
**ENGROSSED
HOUSE BILL No. 1037**

DIGEST OF HB 1037 (Updated February 11, 1998 6:47 pm - DI 76)

Citations Affected: IC 35-46.

Synopsis: Cruelty to an animal. Makes it a Class A misdemeanor for a person to knowingly or intentionally torture, beat, or mutilate a vertebrate animal. Makes the offense a Class D felony if the person has a previous, unrelated conviction for the crime of cruelty to an animal. (Current law makes it a Class A misdemeanor for a person to knowingly or intentionally: (1) torture, beat, or mutilate a vertebrate animal resulting in serious injury or death to the animal; or (2) kill a vertebrate animal without the authority of the owner of the animal.) Provides that a person who engages in a reasonable and recognized act of training, handling, or disciplining does not commit the crime of cruelty to an animal. Provides that the crime of cruelty to an animal does not include destruction of a vertebrate animal that is defined under the law as a pest.

Effective: July 1, 1998.

**Kruzan, Bales, Richardson, Becker,
Stevenson, Frenz**

(SENATE SPONSORS — GARD, SIMPSON)

January 6, 1998, read first time and referred to Committee on Courts and Criminal Code.
January 20, 1998, reported — Do Pass.
January 27, 1998, read second time, amended, ordered engrossed.
January 28, 1998, engrossed. Read third time, passed, yeas 88, nays 10.
SENATE ACTION
January 30, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
February 12, 1998, amended, reported favorably — Do Pass.

EH 1037—LS 6485/DI 69+



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February 13, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

ENGROSSED HOUSE BILL No. 1037

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-46-3-5, AS AMENDED BY P.L.137-1996,
- 2 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 1998]: Sec. 5. (a) Except as provided in subsections (b)
- 4 through (c), this chapter does not apply to the following:
- 5 (1) Fishing, hunting, trapping, or other conduct authorized under
- 6 IC 14-22.
- 7 (2) Conduct authorized under IC 15-5-7.
- 8 (3) Veterinary practices authorized by standards adopted under
- 9 IC 15-5-1.1-8.
- 10 (4) Conduct authorized by a local ordinance.
- 11 (5) Acceptable farm management practices.
- 12 (6) Conduct authorized by the Indiana Meat and Poultry
- 13 Inspection and Humane Slaughter Act, IC 15-2.1-24, and rules
- 14 adopted under IC 15-2.1-24 for state or federally inspected
- 15 livestock slaughtering facilities.
- 16 (7) A research facility registered with the United States
- 17 Department of Agriculture under the federal Animal Welfare Act

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1 (7 U.S.C. 2131 et seq.).

2 **(8) Destruction of a vertebrate defined as a pest under**
 3 **IC 15-3-3.6-2(22).**

4 (b) Section 1 of this chapter applies to conduct described in
 5 subsection (a).

6 (c) Destruction of an animal by electrocution is authorized under
 7 this section only if it is conducted by a person who is engaged in an
 8 acceptable farm management practice, by a research facility registered
 9 with the United States Department of Agriculture under the Animal
 10 Welfare Act, or for the animal disease diagnostic laboratory established
 11 under IC 15-2.1-5-1, a research facility licensed by the United States
 12 Department of Agriculture, a college, or a university.

13 SECTION 2. IC 35-46-3-12 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. (a) A person who
 15 knowingly or intentionally

16 ~~(1)~~ tortures, beats, or mutilates a vertebrate animal ~~resulting in~~
 17 ~~serious injury or death to the animal;~~ or

18 ~~(2)~~ kills a vertebrate animal without the authority of the owner of
 19 ~~the animal;~~

20 commits cruelty to an animal, a Class A misdemeanor. **However, the**
 21 **offense is a Class D felony if the person has a previous, unrelated**
 22 **conviction under this section.**

23 (b) It is a defense **to a prosecution under this section** that the
 24 accused person:

25 (1) reasonably believes the conduct was necessary to:

26 ~~(1)~~ (A) prevent injury to the accused person or another person;

27 ~~(2)~~ (B) protect the property of the accused person from
 28 destruction or substantial damage; or

29 ~~(3)~~ (C) prevent a seriously injured vertebrate animal from
 30 prolonged suffering; or

31 **(2) engaged in a reasonable and recognized act of training,**
 32 **handling, or disciplining the vertebrate animal.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1037, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 15, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1037 be amended to read as follows:

Page 1, line 9, delete "serious injury or death to" and insert ":",

Page 1, line 10, delete "the animal", begin a new line block indented and insert:

"(1) an injury to the animal that creates a substantial risk of death to the animal; or

(2) the death of the animal."

Renumber all SECTIONS consecutively.

(Reference is to House Bill 1037 as printed January 21, 1998.)

KRUZAN

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1037 be amended to read as follows:

Page 1, line 15, delete "reasonably believes the conduct was necessary to:" and insert ":",

Page 1, delete lines 16 through 17, begin a new line block indented and insert:

"(1) reasonably believes the conduct was necessary to:

⊕ (A) prevent injury to the accused person or another person;

⊖ (B) protect the property of the accused person from destruction or substantial damage; or

⊗ (C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal."

Delete page 2.

(Reference is to House Bill 1037 as printed January 21, 1998.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred House Bill 1037, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-46-3-5, AS AMENDED BY P.L.137-1996, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

- (1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.
- (2) Conduct authorized under IC 15-5-7.
- (3) Veterinary practices authorized by standards adopted under IC 15-5-1.1-8.
- (4) Conduct authorized by a local ordinance.
- (5) Acceptable farm management practices.
- (6) Conduct authorized by the Indiana Meat and Poultry Inspection and Humane Slaughter Act, IC 15-2.1-24, and rules adopted under IC 15-2.1-24 for state or federally inspected livestock slaughtering facilities.
- (7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).

(8) Destruction of a vertebrate defined as a pest under IC 15-3-3.6-2(22).

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal Welfare Act, or for the animal disease diagnostic laboratory established under IC 15-2.1-5-1, a research facility licensed by the United States Department of Agriculture, a college, or a university."

Page 1, line 9, delete "it results in:" and insert "**the person has a previous, unrelated conviction under this section.**"

Page 1, delete lines 10 through 15.

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Page 1, line 16, delete "(b)(c)" and insert "(b)".
and when so amended that said bill do pass.

(Reference is to House Bill 1037 as reprinted January 28, 1998.)

MEEKS, Chairperson

Committee Vote: Yeas 9, Nays 1.

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