

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 215

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO CRIMES; CREATING THE CRIMES OF BESTIALITY,
PROMOTING BESTIALITY AND AGGRAVATED BESTIALITY; PRESCRIBING
PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Criminal Code, Section
30-9A-1 NMSA 1978, is enacted to read:

"30-9A-1. [NEW MATERIAL] SHORT TITLE.--Chapter 30,
Article 9A NMSA 1978 may be cited as the "Animal Sexual Abuse
Act"."

SECTION 2. A new section of the Criminal Code, Section
30-9A-2 NMSA 1978, is enacted to read:

"30-9A-2. [NEW MATERIAL] DEFINITIONS.--As used in the
Animal Sexual Abuse Act:

A. "animal" means any wild or domestic fauna,

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1 including livestock, alive or dead, in any setting, that is not
2 a human being;

3 B. "bestiality" means sexual contact between or
4 involving a human being and an animal;

5 C. "coerce" means the use of threat, physical force
6 or violence against another person to commit an act of
7 bestiality;

8 D. "manipulate" means the use of persuasion,
9 extortion, retaliation, deceit or other acts not involving
10 force or coercion to cause another person to commit an act of
11 bestiality;

12 E. "orifice" means the mouth, vulva or anus;

13 F. "sexual contact with an animal" means:

14 (1) the intentional insertion of the genitals
15 or mouth of an animal into an orifice of a human's body;

16 (2) the intentional insertion of the genitals
17 or mouth of a human into an orifice of an animal's body;

18 (3) the intentional insertion of an object
19 into the genitals or anus of an animal; and

20 (4) contact, handling or stimulation of the
21 genitals or anus of an animal by a human.

22 "Sexual contact with an animal" does not include accepted
23 veterinary medical practices; accepted animal husbandry, care
24 and grooming practices in the caretaking of animals; accepted
25 practices related to the insemination of animals for the

1 purpose of procreation; or accepted practices related to
2 conformation judging; and

3 G. "solicit" means to entice, induce, encourage or
4 attempt to persuade another person to commit an act of
5 bestiality."

6 SECTION 3. A new section of the Criminal Code, Section
7 30-9A-3 NMSA 1978, is enacted to read:

8 "30-9A-3. [NEW MATERIAL] BESTIALITY--AGGRAVATED
9 BESTIALITY--PENALTIES.--

10 A. Bestiality consists of a person engaging in
11 sexual contact with an animal. A person who commits bestiality
12 is guilty of a fourth degree felony.

13 B. Promoting bestiality consists of a person:

14 (1) coercing, soliciting or manipulating a
15 human to commit bestiality; or

16 (2) selling or transferring, offering to sell
17 or transfer, advertising for sale or transfer, purchasing or
18 offering to purchase, possessing or otherwise obtaining an
19 animal with the intent that the animal be used for bestiality.

20 A person who commits promoting bestiality is guilty of a
21 fourth degree felony.

22 C. Aggravated bestiality consists of a person:

23 (1) committing bestiality or promoting
24 bestiality in the presence of a minor; or

25 (2) committing bestiality or promoting

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1 bestiality in which a minor is a participant.

2 A person who commits aggravated bestiality is guilty of a
3 third degree felony.

4 D. Emission by a human or animal is not required to
5 prove sexual contact with an animal.

6 E. If a person has been convicted of a crime
7 pursuant to this section, in addition to any other penalties,
8 the sentencing court shall include in the judgment and sentence
9 all of the following:

10 (1) that all animals under the direct care and
11 control of the convicted person be seized and turned over to an
12 agent of the New Mexico livestock board or to an animal control
13 agency operated by the state or a local government or an animal
14 shelter or other animal welfare organization designated by the
15 animal control agency. The receiver of seized animals has the
16 authority to determine the disposition of seized animals, but
17 shall not return the animals to the convicted person; and

18 (2) that the convicted person shall not be
19 allowed to own, possess, reside with or exercise control over
20 any animal or engage in any occupation or profession, whether
21 paid or unpaid, at any place where animals are kept or cared
22 for, for a definite period not less than three years and not
23 more than fifteen years; provided that the time the person
24 spent in actual confinement serving a criminal sentence shall
25 be excluded from the calculation of the definite period.

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1 F. If a person has been convicted of a crime
2 pursuant to this section, in addition to criminal penalties and
3 other penalties specified in Subsection E of this section, the
4 sentencing court may order:

5 (1) that the convicted person submit to a
6 psychological assessment and participate in appropriate
7 counseling; and

8 (2) that the convicted person pay restitution
9 for incurred costs of veterinary care, boarding, food and other
10 reasonable costs of care for an animal as a result of the
11 crime.

12 G. A person shall not be convicted of a crime
13 specified in this section if the person's sexual contact with
14 an animal was coerced or manipulated."

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