

# GOV. MSG. NO. 872

#### EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE GOVERNOR

June 1, 2007

The Honorable Colleen Hanabusa, President and Members of the Senate Twenty-Fourth State Legislature State Capitol, Room 409 Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 1, 2007, the following bill was signed into law:

SB1665 HD1 CD1

A BILL FOR AN ACT RELATING TO ANIMALS. (ACT 114)

Sincerely,

12iu LINDA LINGLE

# ACT 114 S.B. NO. <sup>1665</sup> H.D. 1 c.D. 1

# A BILL FOR AN ACT

RELATING TO ANIMALS.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	SECTION 1.	The purpo	ose of	this	Act	is	to	strengthen
2	Hawaii's animal	cruelty la	ws.					

3 SECTION 2. Chapter 711, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 §711-A Cruelty to animals in the first degree. (1) A

7 person commits the offense of cruelty to animals in the first

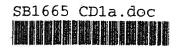
8 degree if the person intentionally or knowingly tortures,

9 mutilates, or poisons or causes the torture, mutilation, or

10 poisoning of any pet animal resulting in serious bodily injury

11 or death of the pet animal.

- 12 (2) subsection (1) shall not apply to:
- 13 (a) Accepted veterinary practices;
- 14 (b) Activities carried on for scientific research
- 15 governed by standards of accepted educational or
- 16 medicinal practices; or
- 17 (c) Cropping or docking as customarily practiced.



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1	(3) Whenever any pet animal is so severely injured that
2	there is no reasonable probability that its life can
3	be saved, the pet animal may be immediately destroyed
• 4	without creating any offense under this section.
5	(4) Cruelty to animals in the first degree is a class C
6	felony.
7	SECTION 3. Section 711-1100, Hawaii Revised Statutes, is
8	amended to read as follows:
9	"§711-1100 Definitions. In this chapter, unless a
10	different meaning is plainly required, or the definition is
11	otherwise limited by this section:
12	"Animal" includes every living creature, except a human
13	being.
14	[ <del>"Cruelty", "torture" or "torment" includes every act,</del>
15	omission, or neglect whereby unjustifiable physical pain,
16	suffering, or death is caused or permitted.]
17	"Facsimile" means a document produced by a receiver of
18	signals transmitted over telecommunication lines, after
19	translating the signals, to produce a duplicate of an original
20	document.
21	"Necessary sustenance" means care sufficient to preserve

22 the health and well-being of a pet animal, except for



1 emergencies or circumstances beyond the reasonable control of 2 the owner or caretaker of the pet animal, and includes but is 3 not limited to the following requirements:

4 Food of sufficient quantity and quality to allow for (1)5 normal growth or maintenance of body weight; 6 (2)Open or adequate access to water in sufficient 7 quantity and quality to satisfy the animal's needs; 8 Access to protection from wind, rain, or sun; and (3) 9 An area of confinement that has adequate space (4)10 necessary for the health of the animal and is kept reasonably clean and free from excess waste or other 11 12 contaminants that could affect the animal's health. "Obstructs" means renders impassable without unreasonable 13

14 inconvenience or hazard.

15 "Pet animal" means a dog, cat, <u>domesticated</u> rabbit, guinea 16 pig, [domestic rat or mouse,] <u>domesticated pig</u>, or caged birds 17 (passeriformes, piciformes, and psittaciformes only)[-] <u>so long</u> 18 as not bred for consumption.

"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.

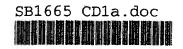
3 "Public place" means a place to which the public or a • 4 substantial group of persons has access and includes highways, 5 transportation facilities, schools, places of amusement or 6 business, parks, playgrounds, prisons, and hallways, lobbies, 7 and other portions of apartment houses and hotels not 8 constituting rooms or apartments designed for actual residence. 9 "Record", for the purposes of sections 711-1110.9 and 711-10 1111, means to videotape, film, photograph, or archive 11 electronically or digitally. 12 "Torment" means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to 13 14 the animal. "Torture" includes every act, omission, or neglect\_whereby 15 unjustifiable physical pain, suffering, or death is caused or 16 17 permitted. SECTION 4. Section 711-1109, Hawaii Revised Statutes, is 18 19 amended to read as follows:

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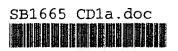
"§711-1109 Cruelty to animals [-] in the second degree.



1 (1)A person commits the offense of cruelty to animals in 2 the second degree if the person intentionally, knowingly, or 3 recklessly: 4 (a) Overdrives, overloads, tortures, torments, [cruelly] beats, causes substantial bodily injury, or starves 5 6 any animal, or causes [or procures] the overdriving, 7 overloading, torture, torment, [cruel] beating, or 8 starving of any animal, or deprives a pet animal of 9 necessary sustenance or causes such deprivation; 10 (b) Mutilates, poisons, or kills without need any animal 11 other than insects, vermin, or other pests; 12 (c) Keeps, uses, or in any way is connected with or 13 interested in the management of, or receives money for the admission of any person to, any place kept or used 14 15 for the purpose of fighting or baiting any bull, bear, 16 [dog,] cock, or other animal, and every person who 17 encourages, aids, or assists therein, or who permits 18 or suffers any place to be so kept or used; 19 Carries or causes to be carried, in or upon any (d) 20 vehicle or other conveyance, any animal in a cruel or 21 inhumane manner; or



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1	(e)	Assists another in the commission of any act[ <del>of</del>				
2		cruelty to any animal.]specified in subsections (1)(a)				
3		through (1)(d).				
• 4 *	(2)	Subsection (1)(a), (b), (d), <u>and</u> (e), [ <del>and the</del>				
5	following	-subsection (3) are] shall not [applicable] apply to				
6	[accepted]:					
7	<u>(a)</u>	Accepted veterinary practices [and to activities];				
8	<u>(b)</u>	Activities carried on for scientific research governed				
9	5 8	by standards of accepted educational or medicinal				
10		practices[-]; or				
11	<u>(c)</u>	Pest control operations conducted pursuant to chapter				
12		149A by a pest control operator licensed pursuant to				
13	6	chapter 460J, if the pest control is performed under a				
14		written contract.				
15	(3)	Whenever any [domestic] animal is so severely injured				
16		that there is no reasonable probability that its life				
17		or usefulness can be saved, the animal may be				
18		immediately destroyed [-] without creating any offense				
19		under this section.				
20	(4)	Cruelty to animals in the second degree is a				
21	misdemeanor					



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SECTION 5. Section 711-1109.1, Hawaii Revised Statutes, is 1 2 amended by amending subsection (1) to read as follows: "(1) If there is probable cause to believe that a pet 3 animal is being subjected to treatment in violation of section 4 711-1109, 711-\_\_\_, or 711-1109.3, a law enforcement officer, 5 after obtaining a search warrant or in any other manner 6 authorized by law, may enter the premises where the pet animal 7 is located to provide the pet animal with food, water, and 8 emergency medical treatment or to impound the pet animal. 9 Ιf after reasonable effort, the owner or person having custody of 10 the pet animal cannot be found and notified of the impoundment, 11 an impoundment notice shall be conspicuously posted on the 12 premises and within seventy-two hours after posting, the notice 13 shall be sent by certified mail to the address, if any, from 14 which the pet animal was removed." 15 SECTION 6. Section 711-1109.2 is amended as follows: 16 17 1. By amending subsection (1) to read: "(1) If any pet animal is impounded pursuant to section 18 711-1109.1, prior to final disposition of the criminal charge 19 under section 711-1109, 711- , or 711-1109.3 against the pet 20 animal's owner, any duly incorporated humane society or duly 21 22 incorporated society for the prevention of cruelty to animals



1 that is holding the pet animal may file a petition in the 2 criminal action requesting that the court issue an order for 3 forfeiture of the pet animal to the county or to the duly • 4 incorporated humane society or duly incorporated society for the 5 prevention of cruelty to animals prior to final disposition of 6 the criminal charge. The petitioner shall serve a true copy of 7 the petition upon the defendant and the prosecuting attorney." 8 2. By amending subsection (3) to read: 9 "(3) At a hearing conducted pursuant to subsection (2), the 10 petitioner shall have the burden of establishing probable cause that the pet animal was subjected to a violation of section 11 711-1109, 711- , or 711-1109.3. If the court finds that 12 probable cause exists, the court shall order immediate 13 14 forfeiture of the pet animal to the petitioner, unless the defendant, within seventy-two hours of the hearing: 15 16 (a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient 17 18 to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in 19 20 caring for the pet animal from the date of initial 21 impoundment to the date of trial; or



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1	(b) Demonstrates to the court that proper alternative care					
2	has been arranged for the pet animal.					
3	Notwithstanding subsection (3)(a), a court may waive, for good					
4	cause shown, the requirement that the defendant post a security					
5	deposit or bond."					
6	3. By amending subsection (5) to read:					
7	"(5) No pet animal may be destroyed by a petitioner under					
8	this section prior to final disposition of the criminal charge					
9	under section 711-1109, 711- , or 711-1109.3 against the pet					
10	animal's owner, except in the event that the pet animal is so					
11	severely injured that there is no reasonable probability that					
12	its life can be saved."					
13	SECTION 7. Section 711-1110.5, Hawaii Revised Statutes, is					
14	amended to read as follows:					
15	" §711-1110.5 Surrender or forfeiture of animals. Upon					
16	conviction, guilty plea, or plea of nolo contendere for any					
17	violation of section 711-1109 <u>, 711</u> or 711-1109.3:					
18	(1) The court may order the defendant to surrender or					
19	forfeit the animal whose treatment was the basis of					
20	the conviction or plea to the custody of a duly					
21	incorporated humane society or duly incorporated					
22	society for the prevention of cruelty to animals for					
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the time and under the conditions as the court shall 1 2 order; and 3 (2)The court also may order the defendant to surrender or - 4 forfeit any other animals under the possession, 5 custody, or control of the defendant to the custody of 6 a duly incorporated humane society or duly 7 incorporated society for the prevention of cruelty to 8 animals for the time and under the conditions as the 9 court shall order, if there is substantial evidence 10 that the animals are being abused or neglected. 11 The court shall order the defendant to reimburse the duly 12 incorporated humane society or duly incorporated society for the 13 prevention of cruelty to animals for reasonable costs incurred 14 to care, feed, and house any animal that is surrendered or 15 forfeited pursuant to this section." SECTION 8. This Act does not affect rights and duties that 16 17 matured, penalties that were incurred, and proceedings that were 18 begun, before its effective date. 19 SECTION 9. In codifying the new section added by section 2 20 of this Act, the revisor of statutes shall substitute an

21 appropriate section number for the letter used in designating22 the new section in this Act.



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SECTION 10. Statutory material to be repealed is bracketed
 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect upon its approval.

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GOVERNOR OF THE STATE OF HAWAII Approved this day: <u>JUN 1 2007</u>

