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**Judiciary Committee**

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**HB 2945**

**Title:** An act relating to the wrongful injury or death of a companion animal.

**Brief Description:** Creating a cause of action for the wrongful injury or death of a companion animal.

**Sponsors:** Representatives Linville, Kessler, Williams, Kirby, Springer, Pearson, O'Brien, Goodman, Lantz, Dunshee, Jarrett, Roach, Campbell, Morrell, Upthegrove, Hurst and Ormsby.

**Brief Summary of Bill**

- Creates a civil cause of action for the wrongful injury or death of a companion animal.
- Allows the owner of companion animal to recover, as non-exclusive remedies, all economic damages suffered as a result of a companion animal's injury or death, and exemplary damages up to three times the actual damages sustained plus attorney's fees for acts against a companion animal constituting animal cruelty in the first degree.
- Defines companion animal.

**Hearing Date:** 2/1/08

**Staff:** Lara Zarowsky (786-7123).

**Background:**

The state's law for the prevention of cruelty to animals prohibits certain practices and activities involving animals. Among the law's prohibitions are transporting or confining animals in an unsafe manner, engaging animals in exhibition fighting with other animals, and poisoning animals. In addition, the chapter contains the crime of animal cruelty.

Animal Cruelty in the First Degree

Animal cruelty in the first degree involves the intentional killing, infliction of substantial pain, or physical injury to an animal by any means that causes undue suffering.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A person commits animal cruelty in the first degree when, with criminal negligence, he or she starves, dehydrates or suffocates an animal, and as a result causes death or substantial and unjustifiable physical pain for a duration sufficient to cause considerable suffering. Sexual conduct or contact with an animal is explicitly prohibited. Knowingly engaging, aiding another to engage in, observing or facilitating such conduct constitutes animal cruelty in the first degree.

The animal cruelty law contains a number of exemptions, including: licensed research institutions; accepted husbandry practices in the commercial raising or slaughtering of livestock; the customary use of animals in rodeos or fairs; the killing of animals for food; and practices authorized under the "game laws."

Animal cruelty in the first degree is an unranked class C felony with a standard sentence range of zero to 12 months. An exceptional sentence may be imposed upon a finding of aggravating circumstances.

#### Negligent or Malicious Infliction of Emotional Distress

A person who suffers mental distress without physical injury may have a cause of action for damages. A finding of distress may be made by a jury based on the reasonable reaction to an event, unless a court finds as a matter of law that the reaction was unreasonable. Washington courts have traditionally recognized emotional distress caused by reaction to what might have happened to humans.

In 2006, a Washington appeals court extended the rule by recognizing a cause of action for malicious injury to a pet, holding that an owner's reaction associated with such injury may be considered a factor in measuring a person's emotional distress.

An act or omission is:

- *unlawful* if it is contrary to or not permitted by law;
- *willful* if it is intentional or deliberate, though not necessarily done with harmful purpose;
- *intentional* if undertaken with knowledge or reasonably certain knowledge of the outcome or likely result;
- *malicious* if it is an intentional wrongful act by one actor against another without legal justification or excuse;
- *wanton* if it is performed with knowledge that injury to another is likely to result, and with reckless indifference to such a consequence;
- *reckless* if it is done with disregard for the consequences when the circumstances involve danger to the life or safety of others; and
- *negligent* if an ordinarily prudent person would foresee an appreciable risk of harm to others that would dissuade the act or cause the actor to be more careful.

#### **Summary of Bill:**

The owner of a companion animal has a cause of action against any person who, by willful, intentional, malicious, wanton, reckless, or negligent act or omission:

- kills, or causes or procures the death of a companion animal; or
- injures, or causes or procures the injury of a companion animal.

In addition to any other remedy provided by law, the owner may recover all **economic** damages resulting from the injury or death of a companion animal, including but not limited to:

- damages for the actual value of the companion animal to the owner;

- veterinary expenses; and
- other special care expenses, including: veterinary expenses to restore the animal to its prior condition; burial expenses; and other expenses incurred by the owner in rectifying the effects of, or as a consequence of, the pain, suffering, or injuries to the companion animal.

The owner may bring an action for **exemplary** damages up to three times the actual damages sustained, plus attorney's fees, for acts against the companion animal constituting animal cruelty in the first degree.

A "companion animal" is any nonhuman mammal, bird, reptile, fish, or amphibian that is lawfully owned or possessed and is under the care, custody, or ownership of a person. Exempted are: animals raised for meat production, production of products from the animal, or breeding purposes; research animals regulated under federal law; and wildlife.

The "actual value" means the intrinsic or peculiar value of the companion animal to the owner, and is not limited to the market value or replacement value of the animal. The term does not include any extraordinary or unusual sentimental value of the companion animal to the owner.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.