



NSW Legislative Assembly Hansard

Crimes Amendment (Animal Cruelty) Bill

Extract from NSW Legislative Assembly Hansard and Papers Wednesday 9 November 2005.

Second Reading

Ms SANDRA NORI (Port Jackson—Minister for Tourism and Sport and Recreation, Minister for Women, and Minister Assisting the Minister for State Development) [7.45 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

I am pleased to introduce the Crimes Amendment (Animal Cruelty) Bill. The community was understandably outraged earlier this year by a number of vicious attacks on animals. In response, the Government established the multi-agency Animal Cruelty Task Force to consider changes to animal cruelty laws and procedures. The amendments contained in this bill arise from the task force report to the Government. Current animal cruelty offences are found in the Prevention of Cruelty to Animals Act 1979. The most serious of these offences carries a maximum penalty of two years imprisonment. The task force was concerned primarily with whether a new aggravated animal cruelty offence carrying a higher penalty should be created in the Crimes Act 1900.

It was proposed that this new offence deal with the worst examples of animal cruelty, that is, cases where offences are committed with the intention of inflicting pain on the animal in circumstances that amount to serious instances of animal cruelty, such as torture, and where the animal is killed, seriously injured or experiences prolonged suffering. The bill also creates a new offence designed to protect animals used for law enforcement purposes. This is in response to the killing of police dog Titan last year during a police operation. There have also been other reports of attempts to injure law enforcement animals, such as throwing marbles under the hooves of police horses. To reflect the seriousness of these two offences the maximum penalty for both of these new offences will be five years imprisonment.

The task force also found that where matters were prosecuted by animal welfare organisations, such as the RSPCA and the Animal Welfare League, with no involvement by police in the investigation, there was no guarantee that a guilty person's fingerprints would be taken and a subsequent notation made on their criminal record. Accordingly, an amendment to the Law Enforcement (Police Powers and Responsibilities) Act 2002 will provide that an application may be made to the court for a fingerprinting order for offenders convicted of the offence of cruelty or aggravated cruelty to an animal under the Prevention of Cruelty to Animals Act. The introduction of the new offence under the Crimes Act will not affect the offences that currently exist in the Prevention of Cruelty to Animals Act.

Those offences will remain unchanged and, together with the new Crimes Act provisions, will create a scale of animal cruelty offences of increasing seriousness. Less serious matters of animal cruelty, therefore, will continue to be dealt with under the Protection of Cruelty to Animals Act. I now turn to the detail of the bill. Schedule 1 inserts proposed sections 530 and 531 into the Crimes Act 1900. Both offences will be indictable offences carrying maximum penalties of five years imprisonment.

Proposed section 530 makes it an offence, with the intention of inflicting severe pain on an animal, to torture, beat or commit any other act of serious cruelty on the animal, and to kill, seriously injure or cause prolonged suffering to the animal. Specific defences provided for are authorised animal research, routine agricultural and animal husbandry, recognised religious practices, pest extermination and veterinary practice. Many of these defences are carried over and summarised from the same defences that apply in the Prevention of Cruelty to Animals Act. These specific defences, of course, do not limit other circumstances where there is no requisite intention to cause severe pain or other general statutory or common law defences.

Of course, as with all criminal defences, the responsibility for proving the defences lies with the accused. Proposed section 531 makes it an offence to intentionally kill or seriously injure an animal knowing that the animal is being used in the execution of the officer's duty or to do so as a consequence of, or in retaliation for, such a use of the animal. Schedule 2.1 amends the Criminal Procedure Act 1986 to provide that the new indictable animal cruelty offences are to be dealt with summarily by a Local Court unless the prosecutor elects otherwise. This will enable the police to identify the serious matters and elect to have them dealt with by the superior courts before a judge and jury.

Schedule 2.2 amends section 134 of the Law Enforcement (Powers and Responsibilities) Act 2002 to enable a court which finds an offence proved against a person under section 5, Cruelty to Animals, or section 6, Aggravated Cruelty to Animals, of the Prevention of Cruelty to Animals Act 1979 to order the person to attend a police station and submit to the taking of identification particulars. This will ensure that accurate criminal records can be maintained in relation to animal cruelty offences. The Law Enforcement (Powers and Responsibilities)

Act 2002 is to commence on 1 December 2005. The equivalent provision is currently located at section 353A (7) of the Crimes Act 1900. This will be repealed when the Law Enforcement (Powers and Responsibilities) Act comes into force.

Unwarranted and unjustified cruelty to animals is unacceptable to our society and the Government wishes to send a strong message that such unacceptable actions will be dealt with as serious criminal offences and offenders can be assured of strong enforcement of these new laws. I commend the bill to the House.