

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 215

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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,

.225720.3AIC March 14, 2023 (12:18pm)

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

HJC→B. ~~"bestiality" means sexual contact between or involving a human being and an animal;~~←HJC

HJC→C.←HJC HJC→B.←HJC "coerce" means the use of threat, physical force or violence against another person to commit an act of bestiality;

HJC→D.←HJC HJC→C.←HJC "manipulate" means the use of persuasion, extortion, retaliation, deceit or other acts not involving force or coercion to cause another person to commit an act of bestiality;

HJC→E.←HJC HJC→D.←HJC "orifice" means the mouth, vulva or anus;

HJC→F.←HJC HJC→E.←HJC "sexual contact with an animal" means:

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

(2) the intentional insertion of the genitals

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or mouth of a human into an orifice of an animal's body;

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

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

"Sexual contact with an animal" does not include accepted veterinary medical practices; accepted animal husbandry, care and grooming practices in the caretaking of animals; accepted practices related to the insemination of animals for the purpose of procreation; or accepted practices related to conformation judging; and

HJC→G.←HJC HJC→F.←HJC "solicit" means to entice, induce, encourage or attempt to persuade another person to commit an act of bestiality."

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

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

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

B. Promoting bestiality consists of a person:

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

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

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

C. Aggravated bestiality consists of a person:

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

(2) committing bestiality or promoting bestiality in which a minor is a participant.

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

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

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

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

(2) that the convicted person shall not be allowed to own, possess, reside with or exercise control over

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any animal or engage in any occupation or profession, whether paid or unpaid, at any place where animals are kept or cared for, for a definite period not less than three years and not more than fifteen years; provided that the time the person spent in actual confinement serving a criminal sentence shall be excluded from the calculation of the definite period.

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

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

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

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