

1 **ANIMAL FIGHTING PENALTIES**
2 2022 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Marsha Judkins**
5 Senate Sponsor: Todd D. Weiler

7 **LONG TITLE**

8 **General Description:**

9 This bill broadens the application of the dog fighting statute to all animals.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ changes "dog" to "animal" to prohibit the training or exhibition of any animal for
13 the purpose of fighting other animals;
14 ▶ repeals the cockfighting statute; and
15 ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22 **76-9-301**, as last amended by Laws of Utah 2021, Chapter 57

23 **76-9-301.1**, as last amended by Laws of Utah 2010, Chapter 324

24 **76-9-301.5**, as last amended by Laws of Utah 2008, Chapter 292

25 **77-23a-8**, as last amended by Laws of Utah 2019, Chapter 211

26 **REPEALS:**

27 **76-9-301.3**, as enacted by Laws of Utah 2015, Chapter 329



28

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

30 Section 1. Section **76-9-301** is amended to read:

31 **76-9-301. Cruelty to animals.**

32 (1) As used in this section:

33 (a) (i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

34 (A) without providing for the care of that animal, in accordance with accepted animal
35 husbandry practices or customary farming practices; or

36 (B) in a situation where conditions present an immediate, direct, and serious threat to
37 the life, safety, or health of the animal.

38 (ii) "Abandon" does not include returning wildlife to its natural habitat.

39 (b) (i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman
40 vertebrate creature.

41 (ii) "Animal" does not include:

42 (A) a live, nonhuman vertebrate creature, if:

43 (I) the conduct toward the creature, and the care provided to the creature, is in
44 accordance with accepted animal husbandry practices; and

45 (II) the creature is:

46 (Aa) owned or kept by a zoological park that is accredited by, or a member of, the
47 American Zoo and Aquarium Association;

48 (Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

49 (Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the
50 United States Department of Agriculture under 7 U.S.C. 2133;

51 (B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo
52 purposes, if the conduct toward the creature, and the care provided to the creature, is in
53 accordance with accepted rodeo practices;

54 (C) livestock, if the conduct toward the creature, and the care provided to the creature,
55 is in accordance with accepted animal husbandry practices or customary farming practices; or

56 (D) wildlife, as defined in Section [23-13-2](#), including protected and unprotected
57 wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or
58 trapping practices or other lawful practices.

59 (c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

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

61 (e) "Legal privilege" means an act that:

62 (i) is authorized by state law, including Division of Wildlife Resources rules; and

63 (ii) is not in violation of a local ordinance.

64 (f) "Livestock" means:

65 (i) domesticated:

66 (A) cattle;

67 (B) sheep;

68 (C) goats;

69 (D) turkeys;

70 (E) swine;

71 (F) equines;

72 (G) camelidae;

73 (H) ratites; or

74 (I) bison;

75 (ii) domesticated elk, as defined in Section 4-39-102;

76 (iii) a livestock guardian dog, as defined in Section 76-6-111; or

77 (iv) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic
78 poultry, raised, kept, or used for agricultural purposes.

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

81 (i) appropriate and essential food and water;

82 (ii) adequate protection, including appropriate shelter, against extreme weather
83 conditions; and

84 (iii) other essential care.

85 (h) "Torture" means intentionally or knowingly causing or inflicting extreme physical
86 pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

87 (2) Except as provided in Subsection (4) or (6), ~~[a person]~~ an actor is guilty of cruelty
88 to an animal if the ~~[person]~~ actor, without legal privilege to do so, intentionally, knowingly,
89 recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;

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

(c) injures an animal; or

(d) causes any animal[~~, not including a dog or game fowl~~] to fight with another animal
-kind] for amusement or gain[~~; or~~].

[~~(c) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.~~]

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) [A person] An actor is guilty of aggravated cruelty to an animal if the [person] actor:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

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

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) [A person] An actor is guilty of a third degree felony if the [person] actor intentionally or knowingly tortures a companion animal.

(7) 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 animal is to be destroyed, the manner employed will not be unnecessarily cruel unless necessary to the veterinary purpose or scientific research involved;

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

122 (d) by [a person] an actor who humanely destroys any animal found suffering past

123 recovery for any useful purpose; or

124 (e) by [a person] an actor who humanely destroys any apparently abandoned animal

125 found on the [person's] actor's property.

126 (8) For purposes of Subsection (7)(d), before destroying the suffering animal, the

127 [person] actor who is not the owner of the animal shall obtain:

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

129 (b) the judgment of two other [persons] individuals called by the [person] actor to view

130 the unrecoverable condition of the animal in the [person's] actor's presence;

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

132 (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the

133 [person's] actor's own observation, if the [person] actor is in a location or circumstance where

134 the [person] actor is unable to contact another [person] individual.

135 (9) This section does not affect or prohibit:

136 (a) the training, instruction, and grooming of animals, if the methods used are in

137 accordance with accepted animal husbandry practices or customary farming practices;

138 (b) the use of an electronic locating or training collar by the owner of an animal for the

139 purpose of lawful animal training, lawful hunting practices, or protecting against loss of that

140 animal; or

141 (c) the lawful hunting of, fishing for, or trapping of, wildlife.

142 (10) County and municipal governments may not prohibit the use of an electronic

143 locating or training collar.

144 (11) Upon conviction under this section, the court may in its discretion, in addition to

145 other penalties:

146 (a) order the defendant to be evaluated to determine the need for psychiatric or

147 psychological counseling, to receive counseling as the court determines to be appropriate, and

148 to pay the costs of the evaluation and counseling;

149 (b) require the defendant to forfeit any rights the defendant has to the animal subjected

150 to a violation of this section and to repay the reasonable costs incurred by any person or agency

151 in caring for each animal subjected to violation of this section;

152 (c) order the defendant to no longer possess or retain custody of any animal, as
153 specified by the court, during the period of the defendant's probation or parole or other period
154 as designated by the court; and

155 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
156 county or municipal animal control agency or an animal welfare agency registered with the
157 state to be sold at public auction or humanely destroyed.

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

159 (13) A veterinarian who, acting in good faith, reports a violation of this section to law
160 enforcement may not be held civilly liable for making the report.

161 Section 2. Section **76-9-301.1** is amended to read:

162 **76-9-301.1. Animal fighting -- Training animals for fighting -- Animal fighting
163 exhibitions.**

164 ~~[(1) It is unlawful for any person to:]~~

165 ~~[(a) own, possess, keep, or train a dog]~~

166 (1) (a) As used in this section:

167 (i) "Animal" means the same as that term is defined in Section [76-9-301](#).

168 (ii) "Animal fighting paraphernalia" means equipment, products, or materials of any
169 kind that are used, intended for use, or designed for use in the training, preparation,
170 conditioning, or furtherance of animal fighting.

171 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

172 (2) An actor commits animal fighting if the actor:

173 (a) owns, possesses, keeps, or trains an animal with the intent to engage it in an
174 exhibition of fighting with another [dog] animal;

175 (b) [cause a dog] causes an animal to fight with another [dog] animal or [cause a dog]
176 causes an animal to injure another [dog] animal for amusement or gain;

177 (c) [tie, attach, or fasten] ties, attaches, or fastens any live animal to a machine or
178 device propelled by any power, for the purpose of causing the animal to be pursued by [a dog]
179 another animal; or

180 (d) [permit or allow] permits or allows any act which violates Subsection [(1)] (2)(a),
181 (b), or (c) on any premises under [his] the actor's charge[;], or [to control, aid, or abet] controls,
182 aids, or abets any such act.

183 (3) (a) A violation of Subsection (2) is a class A misdemeanor.
184 (b) Notwithstanding Subsection (3)(a), if the animal is a dog, a violation of Subsection
185 (2) is a third degree felony and any fine imposed may not exceed \$25,000.

186 ~~[(2)]~~ (4) Possession of any [breaking stick, treadmill, wheel, hot walker, cat mill, cat
187 ~~walker, jenni, or other]~~ animal fighting paraphernalia together with evidence that the
188 paraphernalia is being used or is intended for use in the unlawful training of [a dog] an animal
189 to fight with another [dog] animal, together with the possession of any such [dog] animal, is
190 prima facie evidence of a violation of [Subsections (1)(b) and (e)] Subsection (2).

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

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

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

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

201 (b) the use of dogs for hunting; ~~[or]~~

202 (c) the training of dogs or the possession or use of equipment in the training of dogs for
203 any purpose not prohibited by law~~[.]; or~~

204 (d) the lawful use of livestock by the livestock owner, an employee or agent of the
205 livestock owner, or a person in the lawful custody of livestock.

206 Section 3. Section **76-9-301.5** is amended to read:

207 **76-9-301.5. Spectator at organized animal fighting exhibitions.**

208 (1) For the purposes of this section, "minor" means an individual under 18 years old.

209 (2) An actor commits spectator at an organized animal fighting exhibition if the actor:

210 ~~[It is unlawful for a person to]~~ (a) is knowingly [be] present as a spectator;

211 (i) at any place, building, or tenement where preparations are being made for an
212 exhibition of the fighting of animals, as prohibited by [Subsections] Subsection **76-9-301**(2)(d)
213 [and (e), or to be present]; or

214 (ii) at such exhibition, regardless of whether any entrance fee has been charged[.]; or

215 (b) causes or allows a minor to attend an animal exhibition prohibited by Subsection

216 76-9-301(2)(d).

217 (3) (a) A [person who violates this section is guilty of] violation of Subsection (2)(a) is

218 a class B misdemeanor.

219 (b) A violation of Subsection (2)(b) is a class A misdemeanor.

220 Section 4. Section **77-23a-8** is amended to read:

221 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

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

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

231 (a) any act:

232 (i) prohibited by the criminal provisions of:

233 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

234 (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

235 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

236 (ii) punishable by a term of imprisonment of more than one year;

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

239 (c) an offense:

240 (i) of:

241 (A) attempt, Section **76-4-101**;

242 (B) conspiracy, Section **76-4-201**;

243 (C) solicitation, Section **76-4-203**; and

244 (ii) punishable by a term of imprisonment of more than one year;

245 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of
246 more than one year, Section 76-5-107.3;

247 (e) (i) aggravated murder, Section 76-5-202;
248 (ii) murder, Section 76-5-203; or
249 (iii) manslaughter, Section 76-5-205;

250 (f) (i) kidnapping, Section 76-5-301;
251 (ii) child kidnapping, Section 76-5-301.1;
252 (iii) aggravated kidnapping, Section 76-5-302;
253 (iv) human trafficking or human smuggling, Section 76-5-308; or
254 (v) aggravated human trafficking or aggravated human smuggling, Section 76-5-310;

255 (g) (i) arson, Section 76-6-102; or
256 (ii) aggravated arson, Section 76-6-103;
257 (h) (i) burglary, Section 76-6-202; or
258 (ii) aggravated burglary, Section 76-6-203;
259 (i) (i) robbery, Section 76-6-301; or
260 (ii) aggravated robbery, Section 76-6-302;
261 (j) an offense:
262 (i) of:
263 (A) theft, Section 76-6-404;
264 (B) theft by deception, Section 76-6-405; or
265 (C) theft by extortion, Section 76-6-406; and
266 (ii) punishable by a maximum term of imprisonment of more than one year;
267 (k) an offense of receiving stolen property that is punishable by a maximum term of
268 imprisonment of more than one year, Section 76-6-408;
269 (l) a financial card transaction offense punishable by a maximum term of imprisonment
270 of more than one year, Section 76-6-506.2, 76-6-506.3, 76-6-506.5, or 76-6-506.6;
271 (m) bribery of a labor official, Section 76-6-509;
272 (n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;
273 (o) a criminal simulation offense punishable by a maximum term of imprisonment of
274 more than one year, Section 76-6-518;
275 (p) criminal usury, Section 76-6-520;

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

278 (r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by
279 a maximum term of imprisonment of more than one year, Section [76-6-703](#);

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

281 (t) misusing public money or public property, Section 76-8-402;

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

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

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

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

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

287 (z) destruction of property to interfere with preparation for defense or war, Section

76-8-802;

(aa) an attempt 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] animal fighting, training [dogs] animals for fighting, or [dog] animal fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section 76-9-301.1;

(gg) possession, use, or removal of an explosive, chemical, or incendiary device and parts, Section 76-10-306;

(hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device, Section 76-10-307;

(ii) exploiting prostitution, Section 76-10-1305;

(jj) aggravated exploitation of prostitution, Section 76-10-1306;

(kk) bus hijacking or assault with intent to commit hijacking, Section 76-10-1504;

(ll) discharging firearms and hurling missiles, Section 76-10-1505;

(mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and

307 the offenses listed under the definition of unlawful activity in the act, including the offenses not
308 punishable by a maximum term of imprisonment of more than one year when those offenses
309 are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;
310 (nn) communications fraud, Section 76-10-1801;
311 (oo) money laundering, Sections 76-10-1903 and 76-10-1904; or
312 (pp) reporting by a person engaged in a trade or business when the offense is
313 punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

314 **Section 5. Repealer.**

315 This bill repeals:

316 Section 76-9-301.3, **Game fowl fighting.**