A BILL

FOR AN ACT relating to crimes and offenses; to amend section 54-908, Reissue Revised Statutes of Nebraska, and sections 28-101 and 28-1017, Revised Statutes Cumulative Supplement, 2012; to change provisions relating to the reporting of cruelty to animals; to change penalties; to create the offense of damaging or interfering with the operations of an animal facility; to define terms; to provide penalties; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 28-101, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-101 Sections 28-101 to 28-1356 and section 3 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 2. Section 28-1017, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-1017 (1) For purposes of this section, reasonably:

(a) Reasonably suspects means a basis for reporting knowledge or a set of facts that would lead a person of ordinary care and prudence to believe and conscientiously entertain a strong suspicion that criminal activity is at hand or that a crime has been committed.

(b) Employee means any employee of a governmental agency dealing with child or adult protective services, animal control, or animal abuse.

(2) Any employee, while acting in his or her professional capacity or within the scope of his or her employment, person who observes or is involved in an incident which leads the employee person to reasonably suspect that an animal has been abandoned, cruelly neglected, or cruelly mistreated shall report such to the entity or entities that investigate such reports in that jurisdiction.

(3) The report of an employee shall be made within two working days of twenty-four hours after acquiring the information concerning the animal by facsimile transmission of a written report.
presented in the form described in subsection (6) of this section or by telephone. When an immediate response is necessary to protect the health and safety of the animal or others, the report of an employee shall be made by telephone as soon as possible.

(4) Nothing in this section shall be construed to impose a duty to investigate observed or reasonably suspected animal abandonment, cruel neglect, or cruel mistreatment. Any person making a report under this section is immune from liability except for false statements of fact made with malicious intent.

(5) A report made by an employee pursuant to this section shall include:

(a) The reporter’s name, and title, business address, and telephone number;

(b) The name, if known, of the animal owner or custodian, whether a business or individual;

(c) A description of the animal or animals involved, person or persons involved, and location of the animal or animals and the premises; and

(d) The date, the time, and a description of the observation or incident which led the reporter to reasonably suspect animal abandonment, cruel neglect, or cruel mistreatment and any other information the reporter believes may be relevant; and

(e) All original documentation, if any, or copies thereof, including video, photographs, or audio, which is evidence of animal abandonment, cruel neglect, or cruel mistreatment.
(6) A report made by an employee pursuant to this section may be made on preprinted forms prepared by the entity or entities that investigate reports of animal abandonment, cruel neglect, or cruel mistreatment in that jurisdiction. The form shall include space for the information required under subsection (5) of this section.

(7) When two or more employees jointly have observed or reasonably suspected animal abandonment, cruel neglect, or cruel mistreatment and there is agreement between or among them, a report may be made by one person by mutual agreement. Any such reporter who has knowledge that the person designated to report has failed to do so shall thereafter make the report.

(8) Any employee person failing to report under this section shall be is guilty of an infraction. a Class III misdemeanor.

Sec. 3. (1) Any person who makes a false statement or representation as part of an application or agreement to be employed at an animal facility with the intent of damaging or interfering with the operations of an animal facility and in connection with such purpose (a) intentionally causes economic damage to property used by an animal facility or any property of a person or entity having a connection to, a relationship with, or transactions with an animal facility, (b) intentionally places a person in reasonable fear of the death of or serious bodily injury to that person, a member of the immediate family of that person, or a spouse or intimate partner of that person, by a course of conduct involving economic damage, or (c) conspires or attempts to perform such actions as described in
subdivision (1)(a) or (b) of this subsection shall be punished as provided in subsection (2) of this section.

(2) The punishment for a violation of subsection (1) of this section or an attempt or conspiracy to violate such subsection shall be as follows:

(a) A Class I misdemeanor if:

(i) The violation does not instill in another the reasonable fear of serious bodily injury or death; and

(ii)(A) The violation results in no economic damage, death, or bodily injury; or

(B) The violation results in economic damage that does not exceed ten thousand dollars;

(b) A Class IV felony if:

(i) No bodily injury occurs; and

(ii)(A) The violation results in economic damage exceeding ten thousand dollars but not exceeding one hundred thousand dollars; or

(B) The violation instills in another the reasonable fear of serious bodily injury or death;

(c) A Class IIIA felony if:

(i) The violation results in economic damage exceeding one hundred thousand dollars but not exceeding one million dollars; or

(ii) The violation results in substantial bodily injury to another individual;
(d) A Class III felony if:

(i) The violation results in serious bodily injury to
another individual; or

(ii) The violation results in economic damage exceeding
one million dollars; and

(e) A Class IB felony if the violation results in the
death of another individual.

(3) An order of restitution with respect to a violation
of this section may also include restitution for economic damage and
for any other economic loss, including any losses or costs caused by
economic disruption, resulting from the violation.

(4) For purposes of this section:

(a) Animal facility means:

(i) A location where an agricultural animal is maintained
for agricultural production;

(ii) A location dedicated to farming;

(iii) A livestock market;

(iv) A livestock exhibition;

(v) A location where an animal is maintained for
educational or scientific purposes, including, but not limited to, a
research facility or a livestock exhibition;

(vi) A zoo, an aquarium, an animal shelter, a pet store,
a breeder, a furrier, a circus, or a rodeo or any other lawful
competitive animal event; or

(vii) A location where the primary activity is the
transport of animals to such locations or facilities;

(b) Course of conduct means a pattern of conduct which is composed of two or more acts and which evidences a continuity of purpose;

(c) Economic damage:

(i) Means the replacement costs of lost or damaged real or personal property, including animals or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits or increased costs, including losses and increased costs resulting from threats, acts of vandalism, property damage, trespass, harassment, or intimidation taken against a person or entity on account of that person's or entity's connection to, relationship with, or transactions with the animal facility; but

(ii) Does not include any lawful economic disruption, including a lawful boycott that results from lawful public, governmental, or business reaction to the disclosure of information about an animal facility;

(d) Serious bodily injury means:

(i) Injury posing a substantial risk of death;

(ii) Extreme physical pain;

(iii) Protracted and obvious disfigurement; or

(iv) Protracted loss or impairment of the function of a bodily member, body organ, or mental faculty; and

(e) Substantial bodily injury means:

(i) Deep cuts and serious burns or abrasions;
(ii) Short-term or nonobvious disfigurement;

(iii) Fractured or dislocated bones or torn members of the body;

(iv) Significant physical pain;

(v) Illness;

(vi) Short-term loss or impairment of the function of a bodily member, body organ, or mental faculty; or

(vii) Any other significant injury to the body not included in subdivision (d) of this section.

(5) Nothing in this section shall be construed:

(a) To prohibit any expressive conduct, including peaceful picketing or other peaceful demonstration, protected from legal prohibition by the First Amendment to the Constitution of the United States; or

(b) To create new remedies for interference with activities protected by the free speech or free exercise clause of the First Amendment to the Constitution of the United States regardless of the point of view expressed or to limit any existing legal remedies for such interference.

Sec. 4. Section 54-908, Reissue Revised Statutes of Nebraska, is amended to read:

54-908 (1) For purposes of this section, reasonably:

(a) Employee means any employee of a governmental agency dealing with livestock animal control or animal abuse; and

(b) Reasonably suspects means a basis for reporting knowledge or a set of facts that would
lead a person of ordinary care and prudence to believe and conscientiously entertain a strong suspicion that criminal activity is at hand or that a crime has been committed.

(2) Any employee, while acting in his or her professional capacity or within the scope of his or her employment, person who observes or is involved in an incident which leads the employee person to reasonably suspect that a livestock animal has been abandoned, cruelly neglected, or cruelly mistreated shall report such to the entity or entities that investigate such reports in that jurisdiction.

(3) The report of an employee shall be made within two working days of twenty-four hours after acquiring the information concerning the livestock animal by facsimile transmission of a written report presented in the form described in subsection (5) (6) of this section, or by telephone. When an immediate response is necessary to protect the health and safety of the livestock animal or others, the report of an employee shall be made by telephone as soon as possible.

(4) Nothing in this section shall be construed to impose a duty to investigate observed or reasonably suspected livestock animal abandonment, cruel neglect, or cruel mistreatment. Any person making a report under this section is immune from liability except for false statements of fact made with malicious intent.

(5) A report made by an employee pursuant to this section shall include:
(a) The reporter's name, and title, business address, and telephone number;

(b) The name, if known, of the livestock animal owner or custodian, whether a business or individual;

(c) A description of the livestock animal or livestock animals involved, person or persons involved, and location of the livestock animal or livestock animals and the premises; and

(d) The date, the time, and a description of the observation or incident which led the reporter to reasonably suspect livestock animal abandonment, cruel neglect, or cruel mistreatment and any other information the reporter believes may be relevant;

(e) All original documentation, if any, or copies thereof, including video, photographs, or audio, which is evidence of animal abandonment, cruel neglect, or cruel mistreatment.

(6) A report made by an employee pursuant to this section may be made on preprinted forms prepared by the entity or entities that investigate reports of livestock animal abandonment, livestock animal cruel neglect, or livestock animal cruel mistreatment in that jurisdiction. The form shall include space for the information required under subsection (5) of this section.

(7) When two or more employees jointly have observed or reasonably suspected livestock animal abandonment, livestock animal cruel neglect, or livestock animal cruel mistreatment and there is agreement between or among them, a report
may be made by one person by mutual agreement. Any such reporter who
has knowledge that the person designated to report has failed to do
so shall thereafter make the report.

(8) Any employee failing to report under this section shall be guilty of an infraction, a Class III misdemeanor.

Sec. 5. Original section 54-908, Reissue Revised Statutes of Nebraska, and sections 28-101 and 28-1017, Revised Statutes Cumulative Supplement, 2012, are repealed.