

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 524

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE TORTURE OF COMPANION ANIMALS; AMENDING SECTION 25-3502,  
2 IDAHO CODE, TO REVISE AND ADD DEFINITIONS; AMENDING CHAPTER 35, TITLE  
3 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3504A, IDAHO CODE,  
4 TO ESTABLISH THE CRIME OF TORTURING A COMPANION ANIMAL; AND AMENDING  
5 SECTION 25-3520A, IDAHO CODE, TO REVISE PENALTIES AND TO AUTHORIZE THE  
6 COURT TO ORDER A PRESENTENCE PSYCHOLOGICAL EVALUATION OF THE DEFENDANT.  
7

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

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

11 25-3502. DEFINITIONS. The following words and terms, when used in this  
12 chapter, shall have the following meanings, unless the context clearly indi-  
13 cates otherwise:

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

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

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

23 (4) "Companion animal" means those animals solely kept as pets and not  
24 used as production animals, as defined in this section, including, but not  
25 limited to, domestic dogs, domestic cats, rabbits, companion birds, and  
26 other animals commonly kept as pets.

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

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

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

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

36 (d) To knowingly abandon an animal;

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

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

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

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

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

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

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

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

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

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

19 (a) The following animals if ~~owned~~ used for the ~~express~~ purpose of pro-  
20 ducing food or fiber, or other commercial activity, in furtherance of  
21 the production of food or fiber, or other commercial activity, or to  
22 be sold for the use by another for such purpose: cattle, sheep, goats,  
23 swine, poultry, ratites, equines, domestic cervidae, camelidae, and  
24 guard and stock dogs; and

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

27 (15) "Torture" means the intentional, knowing and willful infliction  
28 of unjustifiable and extreme or prolonged pain, mutilation or maiming done  
29 for the purpose of causing suffering. "Torture" shall not mean or include  
30 acts of omission or of neglect nor acts committed unintentionally or by acci-  
31 dent. "Torture" also shall not mean or include normal or legal practices as  
32 provided in section 25-3514, Idaho Code.

33 SECTION 2. That Chapter 35, Title 25, Idaho Code, be, and the same is  
34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
35 ignated as Section 25-3504A, Idaho Code, and to read as follows:

36 25-3504A. TORTURING COMPANION ANIMALS. (1) A person is guilty of the  
37 offense of torturing a companion animal if he tortures a companion animal as  
38 defined in this chapter.

39 (2) A person convicted of torturing a companion animal shall be guilty  
40 of a misdemeanor, if it is the person's first conviction under this section,  
41 and shall be punished according to section 25-3520A(1) or (2), Idaho Code.

42 (3) A person convicted of a subsequent violation of torturing a compan-  
43 ion animal shall be guilty of a felony and shall be punished under the provi-  
44 sions of section 25-3520A(3) (b), Idaho Code.

45 (4) Notwithstanding subsection (2) of this section, a person convicted  
46 of torturing a companion animal for the first time, but who, within ten (10)  
47 years prior to the conviction, also has been convicted of a felony offense  
48 involving the voluntary infliction of bodily injury upon any human shall be

1 guilty of a felony and shall be punished according to the provisions of sec-  
2 tion 25-3520A(3) (b), Idaho Code.

3 (5) Before sentencing an individual convicted of a violation of this  
4 section, the court shall order and consider a presentence investigation that  
5 shall include a psychological evaluation of the defendant.

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

8 25-3520A. PENALTY FOR VIOLATIONS -- TERMINATION OF RIGHTS. (1) ~~Except~~  
9 ~~as otherwise provided in section 25-3503 or 25-3506, Idaho Code Unless oth-~~  
10 ~~erwise specified in this chapter,~~ any person convicted ~~for~~ of a first viola-  
11 tion of ~~any of the a~~ provisions of this chapter shall be punished, for each  
12 offense, by a jail sentence of not more than six (6) months or by a fine of  
13 not less than one hundred dollars (\$100) or more than five thousand dollars  
14 (\$5,000), or by both such fine and imprisonment.

15 (2) ~~Except as otherwise provided in section 25-3503 or 25-3506, Idaho~~  
16 ~~Code Unless otherwise specified in this chapter,~~ any person convicted of a  
17 second violation of ~~any of the a~~ provisions of this chapter within ten (10)  
18 years of the first conviction, shall be punished for each offense, by a jail  
19 sentence of not more than nine (9) months or a fine of not less than two hun-  
20 dred dollars (\$200) or more than seven thousand dollars (\$7,000), or by both  
21 such fine and imprisonment.

22 (3) (a) ~~Except as otherwise provided in section 25-3503 or 25-3506,~~  
23 ~~Idaho Code Unless the penalty is otherwise specified in this chap-~~  
24 ~~ter,~~ any person convicted of a third or subsequent violation of any of  
25 the provisions of this chapter, ~~except certain violations of section~~  
26 ~~25-3504, Idaho Code, as provided in paragraph (b) of this subsection,~~  
27 within fifteen (15) years of the first conviction, shall be guilty of a  
28 misdemeanor and punished for each offense by a jail sentence of not more  
29 than twelve (12) months or a fine of not less than five hundred dollars  
30 (\$500) or more than nine thousand dollars (\$9,000), or by both such fine  
31 and imprisonment.

32 (b) ~~Except as provided in section 25-3503, Idaho Code,~~ Any person  
33 convicted of section 25-3504A(3) or (4), Idaho Code, or any person con-  
34 victed of a third or subsequent violation who previously has been found  
35 guilty of or has pled guilty to two (2) violations of section 25-3504,  
36 Idaho Code, provided the violations were for conduct as defined by sec-  
37 tion 25-3502(5) (a) or (b), Idaho Code, within fifteen (15) years of the  
38 first conviction, shall be guilty of a felony and punished for each of-  
39 fense by a jail sentence of not more than twelve (12) months or a fine of  
40 not less than five hundred dollars (\$500) or not more than nine thousand  
41 dollars (\$9,000), or by both such fine and imprisonment. All other vi-  
42 olations of section 25-3504, Idaho Code, for conduct as defined by any  
43 other paragraphs, other than paragraph (a) (c), (d) or (e) of section  
44 25-3502(5), Idaho Code, shall constitute misdemeanors and shall be pun-  
45 ishable as provided in paragraph (a) of this subsection.

46 (c) Each prior conviction or guilty plea shall constitute one (1) vi-  
47 olation of this chapter regardless of the number of counts involved in  
48 the conviction or guilty plea. Practices described in section 25-3514,  
49 Idaho Code, are not animal cruelty.

1           (4) If a person pleads guilty or is found guilty of an offense under this  
2 chapter, the court may issue an order terminating the person's right to pos-  
3 session, title, custody or care of an animal that was involved in the offense  
4 or that was owned or possessed at the time of the offense. If a person's right  
5 to possession, title, custody or care of an animal is terminated, the court  
6 may award the animal to a humane society or other organization that has as its  
7 principal purpose the humane treatment of animals, or may award the animal  
8 to a law enforcement agency or animal care and control agency. The court's  
9 award of custody or care of an animal will grant to the organization or agency  
10 the authority to determine custody, adoption, sale or other disposition of  
11 the animal thereafter.

12           (5) Prior to sentencing pursuant to the provisions of this chapter, the  
13 court may in its discretion order a presentence psychological evaluation.  
14 If the prosecutor requests a presentence psychological evaluation prior to  
15 sentencing, the court shall determine whether a presentence psychological  
16 evaluation is warranted.