



MEMORANDUM

TO: The Pennsylvania House of Representatives

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: June 9, 2021

RE: OPPOSITION TO HB 940 P.N. 1725 (RIGBY) — “Titan’s Law”

Bill summary: Currently, [18 Pa. C.S. § 5548](#) (Police animals), makes it a third-degree felony for a person to *intentionally or knowingly* taunt, beat or strike a police animal under § 5548(a). And under § 5548(b), it is a second-degree felony for a person to *intentionally or knowingly* injure or kill a police animal.

[HB 940](#) (PN 1725) would create two new offenses against police animals under [18 Pa. C.S. § 5548](#), neither one requiring intentionality, that would make it unlawful to:

1. Recklessly torture, mutilate, injure, disable, poison or kill a police animal — graded as a first-degree misdemeanor (max 5 years incarceration); or
2. Torture, mutilate, injure, disable, poison or kill a police animal while engaged as a principal or an accomplice in the perpetration of a felony — graded as a third-degree felony (max 7 years incarceration).

Additionally, HB 940 would add two new sentencing enhancements under burglary ([§ 3502](#)) and criminal trespass ([§ 3503](#)) for **domestic animals** who are harmed or killed during the course of the offense.¹

On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose House Bill 940.

By eliminating the intent currently required under law, HB 940 crafts a new, but duplicative, offense.

The PA Crimes Code already includes offenses that could be used to charge someone who harms or kills an animal. Aggravated cruelty to an animal under [§ 5534](#) punishes intentional torture, abuse, or neglect that causes serious bodily injury to or the death of an animal as a third-degree felony. And cruelty to animals under [§ 5533](#) already makes it unlawful to recklessly (but not intentionally) abuse an animal in a manner that causes bodily injury or imminently risks serious bodily injury. That offense is graded as a second-degree misdemeanor.

Rather than charging someone under those existing offenses — either separate from or in combination with offenses against police animals under § 5548 — HB 940 takes elements from each of these offenses to create a new, similar offense prohibiting the reckless, *but not intentional*, injury or death of a police animal, graded as a first-degree misdemeanor, punishable by up to five years in prison. Increasing penalties and creating duplicative offenses only accelerates the relentless expansion of the crimes code, which arms prosecutors with ever-broadening charging options, allowing them to stack charges and threaten excessive punishment in order to secure plea deals.

HB 940 creates a new offense that dangerously expands the underlying principle of felony murder.

After eliminating the *mens rea* requirement for violations under § 5548 (b), HB 940 creates yet another offense that holds a person criminally culpable when a police animal is injured or killed while the person is engaged in the commission of a felony. A violation of this offense is graded as a third-degree felony, punishable by up to 7 years in prison.

¹ “Domestic animal” is defined as “A dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.” [18 Pa.C.S. § 5531](#).

Because this provision requires no specific intent to injure or kill a police animal, it effectively functions like the [felony murder rule](#), inferring the necessary intent to harm the animal from the intent to commit the underlying felony. In other words, committing the felony would create the recklessness sufficient to establish the intent to hurt the animal.

Furthermore, HB 940 was amended to extend this principle to apply to ***domestic animals*** (dogs, cats, horses, cows, sheep, goats, or pigs) by creating two new sentencing enhancements for those animals who are harmed or killed during the course of a burglary or criminal trespass. The enhancement does not require that the defendant directly or intentionally harmed or killed the animal. All that is required for the enhancement is that something happened while someone was burglarizing or trespassing that resulted in the injury or death of a domestic animal. Criminal trespass is already graded, *at a minimum*, as a third-degree felony. And burglary is graded, *at a minimum*, as a second-degree felony. HB 940 would enhance both of these underlying offenses.

These changes are egregious expansions of current law and of the flawed principle of felony murder.

For these reasons, we urge you to oppose House Bill 940.