



## MEMORANDUM

**TO:** The Pennsylvania Senate

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** June 28, 2021

**RE: OPPOSITION TO HB 940 P.N. 3285 (RIGBY) — “Titan’s Law”**

**Bill summary:** In order for a person to be charged with illegally taunting or torturing a police animal under [18 § 5548](#), Pennsylvania law currently requires that the person *intentionally or knowingly* inflicted harm on the animal. [HB 940](#) (PN 3285), however, would create two new offenses, one that lowers the *mens rea* to reckless and another that applies a strict liability standard akin to felony murder, specifically establishing:

1. **A first-degree misdemeanor** for recklessly torturing, mutilating, injuring, disabling, poisoning, or killing a police animal, punishable by up to 5 years in prison and \$10,000 in fines.
2. **A third-degree felony** for torturing, mutilating, injuring, disabling, poisoning or killing a police animal while engaged as a principal or an accomplice in the perpetration of a felony, punishable by up to 7 years in prison and \$15,000 in fines.

HB 940 would also delegate authority to the Pennsylvania Commission on Sentencing to create two new sentencing enhancements (for any domestic animal, not limited to police animals), neither of which requires knowledge or intent to harm the animal:

1. [§ 3502. Burglary](#): Grading would be increased in cases where a domestic animal is harmed or killed during the course of a burglary.
2. [§ 3503. Criminal trespass](#): Grading would be increased in cases where a domestic animal is harmed or killed in the course of criminal trespassing.

Finally, HB 940 would add a new section to [Title 53, Chapter 21](#) to establish police officer canine training and certification standards and would allow, when possible, first responders to assist in treating injured police animals and would protect anyone assisting an injured police animal in good faith from criminal liability.

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

### **HB 940 creates new and redundant offenses.**

As referenced above, the PA Crimes Code already includes two offenses for harming a police animal:

- [§ 5548\(a\)](#): Third-degree felony for *intentionally or knowingly* taunting, beating, or kicking a police animal.
- [§ 5548\(b\)](#): Second-degree felony for *intentionally or knowingly* torturing or killing a police animal.

The PA Crimes Code also includes offenses for harming or killing an animal, including:

- [§ 5534](#): Third-degree felony for aggravated cruelty to an animal, defined as the *intentional or knowing* torture, abuse, or neglect of an animal that causes serious bodily injury to or the death of an animal.
- [§ 5533](#): Second-degree misdemeanor for cruelty to animals, defined as recklessly abusing an animal in a manner that causes bodily injury or imminently risks serious bodily injury.

Rather than charging someone under any one or more of these existing offenses, HB 940 unjustifiably creates new charges that could easily be charged along with existing ones. Creating duplicative offenses only

accelerates the [relentless expansion](#) of the crimes code, which arms prosecutors with ever-broader charging options, allowing them to stack charges and threaten punishment in order to secure plea deals.

**HB 940 creates a new felony offense and new sentencing enhancements that dangerously expand the underlying principle of felony murder.**

Because the felony offense created under HB 940 requires no specific intent to injure or kill a police animal, or even to so recklessly, it effectively functions like the [felony murder rule](#), attaching criminal felony liability for actions that were not intended, not thought of, not contemplated, not known of, and not caused by reckless action.

Similarly, intent or knowledge would not be required to enhance the penalties imposed in cases where an animal is hurt or killed during the commission of a burglary or criminal trespassing. **To be clear—none of these cases even require that the defendant touched or interacted with the animal in any way, much less intended to cause the animal harm.** This is an egregious expansion of current law and the underlying, flawed principle of felony murder.

**HB 940 relinquishes legislative authority to the Sentencing Commission to establish criminal penalties.**

Delegating authority to the Sentencing Commission to create sentencing enhancements means that it is impossible to consider the severity of the punishments imposed for harming or killing an animal while committing criminal trespass or burglary. In other words, legislators are being asked to vote on a bill that would increase criminal penalties for two different offenses without knowing how severe, or modest, those enhancements will be.

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