ is guilty of allowing a vicious animal to go at large if:

(a) the owner:

(i) knows the animal's propensities; and

(ii) (A) willfully allows [it] the animal to go at large; or [who]

429 (B) keeps [it] the animal without ordinary care~~[-, and any animal,]; and~~
430 (b) while the animal is at large~~[-]~~ or ~~[while]~~ not kept with ordinary care, the animal
431 causes injury to:

432 (i) another animal; or ~~[to]~~

433 (ii) any human being who has taken reasonable precaution which the circumstances
434 permitted~~[-]~~.

435 (2) A person who violates Subsection (1) is guilty of a class B misdemeanor unless the
436 animal causes the death of a human being, whereupon the owner is guilty of a felony of the
437 third degree.

438 Section 12. Section **76-9-317**, which is renumbered from Section 76-9-305 is
439 renumbered and amended to read:

440 ~~[76-9-305].~~ **76-9-317. Officer's authority to take possession of animals -- Lien**
441 **for care.**

442 (1) (a) Any law enforcement officer may take possession of ~~[any animals being treated~~
443 ~~cruelly and,]~~ an animal that is being subjected to a violation of this part.

444 (b) A law enforcement officer who takes possession of an animal under Subsection
445 (1)(a) may:

446 (i) after reasonable efforts to notify the owner, ~~[may]~~ provide shelter and care for
447 ~~[them]~~ the animal; or

448 (ii) upon permission from the owner ~~[may]~~, destroy ~~[them]~~ the animal.

449 (2) (a) ~~[Officers caring for animals]~~ An officer who provides care for, or destroys, an
450 animal, pursuant to this section shall have a lien for the reasonable value of the care [and/or]
451 and destruction. [Any court upon proof that the owner has been notified of the lien and amount
452 due, at least five days prior, shall order the animal sold at public auction or destroyed.]

453 (b) A court shall order that an animal taken into possession under Subsection (1) be
454 sold at public auction or destroyed, if the officer:

455 (i) requests the order; and

456 (ii) provides proof to the court that:

457 (A) at least five days before the day on which the request for an order is made, the
458 owner was notified of the lien and the amount due; and

459 (B) the owner has failed to pay the amount due.

(3) (a) Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose.

(b) Before destroying ~~the~~ an animal under Subsection (3)(a), the officer shall obtain:

(i) the ~~[judgment to the effect]~~ opinion of a veterinarian, or of two reputable citizens called by ~~[him]~~ the officer to view the animal in ~~[his]~~ the officer's presence, that the animal is suffering past recovery for any useful purpose; or ~~[shall obtain]~~

(ii) consent to the destruction from the owner of the animal.

Section 13. Section **76-9-318**, which is renumbered from Section 76-9-306 is renumbered and amended to read:

~~[76-9-306]. 76-9-318. Police service animals -- Causing injury or interfering with handler -- Penalties.~~

(1) As used in this section:

(a) "Handler" means a law enforcement officer who is specially trained, and uses a police service animal during the course of the performance of his law enforcement duties.

(b) "Police service animal" means any dog or horse used by a law enforcement agency, which is specially trained for law enforcement work, or any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.

(2) It is a third degree felony for a person to intentionally:

(a) cause bodily injury or death to a police service animal;

(b) engage in conduct likely to cause bodily injury or death to a police service animal;

(c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily injury or death to a police service animal; or

(d) offer or agree with one or more persons to engage in or cause the performance of an act which constitutes a violation of this section.

(3) It is a class A misdemeanor for a person to intentionally or knowingly:

(a) taunt, torment, strike, or otherwise assault a police service animal;

(b) throw any object or substance at, or in the path of, a police service animal;

(c) interfere with or obstruct a police service animal, or attempt to, or interfere with the handler of the animal in a manner that inhibits, restricts, or deprives the handler of his control of the animal;

(d) release a police service animal from its area of control, such as a vehicle, kennel, or

pen, or trespass in that area; or

(e) place any food, object, or substance into a police service animal's area of control without the permission of the handler.

(4) A police service animal is exempt from quarantine or other animal control ordinances if it bites any person while under proper police supervision or routine veterinary care. The law enforcement agency and the animal's handler shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.

(5) In addition to any other penalty, a person convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service animal for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Section 14. Section **76-9-319**, which is renumbered from Section 76-9-307 is renumbered and amended to read:

~~[76-9-307].~~ 76-9-319. Injury to service animals -- Penalties.

(1) As used in this section:

(a) "Disability" has the same meaning as defined in Section 62A-5b-102.

(b) "Search and rescue dog" means a dog:

(i) with documented training to locate persons who are:

(A) lost, missing, or injured; or

(B) trapped under debris as the result of a natural or man-made event; and

(ii) affiliated with an established search and rescue dog organization.

(c) "Service animal" means:

(i) a service animal as defined in Section 62A-5b-102;

(ii) a psychiatric therapy animal as defined in Section 62A-5b-102; or

(iii) a search and rescue dog.

(2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly cause substantial bodily injury or death to a service animal.

(3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from causing:

(a) any substantial bodily injury or the death of a service animal; or

(b) the service animal's subsequent inability to function as a service animal as a result of the animal's attacking, chasing, or harassing the service animal.

(4) It is a class B misdemeanor for a person to chase or harass a service animal.

(5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from chasing or harassing a service animal while it is carrying out its functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out its functions.

(6) (a) A service animal is exempt from quarantine or other animal control ordinances if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).

(b) The owner of the service animal or the person with a disability whom the service animal serves shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.

(7) In addition to any other penalty, a person convicted of any violation of this section is liable for restitution to the owner of the service animal or the person with a disability whom the service animal serves for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

(8) If the act committed under this section amounts to an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 15. Section **76-10-1602** is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall

demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, ~~Chapter 13,~~ Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal Offenses;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform

584 Securities Act;
585 (i) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah
586 Procurement Code;
587 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
588 (k) a terroristic threat, Section 76-5-107;
589 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
590 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
591 (n) sexual exploitation of a minor, Section 76-5a-3;
592 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
593 (p) causing a catastrophe, Section 76-6-105;
594 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
595 (r) burglary of a vehicle, Section 76-6-204;
596 (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
597 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
598 (u) theft, Section 76-6-404;
599 (v) theft by deception, Section 76-6-405;
600 (w) theft by extortion, Section 76-6-406;
601 (x) receiving stolen property, Section 76-6-408;
602 (y) theft of services, Section 76-6-409;
603 (z) forgery, Section 76-6-501;
604 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
605 (bb) deceptive business practices, Section 76-6-507;
606 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
607 criticism of goods, Section 76-6-508;
608 (dd) bribery of a labor official, Section 76-6-509;
609 (ee) defrauding creditors, Section 76-6-511;
610 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
611 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
612 (hh) bribery or threat to influence contest, Section 76-6-514;
613 (ii) making a false credit report, Section 76-6-517;
614 (jj) criminal simulation, Section 76-6-518;

615 (kk) criminal usury, Section 76-6-520;
616 (ll) fraudulent insurance act, Section 76-6-521;
617 (mm) retail theft, Section 76-6-602;
618 (nn) computer crimes, Section 76-6-703;
619 (oo) identity fraud, Section 76-6-1102;
620 (pp) sale of a child, Section 76-7-203;
621 (qq) bribery to influence official or political actions, Section 76-8-103;
622 (rr) threats to influence official or political action, Section 76-8-104;
623 (ss) receiving bribe or bribery by public servant, Section 76-8-105;
624 (tt) receiving bribe or bribery for endorsement of person as public servant, Section
625 76-8-106;
626 (uu) official misconduct, Sections 76-8-201 and 76-8-202;
627 (vv) obstruction of justice, Section 76-8-306;
628 (ww) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
629 (xx) false or inconsistent material statements, Section 76-8-502;
630 (yy) false or inconsistent statements, Section 76-8-503;
631 (zz) written false statements, Section 76-8-504;
632 (aaa) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
633 (bbb) retaliation against a witness, victim, or informant, Section 76-8-508.3;
634 (ccc) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
635 (ddd) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
636 76-8-1205;
637 (eee) unemployment insurance fraud, Section 76-8-1301;
638 (fff) intentionally or knowingly causing one animal to fight with another, Subsection
639 ~~[76-9-301(1)(f)]~~ 76-9-310(1)(e) or (f), or Section 76-9-311;
640 (ggg) possession, use, or removal of explosives, chemical, or incendiary devices or
641 parts, Section 76-10-306;
642 (hhh) delivery to common carrier, mailing, or placement on premises of an incendiary
643 device, Section 76-10-307;
644 (iii) possession of a deadly weapon with intent to assault, Section 76-10-507;
645 (jjj) unlawful marking of pistol or revolver, Section 76-10-521;

646 (kkk) alteration of number or mark on pistol or revolver, Section 76-10-522;
647 (lll) forging or counterfeiting trademarks, trade name, or trade device, Section
648 76-10-1002;
649 (mmm) selling goods under counterfeited trademark, trade name, or trade devices,
650 Section 76-10-1003;
651 (nnn) sales in containers bearing registered trademark of substituted articles, Section
652 76-10-1004;
653 (ooo) selling or dealing with article bearing registered trademark or service mark with
654 intent to defraud, Section 76-10-1006;
655 (ppp) gambling, Section 76-10-1102;
656 (qqq) gambling fraud, Section 76-10-1103;
657 (rrr) gambling promotion, Section 76-10-1104;
658 (sss) possessing a gambling device or record, Section 76-10-1105;
659 (ttt) confidence game, Section 76-10-1109;
660 (uuu) distributing pornographic material, Section 76-10-1204;
661 (vvv) inducing acceptance of pornographic material, Section 76-10-1205;
662 (www) dealing in harmful material to a minor, Section 76-10-1206;
663 (xxx) distribution of pornographic films, Section 76-10-1222;
664 (yyy) indecent public displays, Section 76-10-1228;
665 (zzz) prostitution, Section 76-10-1302;
666 (aaaa) aiding prostitution, Section 76-10-1304;
667 (bbbb) exploiting prostitution, Section 76-10-1305;
668 (cccc) aggravated exploitation of prostitution, Section 76-10-1306;
669 (dddd) communications fraud, Section 76-10-1801;
670 (eeee) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19,
671 Money Laundering and Currency Transaction Reporting Act;
672 (ffff) any act prohibited by the criminal provisions of the laws governing taxation in
673 this state; and
674 (gggg) any act illegal under the laws of the United States and enumerated in Title 18,
675 Section 1961 (1)(B), (C), and (D) of the United States Code.
676 Section 16. Section **77-23a-8** is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act; Title 58, Chapter 37c, Utah Controlled Substances Precursor Act; Title 58, Chapter 37d, Clandestine Drug Lab Act; punishable by a term of imprisonment of more than one year;

(b) any act prohibited by the criminal provisions of the Utah Uniform Securities Act and punishable by a term of imprisonment of more than one year, Title 61, Chapter 1;

(c) attempt, Section 76-4-101; conspiracy, Section 76-4-201; solicitation, Section 76-4-203; to commit any of the offenses enumerated above so long as the attempt, conspiracy or solicitation offense is punishable by a term of imprisonment of more than one year;

(d) terroristic threat offense punishable by a maximum term of imprisonment of more than one year, Section 76-5-107;

(e) aggravated murder, Section 76-5-202; murder, Section 76-5-203; manslaughter, Section 76-5-205;

(f) kidnapping, Section 76-5-301; child kidnapping, Section 76-5-301.1; aggravated kidnapping, Section 76-5-302;

(g) arson, Section 76-6-102; aggravated arson, Section 76-6-103;

(h) burglary, Section 76-6-202; aggravated burglary, Section 76-6-203;

(i) robbery, Section 76-6-301; aggravated robbery, Section 76-6-302;

(j) theft, Section 76-6-404; theft by deception, Section 76-6-405; theft by extortion, Section 76-6-406; when the theft, theft by deception or theft by extortion, is punishable by a maximum term of imprisonment of more than one year;

(k) receiving stolen property offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-408;

(l) financial card transaction offenses punishable by a maximum term of imprisonment of more than one year, Section 76-6-506.1, 76-6-506.2, 76-6-506.3, 76-6-506.4, 76-6-506.5, or 76-6-506.6;

(m) bribery of a labor official, Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;

(o) criminal simulation offenses punishable by a maximum term of imprisonment of more than one year, Section 76-6-518;

(p) criminal usury, Section 76-6-520;

(q) fraudulent insurance act offenses punishable by a maximum term of imprisonment of more than one year, Section 76-6-521;

(r) violations of the Computer Crimes Act punishable by a maximum term of imprisonment of more than one year, Section 76-6-703;

(s) bribery to influence official or political actions, Section 76-8-103;

(t) misusing public moneys, Section 76-8-402;

(u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(v) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;

(x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(y) obstruction of justice, Section 76-8-306;

(z) destruction of property to interfere with preparation for defense or war, Section 76-8-802;

(aa) attempts to commit crimes of sabotage, Section 76-8-804;

(bb) conspiracy to commit crimes of sabotage, Section 76-8-805;

(cc) advocating criminal syndicalism or sabotage, Section 76-8-902;

(dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(ee) riot punishable by a maximum term of imprisonment of more than one year, Section 76-9-101;

(ff) dog fighting, training dogs for fighting, dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section ~~[76-9-301.1]~~ 76-9-311;

739 (gg) explosive, chemical, or incendiary device and parts, possession, use, or removal,
740 Section 76-10-306;
741 (hh) explosive, chemical, or incendiary device, delivery to a common carrier or
742 mailing, Section 76-10-307;
743 (ii) exploiting prostitution, Section 76-10-1305;
744 (jj) aggravated exploitation of prostitution, Section 76-10-1306;
745 (kk) bus hijacking, assault with intent to commit hijacking, dangerous weapon or
746 firearm, Section 76-10-1504;
747 (ll) discharging firearms and hurling missiles, Section 76-10-1505;
748 (mm) violations of the Pattern of Unlawful Activity Act and the offenses listed under
749 the definition of unlawful activity in the act, including the offenses not punishable by a
750 maximum term of imprisonment of more than one year when those offenses are investigated as
751 predicates for the offenses prohibited by the act, Section 76-10-1602;
752 (nn) communications fraud, Section 76-10-1801;
753 (oo) money laundering, Sections 76-10-1903 and 76-10-1904; or
754 (pp) reporting by financial institutions when the offense is punishable by a maximum
755 term of imprisonment of more than one year, Section 76-10-1906.