

DIGEST

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SB 236 Reengrossed

2018 Regular Session

Morrell

Present law provides that crime against nature includes the unnatural carnal copulation by a human being with another of the same sex or opposite sex or with an animal.

Proposed law deletes unnatural carnal copulation by a human being with an animal from the offense of crime against nature. Further provides that the provisions of proposed law shall not be construed to alleviate any person convicted or adjudicated delinquent of crime against nature from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

Proposed law creates the crime of sexual abuse of an animal. Proposed law provides that sexual abuse of an animal is the knowing and intentional performance of any of the following:

- (1) Engaging in sexual contact with an animal.
- (2) Possessing, selling, transferring, purchasing, or otherwise obtaining an animal with the intent that it be subject to sexual contact.
- (3) Organizing, promoting, conducting, aiding or abetting, or participating in as an observer, any act involving sexual contact with an animal.
- (4) Causing, coercing, aiding, or abetting another person to engage in sexual contact with an animal.
- (5) Permitting sexual contact with an animal to be conducted on any premises under his charge or control.
- (6) Advertising, soliciting, offering, or accepting the offer of an animal with the intent that it be used for sexual contact.
- (7) Filming, distributing, or possessing pornographic images of a person and an animal engaged in any of the activities described in Paragraphs (1) through (6) above.

Proposed law provides the following definitions:

- (1) "Animal" means any nonhuman creature, whether alive or dead.
- (2) "Sexual contact" means:
 - (a) Any act committed for the purpose of sexual arousal or sexual gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other.
 - (b) The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, touching by a person of the sex organs or anus of an animal, or the insertion of any part of the animal's body into the vaginal or anal opening of the person.

Proposed law does not apply to the following:

- (1) Accepted veterinary practices.

- (2) Artificial insemination of an animal for reproductive purposes.
- (3) Accepted animal husbandry practices, including grooming, raising, breeding, or assisting with the birthing process of animals or any other procedure that provides care for an animal.
- (4) Generally accepted practices related to the judging of breed conformation.

Proposed law provides the following penalties:

- (1) Whoever commits the offense of sexual abuse of an animal is to be fined up to \$2,000, imprisoned with or without hard labor for up to five years, or both.
- (2) Whoever commits a second or subsequent offense of sexual abuse of an animal, is to be fined between \$5,000 and \$25,000, imprisoned with or without hard labor for not more than 10 years, or both. Proposed law further requires such persons to register and provide notification as a sex offender pursuant to present law.

Proposed law provides that in addition to any other penalty imposed, a person convicted of violating proposed law is to be ordered to:

- (1) Relinquish custody of all animals.
- (2) Not harbor, own, possess, or exercise control over any animal for any length of time deemed appropriate by the court, but not less than five years.
- (3) Not reside in any household where an animal is present, engage in an occupation, whether paid or unpaid, involving animals, or participate in a volunteer position at any establishment where animals are present, for any length of time deemed appropriate by the court, but not less than five years.
- (4) Undergo a psychological evaluation for sex offenders and participate in any recommended psychological treatment, and any costs associated with any evaluation or treatment ordered by the court must be paid by the defendant.
- (5) If the convicted person is not the owner, reimburse the owner for any expenses incurred for medical treatment or rehabilitation of the victimized animal.

Proposed law provides that any law enforcement officer investigating a violation of proposed law may lawfully take possession of an animal that he has reason to believe has been victimized under proposed law in order to protect the health or safety of the animal or the health or safety of others, and to obtain evidence of the offense.

Proposed law provides that any animal seized pursuant to proposed law is to be promptly taken to a shelter facility or veterinary clinic to be examined by a veterinarian for evidence of sexual contact.

Proposed law provides that with respect to an animal seized and impounded, all provisions of present law relative to animals treated cruelly apply to the seizure, impoundment, and disposition of the animal.

Proposed law provides that prosecution under proposed law does not preclude prosecution under any other applicable provision of present law.

Proposed law provides that if a person convicted of the offense is released on parole, the committee on parole shall require the person, as a condition of parole, to participate in a sex offender program as defined by present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 14:89(A)(1) and R.S. 15:541(24)(a); Adds R.S. 14:89(E) and 89.3)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the reengrossed bill:

1. Add that the changes to the present law offense of crime of against nature shall not be construed to alleviate any person convicted or adjudicated delinquent of the crime from any requirement, obligation, or consequence imposed by law resulting from that conviction.
2. Add as an element of the proposed law crime of sexual abuse of an animal the filming, distributing, or possessing pornographic images of a person and an animal engaged in any of the activities described in the proposed law crime.
3. Apply the enhanced penalties to any second or subsequent offense, instead of only those offenses resulting in serious bodily injury or death of the animal.
4. Remove the one-year minimum term of imprisonment from the enhanced penalty provision.
5. Provide that the proposed law provision which prohibits the person convicted of the offense from harboring, owning, possessing, or exercising control over any animal shall be for any length of time deemed appropriate by the court, but not less than five years.
6. Add that a person convicted of the crime of sexual abuse of an animal who is released on parole shall be required, as a condition of the parole, to participate in a sex offender program as defined by present law.
7. Require a person convicted of a second or subsequent offense of the crime of sexual abuse of an animal to register and provide notification as a sex offender pursuant to present law.