

AMENDMENTS TO LB133

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           **Section 1.** Section 28-1008, Revised Statutes Cumulative Supplement,  
4 2024, is amended to read:

5           28-1008 For purposes of sections 28-1008 to 28-1017, 28-1019, and  
6 28-1020:

7           (1) Abandon means to leave any animal in one's care, whether as  
8 owner or custodian, for any length of time without making effective  
9 provision for its food, water, or other care as is reasonably necessary  
10 for the animal's health;

11           (2) Animal means any vertebrate member of the animal kingdom. Animal  
12 does not include an uncaptured wild creature or a livestock animal as  
13 defined in section 54-902;

14           (3) Animal control officer means a person authorized by a city,  
15 village, or county to enforce any state or local animal control law,  
16 rule, regulation, resolution, or ordinance concerning animal welfare;

17           (4) {3} Cruelly mistreat means to knowingly and intentionally kill,  
18 maim, disfigure, torture, beat, kick, hit, strike in any manner,  
19 mutilate, burn, scald, or otherwise inflict harm upon any animal;

20           (5) {4} Cruelly neglect means to fail to provide any animal in one's  
21 care, whether as owner or custodian, with food, water, or other care as  
22 is reasonably necessary for the animal's health;

23           (6) {5} Humane killing means the destruction of an animal by a  
24 method which causes the animal a minimum of pain and suffering;

25           (7) {6} Law enforcement officer means any member of the Nebraska  
26 State Patrol, any county or deputy sheriff, any member of the police  
27 force of any city or village, or any other public official authorized by

1 a city or village to enforce state or local animal control laws, rules,  
2 regulations, or ordinances. Law enforcement officer also includes a  
3 special investigator appointed as a deputy state sheriff as authorized  
4 pursuant to section 81-201 while acting within the authority of the  
5 Director of Agriculture under the Commercial Dog and Cat Operator  
6 Inspection Act;

7 (8) ~~(7)~~ Mutilation means intentionally causing permanent injury,  
8 disfigurement, degradation of function, incapacitation, or imperfection  
9 to an animal. Mutilation does not include conduct performed by a  
10 veterinarian licensed to practice veterinary medicine and surgery in this  
11 state or conduct that conforms to accepted veterinary practices;

12 (9) ~~(8)~~ Owner or custodian means any person owning, keeping,  
13 possessing, harboring, or knowingly permitting an animal to remain on or  
14 about any premises owned or occupied by such person;

15 (10) ~~(9)~~ Police animal means a horse or dog owned or controlled by  
16 the State of Nebraska or any county, city, or village for the purpose of  
17 assisting a law enforcement officer in the performance of his or her  
18 official enforcement duties;

19 (11) ~~(10)~~ Repeated beating means intentional successive strikes to  
20 an animal by a person resulting in serious injury or illness or death to  
21 the animal;

22 (12) ~~(11)~~ Serious injury or illness includes any injury or illness  
23 to any animal which creates a substantial risk of death or which causes  
24 broken bones, prolonged impairment of health, or prolonged loss or  
25 impairment of the function of any bodily organ; and

26 (13) ~~(12)~~ Torture means intentionally subjecting an animal to  
27 extreme pain, suffering, or agony. Torture does not include conduct  
28 performed by a veterinarian licensed to practice veterinary medicine and  
29 surgery in this state or conduct that conforms to accepted veterinary  
30 practices.

31 **Sec. 2.** Section 28-1012, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 28-1012 (1) Any A law enforcement officer or animal control officer  
3 who has reason to believe that an animal has been abandoned or is being  
4 cruelly neglected or cruelly mistreated may seek a warrant authorizing  
5 entry by a law enforcement officer or an animal control officer who is  
6 accompanied by a law enforcement officer upon private property to  
7 inspect, care for, or impound the animal.

8 (2) It shall be the duty of any a law enforcement officer or animal  
9 control officer who has reason to believe that an animal has been  
10 abandoned or is being cruelly neglected or cruelly mistreated to make  
11 prompt investigation of such violation. Any A law enforcement officer or  
12 animal control officer may, in lieu of making an arrest, issue a citation  
13 to the owner or custodian as prescribed in sections 29-422 to 29-429.

14 (3) Any equipment, device, or other property or things involved in a  
15 violation of section 28-1009 or 28-1010 shall be subject to seizure, and  
16 distribution or disposition may be made in such manner as the court may  
17 direct. Any animal involved in a violation of section 28-1009 or 28-1010  
18 shall be subject to seizure. Distribution or disposition shall be made  
19 under section 28-1012.01 as the court may direct.

20 (4) Any law enforcement officer or animal control officer acting  
21 under this section shall not be liable for damage to property if such  
22 damage is not the result of the law enforcement officer's or animal  
23 control officer's negligence.

24 **Sec. 3.** Section 28-1012.01, Revised Statutes Cumulative Supplement,  
25 2024, is amended to read:

26 28-1012.01 (1) Any animal seized under a search warrant or validly  
27 seized without a warrant may be kept on the property of the owner or  
28 custodian by the law enforcement officer or animal control officer  
29 seizing the animal. When a criminal complaint has been filed in  
30 connection with a seized animal, the court in which such complaint was  
31 filed shall have exclusive jurisdiction for disposition of the animal and

1 to determine any rights therein, including questions respecting the  
2 title, possession, control, and disposition thereof as provided in this  
3 section.

4 (2) Within ten business days after the date an animal has been  
5 seized pursuant to section 28-1006 or 28-1012, the county attorney of the  
6 county where the animal was seized shall file an application with the  
7 court having appropriate jurisdiction for a hearing to determine the  
8 disposition and the cost for the care of the animal. Notice of such  
9 hearing shall be given to the owner or custodian from whom such animal  
10 was seized and to any holder of a lien or security interest of record in  
11 such animal specifying the date, time, and place of such hearing. Such  
12 notice shall be served by personal or residential service or by certified  
13 mail. If such notice cannot be served by such methods, service may be  
14 made by publication in the county where such animal was seized. Such  
15 publication shall be made after application and order of the court. The  
16 hearing shall be held as soon as practicable and not more than ten  
17 business days after the date of application for the hearing unless  
18 otherwise determined and ordered by the court.

19 (3) If the court finds that probable cause exists that an animal has  
20 been abandoned or cruelly neglected or mistreated, the court may:

21 (a) Order immediate forfeiture of the animal to the agency that took  
22 custody of the animal and authorize appropriate disposition of the animal  
23 including adoption, donation to a suitable shelter, humane destruction,  
24 or any other manner of disposition approved by the court. The court may  
25 consider adoption alternatives through humane societies or comparable  
26 institutions and the protection of such animal's welfare. For a humane  
27 society or comparable institution to be considered as an adoption  
28 alternative under this subsection, it must first be licensed by the  
29 Department of Agriculture as having passed the inspection requirements in  
30 the Commercial Dog and Cat Operator Inspection Act and paid the fee for  
31 inspection under the act. The court may prohibit an adopting or

1 purchasing party from selling such animal for a period not to exceed one  
2 year;

3 (b) Issue an order to the owner or custodian setting forth the  
4 conditions under which custody of the animal shall be returned to the  
5 owner or custodian from whom the animal was seized or to any other person  
6 claiming an interest in the animal. Such order may include any management  
7 actions deemed necessary and prudent by the court, including reducing the  
8 number of animals harbored or owned by the owner or custodian by humane  
9 destruction or forfeiture and securing necessary care, including  
10 veterinary care, sufficient for the maintenance of any remaining animals;  
11 or

12 (c) Order the owner or custodian from whom the animal was seized to  
13 post a bond or other security or to otherwise order payment in an amount  
14 that is sufficient to reimburse all reasonable expenses, as determined by  
15 the court, for the care of the animal including veterinary care incurred  
16 by the agency from the date of seizure and necessitated by the possession  
17 of the animal. Payments shall be for a succeeding thirty-day period with  
18 the first payment due on or before the tenth day following the hearing.  
19 Payments for each subsequent thirty-day period, if any, shall be due on  
20 or before the tenth day of such period. The bond or security shall be  
21 placed with, or payments ordered under this subdivision shall be paid to,  
22 the agency that took custody of the animal. The agency shall provide an  
23 accounting of expenses to the court when the animal is no longer in the  
24 custody of the agency or upon request by the court. The county attorney  
25 of the county where the animal was seized may apply to the court for a  
26 subsequent hearing under this section at any time. The hearing shall be  
27 held as soon as practicable and not more than ten business days after the  
28 date of application for the hearing unless otherwise determined and  
29 ordered by the court. When all expenses covered by the bond or security  
30 are exhausted and subsequent bond or security has not been posted, or if  
31 a person becomes delinquent in his or her payments for the expenses of

1 the animal, the animal shall be forfeited to the agency.

2 (4) If custody of an animal is returned to the owner or custodian  
3 prior to seizure, any proceeds of a bond or security or any payment or  
4 portion of payment ordered under this section not used for the care of  
5 the animal during the time the animal was held by the agency shall be  
6 returned to the owner or custodian.

7 (5) Nothing in this section shall prevent the humane destruction of  
8 a seized animal at any time as determined necessary by a licensed  
9 veterinarian or as authorized by court order.

10 (6) An appeal may be filed within ten days after a hearing held  
11 under this section. Any person filing an appeal shall post a bond or  
12 security sufficient to pay reasonable costs of care of the animal for  
13 thirty days. Such bond or surety shall be required for each succeeding  
14 thirty-day period until the appeal is final.

15 (7) If the owner or custodian from whom the animal was seized is  
16 found not guilty in an associated criminal proceeding, all funds paid for  
17 the expenses of the animal remaining after the actual expenses incurred  
18 by the agency have been paid shall be returned to the owner or custodian.

19 (8) This section shall not preempt any ordinance of a city of the  
20 metropolitan or primary class.

21 **Sec. 4.** Section 28-1019, Revised Statutes Cumulative Supplement,  
22 2024, is amended to read:

23 28-1019 (1)(a) If a person is convicted of a felony under section  
24 28-1005 or 28-1009, the sentencing court shall order such person not to  
25 own, possess, or reside with any animal for at least five years after the  
26 date of conviction, but such time restriction shall not exceed fifteen  
27 years. Any person violating such court order shall be guilty of a Class I  
28 misdemeanor.

29 (b) If a person is convicted of a Class I misdemeanor under section  
30 28-1005.01 or 28-1009 or a Class III misdemeanor under section 28-1010,  
31 the sentencing court may order such person not to own, possess, or reside

1 with any animal after the date of conviction, but such time restriction,  
2 if any, shall not exceed five years. Any person violating such court  
3 order shall be guilty of a Class IV misdemeanor.

4 (c) Any animal involved in a violation of a court order under  
5 subdivision (a) or (b) of this subsection shall be subject to seizure by  
6 any law enforcement officer or animal control officer. Distribution or  
7 disposition shall be made under section 28-1012.01.

8 (2) This section shall not apply to any person convicted under  
9 section 28-1005, 28-1005.01, or 28-1009 if a licensed physician confirms  
10 in writing that ownership or possession of or residence with an animal is  
11 essential to the health of such person.

12 **Sec. 5.** Original sections 28-1008, 28-1012, 28-1012.01, and  
13 28-1019, Revised Statutes Cumulative Supplement, 2024, are repealed.

14 **Sec. 6.** Since an emergency exists, this act takes effect when  
15 passed and approved according to law.