

2018 Regular Session

SENATE BILL NO. 236

BY SENATOR MORRELL

CRIME/PUNISHMENT. Creates the crime of sexual abuse of an animal. (gov sig)

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AN ACT

To amend and reenact R.S. 14:89(A)(1) and to enact R.S. 14:89.3, relative to crime against nature; to create the crime of sexual abuse of an animal; to provide definitions; to provide penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:89(A)(1) is hereby amended and reenacted and R.S. 14:89.3 is hereby enacted to read as follows:

§89. Crime against nature

A. Crime against nature is either of the following:

(1) The unnatural carnal copulation by a human being with another of the same sex or opposite sex ~~or with an animal~~, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 42, 42.1 or 43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.

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1        §89.3. Sexual abuse of an animal

2            A. Sexual abuse of an animal is the knowing and intentional  
3 performance of any of the following:

4            (1) Engaging in sexual contact with an animal.

5            (2) Possessing, selling, transferring, purchasing, or otherwise obtaining  
6 an animal with the intent that it be subject to sexual contact.

7            (3) Organizing, promoting, conducting, aiding or abetting, or  
8 participating in as an observer, any act involving sexual contact with an animal.

9            (4) Causing, coercing, aiding, or abetting another person to engage in  
10 sexual contact with an animal.

11           (5) Permitting sexual contact with an animal to be conducted on any  
12 premises under his charge or control.

13           (6) Advertising, soliciting, offering, or accepting the offer of an animal  
14 with the intent that it be used for sexual contact.

15           B. For purposes of this Section:

16           (1) "Animal" means any nonhuman creature, whether alive or dead.

17           (2) "Sexual contact" means:

18           (a) Any act committed for the purpose of sexual arousal or sexual  
19 gratification, abuse, or financial gain, between a person and an animal involving  
20 contact between the sex organs or anus of one and the mouth, sex organs, or  
21 anus of the other.

22           (b) The insertion, however slight, of any part of the body of a person or  
23 any object into the vaginal or anal opening of an animal, touching by a person  
24 of the sex organs or anus of an animal, or the insertion of any part of the  
25 animal's body into the vaginal or anal opening of the person.

26           C. This Section shall not apply to any of the following:

27           (1) Accepted veterinary practices.

28           (2) Artificial insemination of an animal for reproductive purposes.

29           (3) Accepted animal husbandry practices, including grooming, raising,

1 breeding, or assisting with the birthing process of animals or any other  
2 procedure that provides care for an animal.

3 (4) Generally accepted practices related to the judging of breed  
4 conformation.

5 D.(1)(a) Except as provided in Subparagraph (b) of this Paragraph,  
6 whoever commits the offense of sexual abuse of an animal shall be fined not  
7 more than two thousand dollars, imprisoned, with or without hard labor, for  
8 not more than five years, or both.

9 (b) Whoever causes serious bodily injury or death to an animal during  
10 a violation of this Section, or who commits a second or subsequent offense of  
11 sexual abuse of an animal, shall be fined not less than five thousand dollars nor  
12 more than twenty-five thousand dollars, or imprisoned, with or without hard  
13 labor, for not less than one year nor more than ten years, or both.

14 (2) In addition to any other penalty imposed, a person convicted of  
15 violating this Section shall be ordered to:

16 (a) Relinquish custody of all animals.

17 (b) Not harbor, own, possess, or exercise control over any animal.

18 (c) Not reside in any household where an animal is present; engage in an  
19 occupation, whether paid or unpaid, involving animals; or participate in a  
20 volunteer position at any establishment where animals are present, for any  
21 length of time deemed appropriate by the court, but not less than five years.

22 (d) Undergo a psychological evaluation for sex offenders and participate  
23 in any recommended psychological treatment. Any costs associated with any  
24 evaluation or treatment ordered by the court shall be paid by the defendant.

25 (e) If the convicted person is not the owner, reimburse the owner for any  
26 expenses incurred for medical treatment or rehabilitation of the victimized  
27 animal.

28 E.(1) Any law enforcement officer investigating a violation of this Section  
29 may lawfully take possession of an animal that he has reason to believe has been

1 victimized under this Section in order to protect the health or safety of the  
 2 animal or the health or safety of others, and to obtain evidence of the offense.

3 (2) Any animal seized pursuant to this Section shall be promptly taken  
 4 to a shelter facility or veterinary clinic to be examined by a veterinarian for  
 5 evidence of sexual contact.

6 (3) With respect to an animal so seized and impounded, all provisions of  
 7 R.S. 14:102.2 and R.S. 14:102.3 shall apply to the seizure, impoundment, and  
 8 disposition of the animal.

9 F. Prosecution under this Section shall not preclude prosecution under  
 10 any other applicable provision of law.

11 Section 2. This Act shall become effective upon signature by the governor or, if not  
 12 signed by the governor, upon expiration of the time for bills to become law without signature  
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 15 effective on the day following such approval.

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

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DIGEST

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 definition of crime against nature.

Proposed law otherwise retains present law.

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.

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 causes serious bodily injury or death to an animal during a violation of proposed law, or who commits a second or subsequent offense of sexual abuse of an animal, is to be fined between \$5,000 and \$25,000, or imprisoned with or without hard labor for between one year and 10 years, or both.

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.
- (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.

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

(Amends R.S. 14:89(A)(1); adds R.S. 14:89.3)

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill

1. Makes technical changes.