

## States' Animal Cruelty Statutes: Hawaii

*Current through the end of the 2020 Regular Session.*

### § 711-1100 Definitions.

In this chapter, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

"Animal" includes every living creature, except a human being.

"Facsimile" means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

"Necessary sustenance" means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
- (2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal's needs;
- (3) Access to protection from wind, rain, or sun; and
- (4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health. 4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health; provided that the area of confinement in a primary pet enclosure shall:
  - (a) Provide access to shelter;
  - (b) Be constructed of safe materials to protect the pet animal from injury;
  - (c) Enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal's health;
  - (d) Provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird, a perch that is large enough for the bird to perch upon in a normal manner;
  - (e) Provide sufficient space to allow the pet animal, at minimum, to do the following:

(i) Easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and

(ii) Interact safely with other animals within the enclosure; and

(5) Veterinary care when needed to prevent suffering.

“Obstructs” means renders impassable without unreasonable inconvenience or hazard.

“Pet animal” means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

“Primary pet enclosure” means any kennel, cage, or structure used to restrict only a pet animal as defined in this section to a limited area of space, and does not apply to the confinement of any animals that are raised for food, such as any poultry that is raised for meat or egg production and livestock, rabbits, or pigs that are raised specifically for meat production because these animals are not pets when raised for meat or egg production.

“Private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

“Public” means affecting or likely to affect a substantial number of persons.

“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Record”, for the purposes of sections 711-1110.9 and 711-1111, means to videotape, film, photograph, or archive electronically or digitally.

“Torment” means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

“Torture” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

### **§ 711-1108.5 Cruelty to animals in the first degree.**

(1) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:

(a) Tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal; or

(b) Kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of the pet animal's owner.

(2) Subsection (1)(a) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Cropping or docking as customarily practiced.

(3) Subsection (1)(b) shall not apply to:

(a) Humane euthanasia of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency in accordance with American Veterinary Medical Association accepted standards; or

(b) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to the actor, another person, or an animal; provided that the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by this section and is justifiable as provided in section 703-302 for choice of evils; provided further that, for purposes of this paragraph, as the justification described in section 703-302 shall also apply to conduct which the actor believes to be necessary to avoid an imminent harm or evil to an animal.

(4) Whenever any pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved, the animal may be immediately destroyed without creating any offense under this section.

(5) Cruelty to animals in the first degree is a class C felony. In addition to any fines and imprisonment imposed under this section, any person convicted under this section shall be prohibited from possessing or owning any pet animal or equine animal for a minimum of five years from the date of conviction.

(6) For the purposes of this section, "person" means any individual; any firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate; or any other legal entity.

#### **§ 711-1109 Cruelty to animals in the second degree.**

(1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

(a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injury to, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;

(b) Deprives a pet animal of necessary sustenance or causes such deprivation;

(c) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests; provided that the handling or extermination of any insect, vermin,

or other pest is conducted in accordance with standard and acceptable pest control practices and all applicable laws and regulations;

(d) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;

(e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;

(f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;

(g) Tethers, fastens, ties, or restrains a dog to a doghouse, tree, fence, or any other stationary object by means of a choke collar, pinch collar, or prong collar; provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a dog is engaged in a supervised activity; or

(h) Assists another in the commission of any act specified in subsections (1)(a) through (1)(g).

(2) Subsection (1)(a), (b), (c), (e), (f), (g), and (h) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.

(3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.

(4) Cruelty to animals in the second degree is a misdemeanor, except where the offense involves ten or more pet animals in any one instance which is a class C felony.

### **§ 711-1109.1 Authority to enter premises; notice of impoundment of animal; damage resulting from entry.**

(1) If there is probable cause to believe that a pet animal is being subjected to treatment in violation of section 711-1108.5, 711-1109, or 711-1109.3, a law enforcement officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the pet animal is located to provide the pet animal with food, water, and emergency medical treatment or to impound the pet animal. If after reasonable effort, the owner or person having custody of the pet animal cannot be found and notified of the impoundment, an impoundment notice shall be conspicuously posted on the premises

and within seventy-two hours after posting, the notice shall be sent by certified mail to the address, if any, from which the pet animal was removed.

(2) A law enforcement officer is not liable for any damage resulting from an entry under subsection (1), unless the damage resulted from intentional or reckless behavior on behalf of the law enforcement officer.

(3) A court may order a pet animal impounded under subsection (1) to be held at a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals. A facility receiving the pet animal shall provide adequate food and water and may provide veterinary care.

(4) For purposes of this section, "law enforcement officer" shall have the same meaning as section 710-1000.

### **§ 711-1109.2 Forfeiture of animal prior to disposition of criminal charges.**

(1) If any pet animal is impounded pursuant to section 711-1109.1, prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, or 711-1109.3 against the pet animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.

(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal was subjected to a violation of section 711-1108.5, 711-1109, or 711-1109.3. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

(a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal from the date of initial impoundment to the date of trial; or

(b) Demonstrates to the court that proper alternative care has been arranged for the pet animal. Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount

determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal until the date of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.

(5) No pet animal may be destroyed by a petitioner under this section prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, or 711-1109.3 against the pet animal's owner, except in the event that the pet animal is so severely injured that there is no reasonable probability that its life can be saved.

(6) Forfeiture of a pet animal under this section shall not be subject to the provisions of chapter 712A.

(7) In addition to any reasonable costs incurred under subsection (4) by the petitioner in the caring for the pet animal or equine animal, the court may award reasonable attorney's fees and court costs to the petitioner following the conviction of the defendant.

(8) As used in this section, "pet animal or equine animal" includes any offspring from the pet animal or equine animal that was pregnant at the time of the rescue and born during the impoundment of the pet animal or equine animal.

(9) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this chapter.

### **§ 711-1109.3 Cruelty to animals; fighting dogs.**

(1) A person commits the offense of cruelty to animals by fighting dogs in the first degree if the person:

(a) Knowingly:

(i) Causes, sponsors, arranges, or holds a dogfight for entertainment or financial gain; or

(ii) Owns, trains, transports, possesses, sells, transfers, or equips any dog with the intent that the dog shall be engaged in a dogfight; or

(b) Recklessly:

(i) Allows a dogfight to occur on any property owned or controlled by the person; or

(ii) Allows any dog intended to be used for a dogfight to be kept, trained on, or transported in, any property owned or controlled by the person.

(2) Nothing in this section shall prohibit any of the following:

(a) The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;

(b) The use of dogs in hunting wildlife including game; or

(c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

(3) As used in this section, “dogfight” means a dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.

(4) Violation of this section shall be a class B felony.

(5) If there is any conflict between this section and section 711-1109, or any other provision of law, this section shall apply.

**§ 711-1109.35. Cruelty to animals by fighting dogs in the second degree**

(1) A person commits the offense of cruelty to animals by fighting dogs in the second degree if the person knowingly:

(a) Wagers on a dogfight;

(b) Attends or pays to attend a dogfight; or

(c) Possesses any device intended to enhance the dog's fighting ability with the intent that the device be used to train or prepare the dog for a dogfight.

(2) As used in this section:

“Bait dog” means a live animal used to train or prepare dogs for a dogfight.

“Device” means both animate and inanimate objects and includes live animals used as bait dogs.

“Dogfight” means a dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.

“Wager” means staking or risking something of value on the outcome of a dogfight.

(3) Cruelty to animals by fighting dogs in the second degree is a class C felony.

**§ 711-1109.37. Cruelty to animals by trapping**

(1) A person commits the offense of cruelty to animals by trapping if the person intentionally, knowingly, or recklessly uses, sets, or maintains:

(a) A steel-jawed leg-hold trap; or

(b) A snare, conibear trap, or foot- or leg-hold trap in an area zoned as residential or any other area where such snare or trap is prohibited by law or rule; except under the situations described in subsection (2).

(2) Subsection (1)(b) shall not apply to employees of state or federal agencies, or persons acting as a designated cooperator or an agent of the State, who are carrying out activities required under a management plan approved by state or federal agencies, pursuant to a mandatory statutory duty for the protection of species listed as threatened or endangered species, or other wildlife species protected by law, or for the protection of public health, safety, or property.

(3) As used in this section:

“Conibear trap” means a contrivance consisting of metal or steel designed to kill by crushing the body or severing the spinal cord of any animal. “Conibear trap” shall not include snap traps used for rodent control.

“Foot- or leg-hold trap” means a contrivance consisting of metal or steel that is off-set, padded or laminated, and is designed to capture and hold any animal by a foot or limb.

“Snare” means a contrivance consisting of a noose, regardless of material, designed to capture, trap, or kill any animal or hold any animal by a foot, limb, or neck.

“Steel-jawed leg-hold trap” means a spring-powered contrivance that captures or holds the limb of an animal by exerting a lateral force with fix-mounted jaws.

(4) Cruelty to animals by trapping is a misdemeanor.

#### **§ 711-1109.4 Causing injury or death to a service animal or law enforcement animal**

(1) A person commits the offense of causing injury or death to a service animal or law enforcement animal if:

(a) The person recklessly causes substantial bodily injury to or the death of any service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties; or

(b) The person is the owner of a dog and recklessly permits that dog to attack a service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties, resulting in the substantial bodily injury or death of the service animal or law enforcement animal.

(2) Subsection (1) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Cropping or docking as customarily practiced and permitted by law.

(3) Any person who commits the offense of causing injury or death to a service animal or law enforcement animal shall be guilty of a class C felony.

(4) In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:

(a) The owner of the service animal or law enforcement animal for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the service animal or law enforcement animal; and

(b) The person, entity, or organization that incurs the cost of retraining or replacing the service animal or law enforcement animal for the cost of retraining or replacing the service animal or law enforcement animal if it is disabled or killed.



(5) As used in this section “service animal” shall have the same meaning as in section 347-2.5.

**§ 711-1109.5. Intentional interference with the use of a service animal or law enforcement animal**

(1) A person commits the offense of intentional interference with the use of a service animal or law enforcement animal if the person, with no legal justification, intentionally or knowingly strikes, beats, kicks, cuts, stabs, shoots, or administers any type of harmful substance or poison to a service animal or law enforcement animal while the service animal or law enforcement animal is in the discharge of its duties.

(2) Subsection (1) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards or accepted educational or medicinal practices; or

(c) Cropping or docking as customarily practiced and permitted by law.

(3) Intentional interference with the use of a service animal or law enforcement animal is a misdemeanor.

(4) In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:

(a) The owner of the service animal or law enforcement animal for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the service animal or law enforcement animal; and

(b) The person, entity, or organization that incurs the cost of retraining or replacing the service animal or law enforcement animal for the cost of retraining or replacing the service animal or law enforcement animal, if it is disabled or killed.

(5) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(6) As used in this section, “service animal” shall have the same meaning as in section 347-2.5.

**§ 711-1109.7. Pet animal or equine animal desertion**

(1) It shall be unlawful for the owner or any person in possession of any pet animal or equine animal to desert the pet animal or equine animal.

(2) Any person who violates subsection (1) shall be guilty of a petty misdemeanor and subject to a fine not exceeding \$1,000 in addition to any other penalties.

(3) Any person who violates subsection (1) and recklessly causes the death of or substantial bodily injury to the pet animal or equine animal shall be guilty of a misdemeanor and subject to a fine not exceeding \$2,000 in addition to any other penalties.

(4) Each pet animal or equine animal that is deserted in violation of subsection (1) or suffers death or substantial bodily injury as a result of a violation of subsection (1) shall constitute a separate offense.

(5) For the purposes of this section, "desert" means to leave without the intent to return.

**§ 711-1110 Relating to agent of society.**

The agent of any society which is formed or incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any district in the State, may within such district make arrests and bring before any district judge thereof offenders found violating the provisions of section 711-1109 to be dealt with according to law.

**§ 711-1110.5 Surrender or forfeiture of animals.**

Upon conviction, guilty plea, or plea of nolo contendere for any violation of section 711-1108.5, 711-1109, or 711-1109.3:

(1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and

(2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.