

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 399

BY RUBEL

AN ACT

1 RELATING TO ANIMAL CARE; AMENDING SECTION 25-3502, IDAHO CODE, TO REVISE A
2 DEFINITION AND TO DEFINE A TERM; AMENDING SECTION 25-3504, IDAHO CODE,
3 TO ESTABLISH PROVISIONS REGARDING COMMITTING TORTURE TO COMPANION AN-
4 IMALS, TO ESTABLISH PROVISIONS REGARDING CERTAIN PERSONS COMMITTING
5 VIOLATIONS OF SPECIFIED LAW AND TO PROVIDE THAT CERTAIN OFFICERS MAY
6 TAKE POSSESSION OF COMPANION ANIMALS SUBJECTED TO TORTURE; AMENDING
7 SECTION 25-3520A, IDAHO CODE, TO REVISE AND TO ESTABLISH PROVISIONS
8 REGARDING PENALTIES FOR CERTAIN VIOLATIONS; AMENDING SECTION 20-511A,
9 IDAHO CODE, TO PROVIDE FOR CERTAIN COURT ORDERS REGARDING JUVENILES
10 EXHIBITING BEHAVIOR THAT PRESENTS RISK TO THE SAFETY OF CERTAIN ANIMALS
11 AND TO MAKE TECHNICAL CORRECTIONS; AND PROVIDING FOR SEVERABILITY.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 25-3502, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 25-3502. DEFINITIONS. The following words and terms, when used in this
17 chapter, shall have the following meanings, unless the context clearly indi-
18 cates otherwise:

19 (1) "Abandon" means to completely forsake and desert an animal previ-
20 ously under the custody or possession of a person without making reasonable
21 arrangements for its proper care, sustenance and shelter.

22 (2) "Animal" means any vertebrate member of the animal kingdom, except
23 man.

24 (3) "Animal care and control agency" means any agency incorporated un-
25 der the laws of this state to which a county or municipality has conferred
26 authority to exercise the powers and duties set forth in this chapter based
27 upon the agency's ability to fulfill the purposes of this chapter.

28 (4) "Companion animal" means those animals including, but not limited
29 to, domestic dogs, domestic cats, rabbits, companion birds, equines not cov-
30 ered by subsection (14) (a) of this section, and other animals commonly kept
31 as pets.

32 (5) "Cruel" or "cruelty" shall mean any or all of the following:

33 (a) The intentional and malicious infliction of pain, physical suffer-
34 ing, injury or death upon an animal;

35 (b) To maliciously kill, maim, wound, overdrive, overload, drive when
36 overloaded, overwork, ~~torture~~, torment, deprive of necessary suste-
37 nance, drink or shelter, cruelly beat, mutilate or cruelly kill an
38 animal;

39 (c) To subject an animal to needless suffering, inflict unnecessary
40 cruelty, drive, ride or otherwise use an animal when same is unfit;

41 (d) To abandon an animal;

1 (e) To negligently confine an animal in unsanitary conditions or to
 2 negligently house an animal in inadequate facilities; to negligently
 3 fail to provide sustenance, water or shelter to an animal.

4 (6) "Department" means the Idaho state department of agriculture.

5 (7) "Department investigator" means a person employed by, or approved
 6 by, the Idaho state department of agriculture, division of animal indus-
 7 tries, to determine whether there has been a violation of this chapter.

8 (8) "Division" means the division of animal industries of the Idaho
 9 state department of agriculture.

10 (9) "Custodian" means any person who keeps or harbors an animal, has an
 11 animal in his care or acts as caretaker of an animal.

12 (10) "Malicious" or "maliciously" means the intentional doing of a
 13 wrongful act without just cause or excuse, with an intent to inflict an in-
 14 jury or death.

15 (11) "Owner" means any person who has a right of property in an animal.

16 (12) "Person" means any individual, firm, corporation, partnership,
 17 other business unit, society, association or other legal entity, any public
 18 or private institution, the state of Idaho, or any municipal corporation or
 19 political subdivision of the state.

20 (13) "Pound" means a place enclosed by public authority for the deten-
 21 tion of stray animals.

22 (14) "Production animal" means, for purposes of this chapter:

23 (a) The following animals if owned for the express purpose of produc-
 24 ing food or fiber, or other commercial activity, in furtherance of the
 25 production of food or fiber, or other commercial activity, or to be sold
 26 for the use by another for such purpose: cattle, sheep, goats, swine,
 27 poultry, ratites, equines, domestic cervidae, camelidae, and guard and
 28 stock dogs; and

29 (b) Furbearing animals kept for the purpose of commercial fur produc-
 30 tion.

31 (15) "Torture" means the knowing and willful infliction of unjustifi-
 32 able and extreme or prolonged pain, mutilation or maiming, with the intent to
 33 cause suffering. "Torture" shall not mean acts committed by accident in do-
 34 ing any lawful act by lawful means and without unlawful intent, or when cir-
 35 cumstances indicate that suffering or death may be the product of an acci-
 36 dental, unintentional occurrence. "Torture" shall also not mean or include
 37 normal or legal practices as provided in section 25-3514, Idaho Code.

38 SECTION 2. That Section 25-3504, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 25-3504. COMMITTING CRUELTY TO ANIMALS -- COMMITTING TORTURE TO COM-
 41 PANION ANIMALS. (1) Every person who is cruel to any animal, or who causes
 42 or procures any animal to be cruelly treated, or who, having the charge or
 43 custody of any animal either as owner or otherwise, subjects any animal
 44 to cruelty shall, upon conviction, be punished in accordance with section
 45 25-3520A, Idaho Code.

46 (2) Every person who tortures a companion animal, or who causes or pro-
 47 duces any companion animal to be tortured, is guilty of a misdemeanor and
 48 shall be punished in accordance with section 25-3520A, Idaho Code. Provided
 49 however, that every person convicted of a second or subsequent violation of

1 the provisions of this subsection under conditions as provided in section
2 25-3520A(3) (c), Idaho Code, is guilty of a felony and shall be punished in
3 accordance with section 25-3520A(3) (c), Idaho Code. Each prior conviction
4 shall constitute one (1) violation of the provisions of this subsection re-
5 gardless of the number of counts involved in the conviction.

6 (3) Every person who commits a violation of subsection (2) of this sec-
7 tion shall be guilty of a felony in the first instance in the event the viola-
8 tion occurred in the immediate presence of a minor, and such person shall be
9 punished in accordance with section 25-3520A, Idaho Code.

10 (4) Any law enforcement officer or animal care and control officer,
11 subject to the restrictions of section 25-3501A, Idaho Code, may take pos-
12 session of the animal cruelly treated or the companion animal tortured, and
13 provide care for the same, until final disposition of such animal is deter-
14 mined in accordance with section 25-3520A or 25-3520B, Idaho Code.

15 SECTION 3. That Section 25-3520A, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 25-3520A. PENALTY FOR VIOLATIONS -- TERMINATION OF RIGHTS. (1) Except
18 as otherwise provided in section 25-3503 or 25-3506, Idaho Code, or subsec-
19 tion (3) of this section, any person convicted for a first violation of any of
20 the provisions of this chapter shall be guilty of a misdemeanor and punished,
21 for each offense, by a jail sentence of not more than six (6) months or by a
22 fine of not less than one hundred dollars (\$100) or more than five thousand
23 dollars (\$5,000), or by both such fine and imprisonment.

24 (2) Except as otherwise provided in section 25-3503 or 25-3506, Idaho
25 Code, or subsection (3) of this section, any person convicted of a second
26 violation of any of the provisions of this chapter within ten (10) years of
27 the first conviction, shall be guilty of a misdemeanor and punished for each
28 offense, by a jail sentence of not more than nine (9) months or a fine of not
29 less than two hundred dollars (\$200) or more than seven thousand dollars
30 (\$7,000) or both fine and imprisonment.

31 (3) (a) Except as otherwise provided in section 25-3503 or 25-3506,
32 Idaho Code, any person convicted of a third or subsequent violation of
33 any of the provisions of this chapter, except certain violations of
34 section 25-3504, Idaho Code, as provided in paragraphs (b), (c) and (d)
35 of this subsection, within fifteen (15) years of the first conviction,
36 shall be guilty of a misdemeanor and punished for each offense by a jail
37 sentence of not more than twelve (12) months or a fine of not less than
38 five hundred dollars (\$500) or more than nine thousand dollars (\$9,000)
39 or by both fine and imprisonment.

40 (b) Except as provided in section 25-3503, Idaho Code, any person
41 convicted of a third or subsequent violation who previously has been
42 found guilty of or has pled guilty to two (2) violations of section
43 25-3504(1), Idaho Code, provided the violations were for conduct as
44 defined by section 25-3502(5) (a), (b) or (c), Idaho Code, within fif-
45 teen (15) years of the first conviction, shall be guilty of a felony
46 and punished for each offense by a jail sentence of not more than twelve
47 (12) months or a fine of not less than five hundred dollars (\$500) or not
48 more than nine thousand dollars (\$9,000) or by both fine and imprison-
49 ment. All other third or subsequent violations of section 25-3504(1),

1 Idaho Code, for conduct as defined by any other paragraphs, other than
 2 paragraph (a), (b) or (c) of section 25-3502(5), Idaho Code, or other
 3 than violations of subsection (2) or (3) of section 25-3504, Idaho Code,
 4 shall constitute misdemeanors and shall be punishable as provided in
 5 paragraph (a) of this subsection.

6 (c) Any person convicted of a second violation of section 25-3504(2),
 7 Idaho Code, within ten (10) years of the first conviction shall be
 8 guilty of a felony and punished for each offense by a jail sentence of
 9 not more than nine (9) months or a fine of not less than four hundred dol-
 10 lars (\$400) or not more than seven thousand dollars (\$7,000), or by both
 11 such fine and imprisonment. Any person convicted of a third or subse-
 12 quent violation of section 25-3504(2), Idaho Code, within fifteen (15)
 13 years of the first violation of section 25-3504(2), Idaho Code, shall
 14 be guilty of a felony and punished by a jail sentence of not less than
 15 twelve (12) months or by a fine of not less than five hundred dollars
 16 (\$500) or more than nine thousand dollars (\$9,000), or by both such fine
 17 and imprisonment.

18 (d) Any person convicted of a first or subsequent violation of section
 19 25-3504(3), Idaho Code, shall be guilty of a felony and punished pur-
 20 suant to the provisions of section 18-112, Idaho Code.

21 (e) Each prior conviction or guilty plea shall constitute one (1) vi-
 22 olation of this chapter regardless of the number of counts involved in
 23 the conviction or guilty plea. Practices described in section 25-3514,
 24 Idaho Code, are not animal cruelty.

25 (4) If a person pleads guilty or is found guilty of an offense under this
 26 chapter, the court may:

27 (a) (i) I~~ss~~ue an order terminating the person's right to possession,
 28 title, custody or care of an animal that was involved in the of-
 29 fense or that was owned or possessed at the time of the offense. If
 30 a person's right to possession, title, custody or care of an ani-
 31 mal is terminated, the court may award the animal to a humane so-
 32 ciety or other organization that has as its principal purpose the
 33 humane treatment of animals, or may award the animal to a law en-
 34 forcement agency or animal care and control agency. The court's
 35 award of custody or care of an animal will grant to the organiza-
 36 tion or agency the authority to determine custody, adoption, sale
 37 or other disposition of the animal thereafter; and
 38 (ii) Prohibit or limit the person's possession, title, custody or
 39 care of animals as the court deems appropriate.

40 (b) Order the person to participate in available animal cruelty pre-
 41 vention programs or education programs, or both, or to obtain psycho-
 42 logical counseling for treatment of mental health disorders that, in
 43 the court's judgment, contributed to the commission of the offense. The
 44 person shall bear any costs incurred for participation in such counsel-
 45 ing or treatment programs.

46 SECTION 4. That Section 20-511A, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 20-511A. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT. (1) A judge
 49 of any court shall order the department of health and welfare to submit ap-

1 appropriate mental health assessments and a plan of treatment for the court's
2 approval if at any stage of a proceeding under this chapter or the child pro-
3 tective act, chapter 16, title 16, Idaho Code, a judge has reason to believe,
4 based upon the record and proceedings of the court or upon an affidavit of a
5 party, state or county agency or any person having physical custody of the
6 juvenile or juvenile offender, that he or she:

7 (a) Is suffering a substantial increase or persistence of a serious
8 emotional disturbance as defined in section 16-2403, Idaho Code, which
9 impairs his or her ability to comply with the orders and directives of
10 the court, or which presents a risk to his or her safety or well-being,
11 or the safety of others or the safety of an animal or companion animal as
12 defined in section 25-3502, Idaho Code, from actions including prohib-
13 ited acts as provided in chapter 35, title 25, Idaho Code; and

14 (b) Such condition has not been adequately addressed with supportive
15 services and/or corrective measures previously provided to the juve-
16 nile, or the juvenile's needs with respect to the serious emotional dis-
17 turbance are not being met or have not been met.

18 (2) The court may convene a screening team consisting of representa-
19 tives from the department of health and welfare, county probation, local
20 school officials, teen early intervention specialists as provided for un-
21 der section 16-2404A, Idaho Code, the department of juvenile corrections
22 and/or other agencies or persons designated by the court to review the plan
23 of treatment and provide written recommendations to the court. Parents
24 and guardians of the juvenile or juvenile offender, if available, shall
25 be included in the screening team and consulted with regard to the plan of
26 treatment.

27 (3) If the court, after receiving the mental health assessment and plan
28 of treatment submitted by the department of health and welfare and any recom-
29 mendations from the screening team, determines that additional information
30 is necessary to determine whether the conditions set forth in subsections
31 (1) (a) and ~~(1)~~(b) of this section are present, or to determine an appropriate
32 plan of treatment for the juvenile or juvenile offender, the court may order
33 an evaluation and/or recommendations for treatment to be furnished by a psy-
34 chiatrist, licensed physician or licensed psychologist, with the expenses
35 of such evaluation and/or recommendations to be borne by the department of
36 health and welfare.

37 (4) If the court concludes that the conditions set forth in subsections
38 (1) (a) and ~~(1)~~(b) of this section are present, the plan of treatment, as
39 approved by the court, shall be entered into the record as an order of the
40 court. The department of health and welfare shall provide mental health
41 treatment as designated by the approved plan of treatment. If in-patient
42 or residential treatment is required as part of the plan of treatment, the
43 court shall hold a hearing on whether to order such treatment unless the
44 hearing is waived by the juvenile or juvenile offender and his or her parents
45 or guardians. The court may order parents, legal guardians or custodians
46 to adhere to the treatment designated in the plan of treatment. Represent-
47 atives from the department of health and welfare, county probation, local
48 school officials, teen early intervention specialists as provided for under
49 section 16-2404A, Idaho Code, the department of juvenile corrections and/or

1 other agencies or persons designated by the court shall attend case review
2 hearings as scheduled by the court.

3 (5) All costs associated with assessment and treatment shall be the re-
4 sponsibility of the parents of the juvenile or juvenile offender according
5 to their ability to pay based upon the sliding fee scale established pur-
6 suant to section 16-2433, Idaho Code. The financial obligation of the family
7 shall be determined after consideration of all available payment and fund-
8 ing sources including title XIX of the social security act, as amended, all
9 available third-party sources, and parent resources according to any order
10 for child support under chapter 10, title 32, Idaho Code. Services shall not
11 be conditioned upon transfer of custody or parental rights.

12 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared
13 to be severable and if any provision of this act or the application of such
14 provision to any person or circumstance is declared invalid for any reason,
15 such declaration shall not affect the validity of the remaining portions of
16 this act.