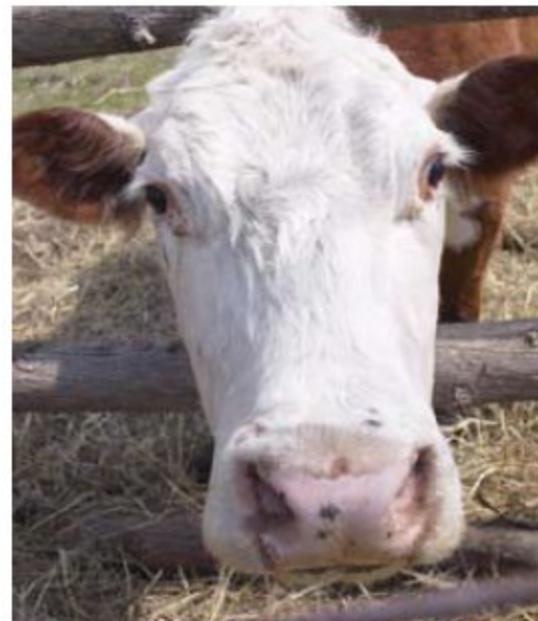


ANIMAL PROTECTION LAWS OF THE UNITED STATES OF AMERICA & CANADA

Seventh Edition



Animal Legal
Defense Fund



PREFACE

This seventh edition of the ANIMAL PROTECTION LAWS compendium contains the general animal protection and related statutes for all of the states, principal districts and territories of the United States of America, and for all of Canada. In Canada, the federal government enacts all criminal laws, which are applicable throughout the country. The provinces and territories of Canada may enact quasi-criminal offenses and laws in other subject areas, and have jurisdiction over most criminal and civil matters.

The compendium is organized into separate chapters for each jurisdiction. Chapters begin with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. The last category provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections. Embedded hyperlinks are utilized throughout the compendium to assist with navigation.

Some jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect.

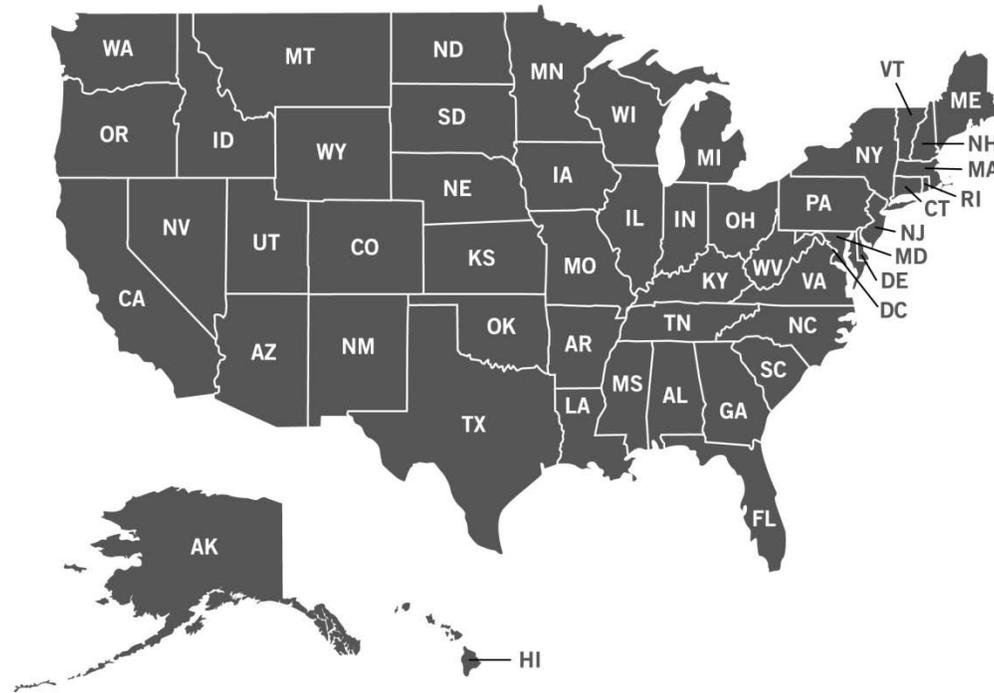
Because the law is continually evolving, always review an official source for the most current language of any statute.

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(EDITED BY: LORA DUNN, SOPHIE GAILLARD, SCOTT HEISER & RONALD SCHOEDEL)

Please send any comments/questions/additions/corrections to: legislation@aldf.org

UNITED STATES OF AMERICA



Alabama	Alaska	Arizona
Arkansas	California	Colorado
Connecticut	Delaware	Florida
Georgia	Hawaii	Idaho
Illinois	Indiana	Iowa
Kansas	Kentucky	Louisiana
Maine	Maryland	Massachusetts
Michigan	Minnesota	Mississippi
Missouri	Montana	Nebraska
Nevada	New Hampshire	New Jersey
New Mexico	New York	North Carolina
North Dakota	Ohio	Oklahoma
Oregon	Pennsylvania	Rhode Island
South Carolina	South Dakota	Tennessee
Texas	Utah	Vermont
Virginia	Washington	West Virginia
Wisconsin	Wyoming	

American Samoa	District of Columbia	Guam
Northern Mariana Islands	Puerto Rico	Virgin Islands

CANADA



Federal
Alberta
British Columbia
Manitoba
New Brunswick
Newfoundland & Labrador
Northwest Territories
Nova Scotia
Nunavut
Ontario
Prince Edward Island
Quebec
Saskatchewan
Yukon

ANIMAL PROTECTION LAWS OF ALABAMA

1. GENERAL PROHIBITIONS
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11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Alabama's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Alabama may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

ALABAMA

1. GENERAL PROHIBITIONS*	(1) Wanton or malicious injury to animals ALA. CODE § 3-1-10 (2) Cruelty to animals ALA. CODE § 13A-11-14 (3) Cruelty in first or second degrees (<i>applies only to dogs and cats</i>) ALA. CODE § 13A-11-241
<i>Animals Covered in Definition</i>	“The words ‘dog or cat’ as used in this article shall mean any domesticated member of the dog or cat family.” ALA. CODE § 13A-11-240
<i>Classification of Crimes</i>	(1) Defined in statute (2) Class B misdemeanor (3) Class C felony

ALABAMA*continued*

<p>2. MAXIMUM PENALTIES **</p>	<p>(1) \$1,000 fine <i>and/or</i> 6 months county jail ALA. CODE§ 3-1-10</p> <p>(2) \$3,000 fine <i>and/or</i> 6 months county jail ALA. CODE§13A-11-14</p> <p>(3) \$15,000 fine <i>and</i> 10 years imprisonment (includes hard labor) ALA. CODE§ 13A-5-6(a)(3) ALA. CODE§ 13A-5-11(a)(3)</p>
<p>3. EXEMPTIONS ***</p>	<p>2, 9 ALA. CODE§§ 3-1-11, 13A-11-246</p>
<p>4. COUNSELING / EVALUATIONS †</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS †</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS †</p>	<p>Upon conviction, court shall order fine sentenced to be used as necessary for restitution ALA. CODE§ 3-1-10</p> <p>Cost of care is lien ALA. CODE§ 3-1-13 <i>Note: See annotation on page AL-15</i></p> <p>Upon conviction, owner may be ordered to pay costs of care and euthanasia ALA. CODE§ 13a-11-245(c)(2)</p>

ALABAMAcontinued

7. SEIZURE / ON-SITE SUPERVISION	Authorized officers, humane society employees may seize animals ALA. CODE§ 3-1-13 <i>Note: See annotation on page AL-17</i> Law enforcement officers, appointed trained agents may seize dog or cat or order owner to provide on-site care ALA. CODE§ 13A-11-243
8. FORFEITURE / POSSESSION[†]	If owner does not reclaim animal within 10 days of lien notice, humane society has disposition ALA. CODE§ 3-1-13 <i>Note: See annotation on page AL-18</i> The court, at a hearing to be set within 20 days of seizure or order to provide care, may order destruction or humane disposition of seized dog or cat or enjoin further possession or custody of unseized dog or cat, if owner is found unable, unwilling or unfit to adequately provide for, protect, and have custody of dog or cat ALA. CODE§ 13A-11-245
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----

ALABAMAcontinued

11. LAW ENFORCEMENT POLICIES	<p>County commissions may employ persons to enforce all laws for the prevention of cruelty to animals; such officers shall have the same powers as deputy sheriffs ALA. CODE§3-1-16</p> <p>Any county or municipality may appoint trained agents to inspect alleged violations and to protect and prevent cruelty to dogs or cats ALA. CODE§ 13A-11-242</p> <p>No liability for actions taken in good faith for county, municipality, employees or agents, regardless of final disposition of dog or cat ALA. CODE§ 13A-11-243</p>
12. SEXUAL ASSAULT	-----
13. FIGHTING	<p>Various dogfighting activities are Class C felonies; dogs shall be seized as contraband and awarded to the humane society or other agency handling stray animals. At its discretion, agency shall humanely dispatch or dispose of the confiscated dog; court may order defendant to post cost-of-care bonds ALA. CODE§ 3-1-29</p> <p>Keeping a cockpit and cockfighting is a violation punishable with a fine between \$20 and \$50 ALA. CODE§ 13A-12-4</p> <p>Unlawful bear exploitation is a Class B felony ALA. CODE § 13A-12-5</p> <p>Various hog and dogfighting activities are Class A misdemeanors on first offense, Class C felonies on subsequent offenses ALA. CODE § 13A-12-6</p>

*ALABAMA*continued

<i>Other Felony Provisions Affecting Animals</i> [†]	Killing or injuring livestock belonging to another and on property of owner or custodian is a Class C felony and person who does so is liable for damages equal to double the value of the livestock. ALA. CODE§ 3-1-11.1
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* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 † This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 ‡ This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

ALA. CODE§ 3-1-10(2012). Wanton or malicious injury, etc., to animals or other property.

Any person, who unlawfully, wantonly or maliciously kills, disables, disfigures, destroys or injures any animal or article or commodity of value which is the property of another must, on conviction, be fined not less than twice the value of the injury or damage to the owner of the property nor more than \$1,000.00 and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months, and so much of the fine as may be necessary to repair the injury or loss shall go to the party injured.

ALA. CODE§ 13A-11-14 (2012). Cruelty to animals.

(a) A person commits the crime of cruelty to animals if, except as otherwise authorized by law, he or she intentionally or recklessly:

- (1) Subjects any animal to cruel mistreatment; or*
- (2) Subjects any animal in his or her custody to cruel neglect; or*
- (3) Kills or injures without good cause any animal belonging to another.*

(b) Cruelty to animals is a Class B misdemeanor and on the first conviction of a violation of this section shall be punished by a fine of not more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; on a second conviction of a violation of this section, shall be punished by a fine of not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; and on a third or subsequent conviction of a violation of this section, shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment.

ALA. CODE§13A-11-240(2012). Definitions.

(a) *The word “torture” as used in this act shall mean the act of doing physical injury to a dog or cat by the infliction of inhumane treatment or gross physical abuse meant to cause said animal intensive or prolonged pain or serious physical injury, or thereby causing death due to said act.*

(b) *The word “cruel” as used in this article shall mean: Every act, omission, or neglect, including abandonment, where unnecessary or unjustifiable pain or suffering, including abandonment, is caused or where unnecessary pain or suffering is allowed to continue.*

(c) *The words “dog or cat” as used in this article shall mean any domesticated member of the dog or cat family.*

ALA. CODE§13A-11-241(2012). Cruelty in first and second degrees.

(a) *A person commits the crime of cruelty to a dog or cat in the first degree if he or she intentionally tortures any dog or cat or skins a domestic dog or cat or offers for sale or exchange or offers to buy or exchange the fur, hide, or pelt of a domestic dog or cat. Cruelty to a dog or cat in the first degree is a Class C felony. A conviction for a felony pursuant to this section shall not be considered a felony for purposes of the Habitual Felony Offender Act, Section 13A-5-9 to 13A-5-10.1, inclusive.*

(b) *A person commits the crime of cruelty to a dog or cat in the second degree if he or she, in a cruel manner, overloads, overdrives, deprives of necessary sustenance or shelter, unnecessarily or cruelly beats, injures, mutilates, or causes the same to be done. Cruelty to a dog or cat in the second degree is a Class A misdemeanor.*

ALA. CODE§13A-11-247(2012). Construction.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

2. PENALTIES

ALA. CODE § 3-1-10 (2012). Wanton or malicious injury, etc., to animals or other property.

Any person, who unlawfully, wantonly or maliciously kills, disables, disfigures, destroys or injures any animal or article or commodity of value which is the property of another *must, on conviction, be fined not less than twice the value of the injury or damage to the owner of the property nor more than \$1,000.00 and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months, and so much of the fine as may be necessary to repair the injury or loss shall go to the party injured.*

ALA. CODE §13A-5-6(2012). Prison terms; felonies.

(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:

- (1) For a Class A felony, for life or not more than 99 years or less than 10 years.*
- (2) For a Class B felony, not more than 20 years or less than 2 years.*
- (3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.*
- (4) For a Class A felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 20 years.*
- (5) For a Class B or C felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class B felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 10 years.*

(b) The actual time of release within the limitations established by subsection (a) of this section shall be determined under procedures established elsewhere by law.

(c) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is designated as a sexually violent predator pursuant to Section 15-20-25.3, or where an offender is convicted of a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), and is sentenced to a county jail or the Alabama Department of Corrections, the sentencing judge shall impose an additional penalty of not less than 10 years of post-release supervision to be served upon the defendant's release from incarceration.

(d) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is convicted of a sex offense pursuant to Section 13A-6-61, 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of age or older and the victim was six years of age or less at the time the offense was committed, the defendant shall be sentenced to life imprisonment without the possibility of parole.

ALA. CODE § 13A-5-11(2012). Fines; felonies.

(a) *A sentence to pay a fine for a felony shall be for a definite amount, fixed by the court, within the following limitations:*

(1) For a Class A felony, not more than \$60,000;

(2) For a Class B felony, not more than \$30,000;

(3) *For a Class C felony, not more than \$15,000; or*

(4) *Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.*

(b) *As used in this section, “gain” means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. “Value” shall be determined by the standards established in subdivision (14) of Section 13A-8-1.*

(c) *The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.*

(d) This section shall not apply if a higher fine is otherwise authorized by law for a specific crime.

ALA. CODE § 13A-11-14 (2012). Cruelty to animals.

(a) A person commits the crime of cruelty to animals if, except as otherwise authorized by law, he or she intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in his custody to cruel neglect; or

(3) Kills or injures without good cause any animal belonging to another.

(b) Cruelty to animals is a Class B misdemeanor and on the first conviction of a violation of this section shall be punished by a fine of not more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; on a second conviction of a violation of this section, shall be punished by a fine of not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; and on a third or subsequent conviction of a violation of this section, shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment.

ALA. CODE §13A-11-247(2012). Conflicting laws.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

3. EXEMPTIONS

ALA. CODE§ 3-1-11 (2012). Wanton or malicious injury, etc.; defenses.

Upon the trial, the defendant may prove in mitigation or justification, as the jury may determine, that, at the time of the killing, disabling, disfiguring, destruction or injury, the animal killed, disabled, disfigured, destroyed or injured was trespassing and had within six months previously thereto trespassed upon a growing crop, inclosed by a lawful fence or while such animal was running at large in violation of law. No conviction must be had, if it is shown that, before the commencement of the prosecution, compensation for the injury was made or tendered to the owner.

ALA. CODE§13A-11-246(2012). Applicability.

This article shall not apply to any of the following persons or institutions:

- (1) Academic and research enterprises that use dogs or cats for medical or pharmaceutical research or testing.*
- (2) Any owner of a dog or cat who euthanizes the dog or cat for humane purposes.*
- (3) Any person who kills a dog or cat found outside of the owned or rented property of the owner or custodian of the dog or cat when the dog or cat threatens immediate physical injury or is causing physical injury to any person, animal, bird, or silvicultural or agricultural industry.*
- (4) A person who shoots a dog or cat with a BB gun not capable of inflicting serious injury when the dog or cat is defecating or urinating on the person's property.*
- (5) A person who uses a training device, anti-bark collar, or an invisible fence on his or her own dog or cat or with permission of the owner.*

4. COUNSELING/EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

ALA. CODE§ 3-1-10 (2012). Wanton or malicious injury, etc., to animals or other property.

Any person, who unlawfully, wantonly or maliciously kills, disables, disfigures, destroys or injures any animal or article or commodity of value which is the property of another must, on conviction, be fined not less than twice the value of the injury or damage to the owner of the property nor more than \$1,000.00 and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months, *and so much of the fine as may be necessary to repair the injury or loss shall go to the party injured.*

ALA. CODE§ 3-1-13 (2012). Right of officers, etc., of humane societies to take charge of and care for neglected or abused animals; written notice to owner from whom animal taken; lien for expenses for care and keeping of animal.

Any duly authorized officer or employee of a recognized humane society shall have the right to take charge of any animal which is sick or disabled due to neglect or is being cruelly treated or abused and to provide care for such animal until it is deemed to be in suitable condition to be returned to its owner or to the person from whose custody such animal was taken. The officer so taking such animal shall at the time of taking the animal give written notice to the owner or person from whose custody it was taken. *The necessary expenses incurred for the care and keeping of the animal after such notice by the humane society shall be a lien thereon and, if the animal is not reclaimed within 10 days from the giving of such notice, the humane society may sell the animal to satisfy such lien.* If the humane society determines that the animal cannot be sold, it may cause the animal to be otherwise disposed of.

ANNOTATION:

The statute is unconstitutional on due process grounds. Humane Soc. of Marshall County v. Adams, 439 So.2d 150(Ala.1983).

ALA. CODE§13A-11-245(2012). Disposition of animal.

(a) The law enforcement officer or agent of the county or municipality may provide for the dog or cat until either the dog or cat is returned to the owner by the court, or the court refuses to return the dog or cat to the owner and implements one of the procedures pursuant to subsection (c).

(b) If the owner is adjudged by the court, with certification from a licensed veterinarian, to be able to provide adequately for and have custody of the dog or cat, the dog or cat shall be returned to the owner.

(c) If the court determines that the owner of the dog or cat is unable, unwilling, or unfit to adequately provide for, protect, and have custody of the dog or cat, the court may implement the following by court order:

(1) Upon the testimony of the person taking custody, a licensed veterinarian, or another qualified witness that the dog or cat requires destruction or other disposition for humane reasons or is of no commercial value, order the dog or cat destroyed or remanded directly to the custody of the dog or cat control, humane shelter, or similar facility designated by the county or the municipality or other appropriate person to be disposed of by the facility or person in a humane manner.

(2) Upon proof of the costs incurred by the agent or agency having custody of the dog or cat, order that the owner pay any costs incurred for the care of the dog or cat and for any costs incurred in destroying the dog or cat. A separate hearing may be held by the judge of the district court on the assessment of costs, which assessment shall include all costs of notice and hearing. In the event the court finds the owner innocent of charges, the owner shall not be charged with costs of the care of the dog or cat in custody.

(d) If the court determines that the owner is unable, unwilling, or unfit to adequately provide for and protect any other dog or cat in the custody of the owner that was not originally seized by the agency, agent, or other person when the dog or cat in custody was seized, the court may enjoin the owner of further possession or custody of the unseized dog or cat.

7. SEIZURE / ON-SITE SUPERVISION

ALA. CODE§ 3-1-13 (2012). Right of officers, etc., of humane societies to take charge of and care for neglected or abused animals; written notice to owner from whom animal taken; lien for expenses for care and keeping of animal.

Any duly authorized officer or employee of a recognized humane society shall have the right to take charge of any animal which is sick or disabled due to neglect or is being cruelly treated or abused and to provide care for such animal until it is deemed to be in suitable condition to be returned to its owner or to the person from whose custody such animal was taken. The officer so taking such animal shall at the time of taking the animal give written notice to the owner or person from whose custody it was taken. The necessary expenses incurred for the care and keeping of the animal after such notice by the humane society shall be a lien thereon and, if the animal is not reclaimed within 10 days from the giving of such notice, the humane society may sell the animal to satisfy such lien. If the humane society determines that the animal cannot be sold, it may cause the animal to be otherwise disposed of.

ANNOTATION:

The statute is unconstitutional on due process grounds. *Humane Soc. of Marshall County v. Adams*, 439 So.2d 150(Ala.1983).

ALA. CODE§13A-11-243(2012). Powers of agents, officers; liability.

(a) Any law enforcement officer and any agent of the county or the municipality appointed pursuant to Section 13A-11-242, having reasonable belief, evidence of, or having found a dog or cat to be neglected or cruelly treated may perform either of the following:

- (1) Remove the dog or cat from its present location.*
- (2) Order the owner of the dog or cat to provide certain care to the dog or cat at the owner's expense without the removal of the dog or cat from its present location.*

(b) Neither the county or municipality, nor any employee or agent of the county or municipality, acting in good faith, shall be liable for any actions taken under this section, regardless of whether or not the dog or cat is returned to its owner after impoundment.

8. FORFEITURE / POSSESSION

ALA. CODE§ 3-1-13 (2012). Right of officers, etc., of humane societies to take charge of and care for neglected or abused animals; written notice to owner from whom animal taken; lien for expenses for care and keeping of animal.

Any duly authorized officer or employee of a recognized humane society shall have the right to take charge of any animal which is sick or disabled due to neglect or is being cruelly treated or abused and to provide care for such animal until it is deemed to be in suitable condition to be returned to its owner or to the person from whose custody such animal was taken. The officer so taking such animal shall at the time of taking the animal give written notice to the owner or person from whose custody it was taken. The necessary expenses incurred for the care and keeping of the animal after such notice by the humane society shall be a lien thereon and, *if the animal is not reclaimed within 10 days from the giving of such notice, the humane society may sell the animal to satisfy such lien.* If the humane society determines that the animal cannot be sold, it may cause the animal to be otherwise disposed of.

ANNOTATION:

The statute is unconstitutional on due process grounds. *Humane Soc. of Marshall County v. Adams*, 439 So.2d 150(Ala.1983).

ALA. CODE§13A-11-244(2012). Hearing.

(a) The law enforcement officer or any agent of the county or of the municipality, without the requirement of any fee or charge for court costs, shall immediately petition the municipal court if the violation involves a municipal ordinance or the district court in the county in which the dog or cat is found for a hearing to be set within 20 days of seizure of the dog or cat or issuance of the order to provide care. The hearing shall be held not more than 10 days after the setting of the date to determine whether the owner, if known, is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat. The hearing shall be concluded and the court order entered within 30 days after the date the hearing is commenced.

(b) The owner, at least five days prior to holding such a hearing, shall be notified of the date of the hearing to determine if the owner is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat.

ALA. CODE §13A-11-245(2012). Disposition of animal.

(a) The law enforcement officer or agent of the county or municipality may provide for the dog or cat until either the dog or cat is returned to the owner by the court, or the court refuses to return the dog or cat to the owner and implements one of the procedures pursuant to subsection (c).

(b) If the owner is adjudged by the court, with certification from a licensed veterinarian, to be able to provide adequately for and have custody of the dog or cat, the dog or cat shall be returned to the owner.

(c) If the court determines that the owner of the dog or cat is unable, unwilling, or unfit to adequately provide for, protect, and have custody of the dog or cat, the court may implement the following by court order:

(1) Upon the testimony of the person taking custody, a licensed veterinarian, or another qualified witness that the dog or cat requires destruction or other disposition for humane reasons or is of no commercial value, order the dog or cat destroyed or remanded directly to the custody of the dog or cat control, humane shelter, or similar facility designated by the county or the municipality or other appropriate person to be disposed of by the facility or person in a humane manner.

(2) Upon proof of the costs incurred by the agent or agency having custody of the dog or cat, order that the owner pay any costs incurred for the care of the dog or cat and for any costs incurred in destroying the dog or cat. A separate hearing may be held by the judge of the district court on the assessment of costs, which assessment shall include all costs of notice and hearing. In the event the court finds the owner innocent of charges, the owner shall not be charged with costs of the care of the dog or cat in custody.

(d) If the court determines that the owner is unable, unwilling, or unfit to adequately provide for and protect any other dog or cat in the custody of the owner that was not originally seized by the agency, agent, or other person when the dog or cat in custody was seized, the court may enjoin the owner of further possession or custody of the unseized dog or cat.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

ALA. CODE§3-1-16(2012). Prevention of cruelty to animals; enforcement officers

The county commissions of the respective counties of this state may employ a suitable person or persons who shall be charged specially with the duty of enforcing all laws for the prevention of cruelty to animals, and to fix the compensation of such officer or officers, which shall be paid in the same manner as other salaries of county employees are paid, and such officer or officers, upon taking the oath as required to be taken by deputy sheriffs, shall be vested with all powers now vested by law in deputy sheriffs.

ALA. CODE§13A-11-242(2012). Appointment of agents.

Any county or municipality may appoint one or more trained agents to inspect alleged violations of this article, to protect dogs or cats from any cruelty charged, and to prevent any cruelty to any dog or cat. Any appointment made pursuant to this section shall be made at a meeting of the local governing body duly called with notice.

ALA. CODE§13A-11-243(2012). Powers of agents, officers; liability.

(a) Any law enforcement officer and any agent of the county or the municipality appointed pursuant to Section 13A-11-242, having reasonable belief, evidence of, or having found a dog or cat to be neglected or cruelly treated may perform either of the following:

- (1) Remove the dog or cat from its present location.
- (2) Order the owner of the dog or cat to provide certain care to the dog or cat at the owner's expense without the removal of the dog or cat from its present location.

(b) Neither the county or municipality, nor any employee or agent of the county or municipality, acting in good faith, shall be liable for any actions taken under this section, regardless of whether or not the dog or cat is returned to its owner after impoundment.

12. SEXUAL ASSAULT

13. FIGHTING

ALA. CODE § 3-1-29 (2012). Activities relating to fighting of dogs prohibited; punishment; confiscation; procedures for disposition of animals.

(a) It shall be a Class C felony for any person to do any of the following:

(1) To own, possess, keep or train any dog with the intent that such dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, to cause any dog to fight with another dog, or cause any dogs to injure each other.

(3) To permit any act in violation of subdivisions (1) and (2) of this subsection.

(b) It shall be a Class C felony for any person to be knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or to be knowingly present at such exhibition or to knowingly aid or abet another in such exhibition.

(c) Any dog used to fight other dogs in violation of subsection (a) of this section, shall be confiscated as contraband by the sheriff or other law enforcement officers and shall not be returned to the owner, trainer or possessor of said dog. The court shall award the animals to the humane society or other agency handling stray animals. At its discretion, the humane society or other agency handling stray animals shall humanely dispatch or dispose of any confiscated dog.

(d) Any dog confiscated pursuant to subsection (c) of this section by the sheriff or other law enforcement officers shall be taken to the local humane society or other animal welfare agency.

(e) An appointed veterinarian or officer of the humane society or other animal welfare agency may upon delivery or at any time thereafter destroy the animal that is in his or her opinion injured, diseased past recovery, or whose continued existence is inhumane and destruction is necessary to relieve pain or suffering.

(f) After confiscation the humane society or other animal welfare agency may make application to the circuit court for a hearing to determine whether any animal seized pursuant to subsection (c) of this section shall be humanely destroyed due to disease, injury or lack of any useful purpose because of training or viciousness. The court shall set a hearing date not more than 30 days from the filing of the application and shall give notice of the same to the owners of the animals. Upon a finding by the court that the seized animals are diseased, injured or lack any useful purpose due to training or viciousness, it shall be within the authority of the humane society or other animal welfare agency to humanely destroy such animal. Any animal found by the court not to be diseased, injured or lacking any useful purpose due to training or viciousness shall be delivered to a court-approved private veterinarian or a private housing facility under the supervision of a veterinarian. Expenses incurred in connection with the housing, care or upkeep of the dogs by any person, firm, partnership, corporation or other entity shall be taxed against the owner.

(g) After confiscation, any entity holding a dog confiscated pursuant to this section may make application to the circuit court for issuance of an order requiring the owner or keeper of the dog to post a bond or deposit funds with the clerk of the court to cover the reasonable costs of the seizure, care, keeping, and the possible disposal of the dog. Reasonable costs shall include, but not be limited to, transportation, food, shelter, and care, including veterinary care. The bond or deposited funds shall be ordered posted in 30-day increments until such time as the case that was the cause of the dog being confiscated is resolved. The court shall set a hearing date no more than 10 days from filing of the application and shall give notice of the same to the owner or keeper of the dog.

(1) If, within 72 hours of the conclusion of the hearing, the owner or keeper fails to post the bond or deposit funds with the clerk of the court as ordered by the court, then the dog shall be forfeited by operation of law.

(2) If the owner or keeper presents sufficient evidence for the judge presiding over the hearing to determine that the owner or keeper is indigent, the owner or keeper may be relieved of the requirement to post a bond or deposit funds with the clerk of the court and may be relieved of the forfeiture provision under subdivision (1).

(3) The owner or keeper may choose at any time to surrender the dog to the local animal shelter or other animal housing facility holding the dog. The surrender shall not be considered a presumption of guilt.

(4) At the end of the time for which expenses are covered by the bond or deposit of funds, if the owner or keeper fails to post a new bond or deposit new funds with the clerk of the court, which must be received before the expiration date of the previous bond or deposit of funds, then the dog shall be forfeited by operation of law. The court may correct, alter, or otherwise adjust the bond or funds to be deposited upon a motion made before the expiration date of the previous bond or deposit of funds. No person may file more than one motion seeking an adjustment to the bond or funds to be deposited for each six-month period for which the dog is held under this section.

(5) The entity holding the dog confiscated pursuant to this section shall be entitled to draw on any bond posted or funds deposited to cover the actual costs incurred in the seizure, care, keeping, and the possible disposal of the dog.

(6) Upon resolution of any criminal charges brought against the owner or keeper of the dog confiscated pursuant to this section, the owner or keeper shall be refunded the amount remaining on any bond posted or funds deposited in accordance with this section not expended for the seizure, care, keeping, or disposal of the dog.

(h) If any dog owner is convicted under subsection (a) or (b) of this section, the animal or animals shall be awarded to the local humane society or other animal welfare agency.

(i) At any time, if a dog is confiscated pursuant to this section, the state or entity holding the dog may file a petition with the circuit court seeking civil forfeiture of the seized dog.

(1) As part of this petition, the state or entity holding the dog may seek an extension of any bond ordered by the judge under subsection (g) of this section, pending resolution of the civil forfeiture petition filed pursuant to this subsection. The bond extension shall be considered in accordance with the procedures set forth in subsection (g) of this section. Upon resolution of a civil forfeiture petition filed under this subsection, the owner or keeper shall be refunded the amount remaining on any bond posted or funds deposited in accordance with this subsection not expended for the seizure, care, keeping, or disposal of the dog.

(2) The court shall set a hearing date no more than 20 days from the filing of the petition for civil forfeiture and shall give notice of the hearing to the owner or keeper of the dog.

(3) If the state meets its burden at the forfeiture hearing, the judge shall order the owner or keeper to forfeit ownership of the dog.

(4) If the state fails to meet its burden at this forfeiture hearing, the judge shall order the dog immediately returned to the owner or keeper.

ALA. CODE §13A-12-4(2012).Keeping cockpit; cockfighting.

Any person who keeps a cockpit or who in any public place fights cocks shall, on conviction, be fined not less than \$20.00 nor more than \$50.00.

ALA. CODE § 13A-12-5(2012). Unlawful bear exploitation; penalties.

(a) A person commits the offense of unlawful bear exploitation if he or she knowingly does any one of the following:

(1) Promotes, engages in, or is employed at a bear wrestling match.

(2) Receives money for the admission of another person to a place kept for bear wrestling.

(3) Sells, purchases, possesses, or trains a bear for bear wrestling.

(4) For purposes of exploitation, subjects a bear to surgical alteration in any form, including, but not limited to, declawing, tooth removal, and severing tendons.

(b) Unlawful bear exploitation is a Class B felony and is punishable as provided by law.

(c) Upon the arrest of any person for violating this section, the arresting law enforcement officer, conservation officer, or animal control officer shall have authority to seize and take custody of any bear in the possession of the arrested person.

(d) Upon the conviction of any person for violating the provisions of this section, any court of competent jurisdiction shall have authority to order the forfeiture by the convicted person of any bear, the use of which was the basis of the conviction. Any bears ordered forfeited under this section shall be placed in the custody of a humane shelter, a society that is incorporated for the prevention of cruelty to animals, or the state Department of Conservation and Natural Resources.

(e) In addition to the fines, penalties, and forfeitures imposed under this section, the court may require the defendant to make restitution to the state, any of its political subdivisions, or a humane shelter or a society that is incorporated for the prevention of cruelty to animals for housing, feeding, or providing medical treatment to bears used for unlawful wrestling.

ALA. CODE § 13A-12-6(2012). Hog and canine fighting.

(a) As used in this section, the term “hog” shall mean a pig, swine, or boar.

(b) The crime of hog and canine fighting occurs when a person organizes or conducts any commercial or private event, commonly referred to as a “catch,” wherein there is a display of combat or fighting between one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

(c) The crime of hog and canine fighting occurs when a person intentionally does any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in subsection (b):

(1) Finance, commercially advertise, sell admission tickets, or employ persons.

(2) Own, manage, or operate any facility or property.

(3) Supply, breed, train, or keep canines or hogs.

(4) Knowingly purchase tickets of admission.

(d) This section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this subsection provided that such training is conducted in the field and is not in violation of this section.

(e) A violation of this section is a Class A misdemeanor upon conviction for a first offense. A second or subsequent violation is a Class C felony. After a first violation, a judge shall inform the defendant of the enhanced penalty upon a second or subsequent violation.

14. REFERENCED STATUTES

ALA. CODE § 3-1-10 (2012). Wanton or malicious injury, etc., to animals or other property.

Any person, who unlawfully, wantonly or maliciously kills, disables, disfigures, destroys or injures any animal or article or commodity of value which is the property of another must, on conviction, be fined not less than twice the value of the injury or damage to the owner of the property nor more than \$1,000.00 and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months, and so much of the fine as may be necessary to repair the injury or loss shall go to the party injured.

ALA. CODE§ 3-1-11 (2012). Wanton or malicious injury, etc.; defenses.

Upon the trial, the defendant may prove in mitigation or justification, as the jury may determine, that, at the time of the killing, disabling, disfiguring, destruction or injury, the animal killed, disabled, disfigured, destroyed or injured was trespassing and had within six months previously there to trespassed upon a growing crop, inclosed by a lawful fence or while such animal was running at large in violation of law. No conviction must be had, if it is shown that, before the commencement of the prosecution, compensation for the injury was made or tendered to the owner.

ALA. CODE§ 3-1-13 (2012). Right of officers, etc., of humane societies to take charge of and care for neglected or abused animals; written notice to owner from whom animal taken; lien for expenses for care and keeping of animal.

Any duly authorized officer or employee of a recognized humane society shall have the right to take charge of any animal which is sick or disabled due to neglect or is being cruelly treated or abused and to provide care for such animal until it is deemed to be in suitable condition to be returned to its owner or to the person from whose custody such animal was taken. The officer so taking such animal shall at the time of taking the animal give written notice to the owner or person from whose custody it was taken. The necessary expenses incurred for the care and keeping of the animal after such notice by the humane society shall be a lien thereon and, if the animal is not reclaimed within 10 days from the giving of such notice, the humane society may sell the animal to satisfy such lien. If the humane society determines that the animal cannot be sold, it may cause the animal to be otherwise disposed of.

ANNOTATION:

The statute is unconstitutional on due process grounds. Humane Soc. of Marshall County v. Adams, 439 So.2d 150(Ala.1983).

ALA. CODE §3-1-16(2012). Prevention of cruelty to animals; enforcement officers

The county commissions of the respective counties of this state may employ a suitable person or persons who shall be charged specially with the duty of enforcing all laws for the prevention of cruelty to animals, and to fix the compensation of such officer or officers, which shall be paid in the same manner as other salaries of county employees are paid, and such officer or officers, upon taking the oath as required to be taken by deputy sheriffs, shall be vested with all powers now vested by law in deputy sheriffs.

ALA. CODE § 3-1-29 (2012). Activities relating to fighting of dogs prohibited; punishment; confiscation; procedures for disposition of animals.

(a) It shall be a Class C felony for any person to do any of the following:

- (1) To own, possess, keep or train any dog with the intent that such dog shall be engaged in an exhibition of fighting with another dog.
- (2) For amusement or gain, to cause any dog to fight with another dog, or cause any dogs to injure each other.
- (3) To permit any act in violation of subdivisions (1) and (2) of this subsection.

(b) It shall be a Class C felony for any person to be knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or to be knowingly present at such exhibition or to knowingly aid or abet another in such exhibition.

(c) Any dog used to fight other dogs in violation of subsection (a) of this section, shall be confiscated as contraband by the sheriff or other law enforcement officers and shall not be returned to the owner, trainer or possessor of said dog. The court shall award the animals to the humane society or other agency handling stray animals. At its discretion, the humane society or other agency handling stray animals shall humanely dispatch or dispose of any confiscated dog.

(d) Any dog confiscated pursuant to subsection (c) of this section by the sheriff or other law enforcement officers shall be taken to the local humane society or other animal welfare agency.

(e) An appointed veterinarian or officer of the humane society or other animal welfare agency may upon delivery or at any time thereafter destroy the animal that is in his or her opinion injured, diseased past recovery, or whose continued existence is inhumane and destruction is necessary to relieve pain or suffering.

(f) After confiscation the humane society or other animal welfare agency may make application to the circuit court for a hearing to determine whether any animal seized pursuant to subsection (c) of this section shall be humanely destroyed due to disease, injury or lack of any useful purpose because of training or viciousness. The court shall set a hearing date not more than 30 days from the filing of the application and shall give notice of the same to the owners of the animals. Upon a finding by the court that the seized animals are diseased, injured or lack any useful purpose due to training or viciousness, it shall be within the authority of the humane society or other animal welfare agency to humanely destroy such animal. Any animal found by the court not to be diseased, injured or lacking any useful purpose due to training or viciousness shall be delivered to a court-approved private veterinarian or a private housing facility under the supervision of a veterinarian. Expenses incurred in connection with the housing, care or upkeep of the dogs by any person, firm, partnership, corporation or other entity shall be taxed against the owner.

(g) After confiscation, any entity holding a dog confiscated pursuant to this section may make application to the circuit court for issuance of an order requiring the owner or keeper of the dog to post a bond or deposit funds with the clerk of the court to cover the reasonable costs of the seizure, care, keeping, and the possible disposal of the dog. Reasonable costs shall include, but not be limited to, transportation, food, shelter, and care, including veterinary care. The bond or deposited funds shall be ordered posted in 30-day increments until such time as the case that was the cause of the dog being confiscated is resolved. The court shall set a hearing date no more than 10 days from filing of the application and shall give notice of the same to the owner or keeper of the dog.

(1) If, within 72 hours of the conclusion of the hearing, the owner or keeper fails to post the bond or deposit funds with the clerk of the court as ordered by the court, then the dog shall be forfeited by operation of law.

(2) If the owner or keeper presents sufficient evidence for the judge presiding over the hearing to determine that the owner or keeper is indigent, the owner or keeper may be relieved of the requirement to post a bond or deposit funds with the clerk of the court and may be relieved of the forfeiture provision under subdivision (1).

(3) The owner or keeper may choose at any time to surrender the dog to the local animal shelter or other animal housing facility holding the dog. The surrender shall not be considered a presumption of guilt.

(4) At the end of the time for which expenses are covered by the bond or deposit of funds, if the owner or keeper fails to post a new bond or deposit new funds with the clerk of the court, which must be received before the expiration date of the previous bond or deposit of funds, then the dog shall be forfeited by operation of law. The court may correct, alter, or otherwise adjust the bond or funds to be deposited upon a motion made before the expiration date of the previous bond or deposit of funds. No person may file more than one motion seeking an adjustment to the bond or funds to be deposited for each six-month period for which the dog is held under this section.

(5) The entity holding the dog confiscated pursuant to this section shall be entitled to draw on any bond posted or funds deposited to cover the actual costs incurred in the seizure, care, keeping, and the possible disposal of the dog.

(6) Upon resolution of any criminal charges brought against the owner or keeper of the dog confiscated pursuant to this section, the owner or keeper shall be refunded the amount remaining on any bond posted or funds deposited in accordance with this section not expended for the seizure, care, keeping, or disposal of the dog.

(h) If any dog owner is convicted under subsection (a) or (b) of this section, the animal or animals shall be awarded to the local humane society or other animal welfare agency.

(i) At any time, if a dog is confiscated pursuant to this section, the state or entity holding the dog may file a petition with the circuit court seeking civil forfeiture of the seized dog.

(1) As part of this petition, the state or entity holding the dog may seek an extension of any bond ordered by the judge under subsection (g) of this section, pending resolution of the civil forfeiture petition filed pursuant to this subsection. The bond extension shall be considered in accordance with the procedures set forth in subsection (g) of this section. Upon resolution of a civil forfeiture petition filed under this subsection, the owner or keeper shall be refunded the amount remaining on any bond posted or funds deposited in accordance with this subsection not expended for the seizure, care, keeping, or disposal of the dog.

(2) The court shall set a hearing date no more than 20 days from the filing of the petition for civil forfeiture and shall give notice of the hearing to the owner or keeper of the dog.

(3) If the state meets its burden at the forfeiture hearing, the judge shall order the owner or keeper to forfeit ownership of the dog.

(4) If the state fails to meet its burden at this forfeiture hearing, the judge shall order the dog immediately returned to the owner or keeper.

ALA. CODE §13A-5-6(2012). Sentences of imprisonment for felonies.

(a) Sentences for felonies shall be for a definite term of imprisonment, which imprisonment includes hard labor, within the following limitations:

(1) For a Class A felony, for life or not more than 99 years or less than 10 years.

(2) For a Class B felony, not more than 20 years or less than 2 years.

(3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.

(4) For a Class A felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 20 years.

(5) For a Class B or C felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class B felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 10 years.

(b) The actual time of release within the limitations established by subsection (a) of this section shall be determined under procedures established elsewhere by law.

(c) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is designated as a sexually violent predator pursuant to Section 15-20-25.3, or where an offender is convicted of a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), and is sentenced to a county jail or the Alabama Department of Corrections, the sentencing judge shall impose an additional penalty of not less than 10 years of post-release supervision to be served upon the defendant's release from incarceration.

(d) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is convicted of a sex offense pursuant to Section 13A-6-61, 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of age or older and the victim was six years of age or less at the time the offense was committed, the defendant shall be sentenced to life imprisonment without the possibility of parole.

ALA. CODE §13A-5-11(2012). Fines for felonies.

(a) A sentence to pay a fine for a felony shall be for a definite amount, fixed by the court, within the following limitations:

(1) For a Class A felony, not more than \$60,000;

(2) For a Class B felony, not more than \$30,000;

(3) For a Class C felony, not more than \$15,000; or

(4) Any amount not exceeding double the pecuniary gain to the defendant or loss to the victim caused by the commission of the offense.

(b) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized or surrendered to lawful authority prior to the time sentence is imposed. "Value" shall be determined by the standards established in subdivision (14) of Section 13A-8-1.

(c) The court may conduct a hearing upon the issue of defendant's gain or the victim's loss from the crime according to procedures established by rule of court.

(d) This section shall not apply if a higher fine is otherwise authorized by law for a specific crime.

ALA. CODE§ 13A-11-14 (2012). Cruelty to animals.

(a) A person commits the crime of cruelty to animals if, except as otherwise authorized by law, he intentionally or recklessly:

- (1) Subjects any animal to cruel mistreatment; or
- (2) Subjects any animal in his custody to cruel neglect; or
- (3) Kills or injures without good cause any animal belonging to another.

(b) Cruelty to animals is a Class B misdemeanor and on the first conviction of a violation of this section shall be punished by a fine of not more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; on a second conviction of a violation of this section, shall be punished by a fine of not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment; and on a third or subsequent conviction of a violation of this section, shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000) or imprisonment in the county jail for not more than six months, or both fine and imprisonment.

ALA. CODE§13A-11-240(2012). Definitions.

(a) The word “torture” as used in this act shall mean the act of doing physical injury to a dog or cat by the infliction of inhumane treatment or gross physical abuse meant to cause said animal intensive or prolonged pain or serious physical injury, or thereby causing death due to said act.

(b) The word “cruel” as used in this act shall mean: Every act, omission, or neglect, including abandonment, where unnecessary or unjustifiable pain or suffering, including abandonment, is caused or where unnecessary pain or suffering is allowed to continue.

(c) The words “dog or cat” as used in this act shall mean any domesticated member of the dog or cat family.

ALA. CODE§13A-11-241(2012). Cruelty in first and second degrees.

(a) A person commits the crime of cruelty to a dog or cat in the first degree if he or she intentionally tortures any dog or cat or skins a domestic dog or cat or offers for sale or exchange or offers to buy or exchange the fur, hide, or pelt of a domestic dog or cat. Cruelty to a dog or cat in the first degree is a Class C felony. A conviction for a felony pursuant to this section shall not be considered a felony for purposes of the Habitual Felony Offender Act, Section 13A-5-9 to 13A-5-10.1, inclusive.

(b) A person commits the crime of cruelty to a dog or cat in the second degree if he or she, in a cruel manner, overloads, overdrives, deprives of necessary sustenance or shelter, unnecessarily or cruelly beats, injures, mutilates, or causes the same to be done. Cruelty to a dog or cat in the second degree is a Class A misdemeanor.

ALA. CODE§13A-11-242(2012). Appointment of agents.

Any county or municipality may appoint one or more trained agents to inspect alleged violations of this article, to protect dogs or cats from any cruelty charged, and to prevent any cruelty to any dog or cat. Any appointment made pursuant to this section shall be made at a meeting of the local governing body duly called with notice.

ALA. CODE§13A-11-243(2012). Powers of agents, officers; liability.

(a) Any law enforcement officer and any agent of the county or the municipality appointed pursuant to Section 13A-11-242, having reasonable belief, evidence of, or having found a dog or cat to be neglected or cruelly treated may perform either of the following:

(1) Remove the dog or cat from its present location.

(2) Order the owner of the dog or cat to provide certain care to the dog or cat at the owner's expense without the removal of the dog or cat from its present location.

(b) Neither the county or municipality, nor any employee or agent of the county or municipality, acting in good faith, shall be liable for any actions taken under this section, regardless of whether or not the dog or cat is returned to its owner after impoundment.

ALA. CODE§13A-11-244(2012). Hearing.

(a) The law enforcement officer or any agent of the county or of the municipality, without the requirement of any fee or charge for court costs, shall immediately petition the municipal court if the violation involves a municipal ordinance or the district court in the county in which the dog or cat is found for a hearing to be set within 20 days of seizure of the dog or cat or issuance of the order to provide care. The hearing shall be held not more than 10 days after the setting of the date to determine whether the owner, if known, is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat. The hearing shall be concluded and the court order entered within 30 days after the date the hearing is commenced.

(b) The owner, at least five days prior to holding such a hearing, shall be notified of the date of the hearing to determine if the owner is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat.

ALA. CODE§13A-11-245(2012). Disposition of animal.

(a) The law enforcement officer or agent of the county or municipality may provide for the dog or cat until either the dog or cat is returned to the owner by the court, or the court refuses to return the dog or cat to the owner and implements one of the procedures pursuant to subsection (c).

(b) If the owner is adjudged by the court, with certification from a licensed veterinarian, to be able to provide adequately for and have custody of the dog or cat, the dog or cat shall be returned to the owner.

(c) If the court determines that the owner of the dog or cat is unable, unwilling, or unfit to adequately provide for, protect, and have custody of the dog or cat, the court may implement the following by court order:

(1) Upon the testimony of the person taking custody, a licensed veterinarian, or another qualified witness that the dog or cat requires destruction or other disposition for humane reasons or is of no commercial value, order the dog or cat destroyed or remanded directly to the custody of the dog or cat control, humane shelter, or similar facility designated by the county or the municipality or other appropriate person to be disposed of by the facility or person in a humane manner.

(2) Upon proof of the costs incurred by the agent or agency having custody of the dog or cat, order that the owner pay any costs incurred for the care of the dog or cat and for any costs incurred in destroying the dog or cat. A separate hearing may be held by the judge of the district court on the assessment of costs, which assessment shall include all costs of notice and hearing. In the event the court finds the owner innocent of charges, the owner shall not be charged with costs of the care of the dog or cat in custody.

(d) If the court determines that the owner is unable, unwilling, or unfit to adequately provide for and protect any other dog or cat in the custody of the owner that was not originally seized by the agency, agent, or other person when the dog or cat in custody was seized, the court may enjoin the owner of further possession or custody of the unseized dog or cat.

ALA. CODE §13A-11-246(2012). Applicability.

This article shall not apply to any of the following persons or institutions:

- (1) Academic and research enterprises that use dogs or cats for medical or pharmaceutical research or testing.
- (2) Any owner of a dog or cat who euthanizes the dog or cat for humane purposes.
- (3) Any person who kills a dog or cat found outside of the owned or rented property of the owner or custodian of the dog or cat when the dog or cat threatens immediate physical injury or is causing physical injury to any person, animal, bird, or silvicultural or agricultural industry.
- (4) A person who shoots a dog or cat with a BB gun not capable of inflicting serious injury when the dog or cat is defecating or urinating on the person's property.
- (5) A person who uses a training device, anti-bark collar, or an invisible fence on his or her own dog or cat or with permission of the owner.

ALA. CODE §13A-11-247(2012). Conflicting laws.

This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

ALA. CODE §13A-12-4(2012). Keeping cockpit; cockfighting.

Any person who keeps a cockpit or who in any public place fights cocks shall, on conviction, be fined not less than \$20.00 nor more than \$50.00.

ALA. CODE § 13A-12-5(2012). Unlawful bear exploitation; penalties.

(a) A person commits the offense of unlawful bear exploitation if he or she knowingly does any one of the following:

- (1) Promotes, engages in, or is employed at a bear wrestling match.
- (2) Receives money for the admission of another person to a place kept for bear wrestling.
- (3) Sells, purchases, possesses, or trains a bear for bear wrestling.
- (4) For purposes of exploitation, subjects a bear to surgical alteration in any form, including, but not limited to, declawing, tooth removal, and severing tendons.

(b) Unlawful bear exploitation is a Class B felony and is punishable as provided by law.

(c) Upon the arrest of any person for violating this section, the arresting law enforcement officer, conservation officer, or animal control officer shall have authority to seize and take custody of any bear in the possession of the arrested person.

(d) Upon the conviction of any person for violating the provisions of this section, any court of competent jurisdiction shall have authority to order the forfeiture by the convicted person of any bear, the use of which was the basis of the conviction. Any bears ordered forfeited under this section shall be placed in the custody of a humane shelter, a society that is incorporated for the prevention of cruelty to animals, or the state Department of Conservation and Natural Resources.

(e) In addition to the fines, penalties, and forfeitures imposed under this section, the court may require the defendant to make restitution to the state, any of its political subdivisions, or a humane shelter or a society that is incorporated for the prevention of cruelty to animals for housing, feeding, or providing medical treatment to bears used for unlawful wrestling.

ALA. CODE § 13A-12-6(2012). Hog and canine fighting.

(a) As used in this section, the term “hog” shall mean a pig, swine, or boar.

(b) The crime of hog and canine fighting occurs when a person organizes or conducts any commercial or private event, commonly referred to as a “catch,” wherein there is a display of combat or fighting between one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

(c) The crime of hog and canine fighting occurs when a person intentionally does any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in subsection (b):

(1) Finance, commercially advertise, sell admission tickets, or employ persons.

(2) Own, manage, or operate any facility or property.

(3) Supply, breed, train, or keep canines or hogs.

(4) Knowingly purchase tickets of admission.

(d) This section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this subsection provided that such training is conducted in the field and is not in violation of this section.

(e) A violation of this section is a Class A misdemeanor upon conviction for a first offense. A second or subsequent violation is a Class C felony. After a first violation, a judge shall inform the defendant of the enhanced penalty upon a second or subsequent violation.

ANIMAL PROTECTION LAWS OF ALASKA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Alaska's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Alaska may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

ALASKA

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Cruelty ALASKA STAT. §11.61.140(a)(1)</p> <p>(2) Neglect ALASKA STAT. § 11.61.140(a)(2)</p> <p>(3) Kill or injure with a decompression chamber ALASKA STAT. § 11.61.140(a)(3)</p> <p>(4) Poisoning ALASKA STAT. § 11.61.140(a)(4)</p> <p>(5) Cruelty with the intent to threaten, intimidate, or terrorize another person ALASKA STAT. § 11.61.140(a)(5)</p>
<p><i>Animals Covered in Definition</i></p>	<p>“...[V]ertebrate living creature not a human being, but does not include fish” ALASKA STAT. § 11.81.900(b)(3)</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (3), (4) Class C felony</p> <p>(2), (5) [First offense]: Class A misdemeanor</p> <p>[Second offense within ten years of prior animal cruelty, sexual assault, or fighting offenses]: Class C felony</p>

*ALASKA*continued

<p>2. MAXIMUM PENALTIES**</p>	<p>Class A misdemeanor: 1 year imprisonment ALASKA STAT.§ 12.55.135(a) <i>and/or</i> \$10,000 fine ALASKA STAT.§ 12.55.035(b)(5)</p> <p>Class C felony: 5 years imprisonment ALASKA STAT. § 12.55.125(e) <i>and</i> \$50,000 fine ALASKA STAT. § 12.55.035(b)(4)</p>
<p>3. EXEMPTIONS***</p>	<p>1, 2, 3, 4, 7, 9 ALASKA STAT.§ 11.61.140(c),(e)</p>
<p>4. COUNSELING / EVALUATIONS†</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS†</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS†</p>	<p>To prevent adoption or destruction of a seized animal, defendant may post a bond or security for costsof the animal’s care. ALASKA STAT.§ 03.55.130(d),(e)</p> <p>State is not required to reimburse public or private entities that voluntarily assist with mistreated animals. ALASKA STAT.§ 03.55.130(f)</p> <p>The court may require defendant to make reimbursement for care provided any animal affected. ALASKA STAT.§ 11.61.140(g),(h)</p>

ALASKA *continued*

7. SEIZURE / ON-SITE SUPERVISION

Peace officer may obtain a search warrant and seize animal if probable cause exists.

ALASKA STAT. § 03.55.110(b)

Before taking an animal into protective custody, a peace officer shall confer with a veterinarian who must decide whether seizure is in the immediate best interest of the animal. Peace officer shall make the determination if unable to confer with a veterinarian.

ALASKA STAT. § 03.55.110(c)

Peace officer shall place animal into protective custody before removing animal from location and thereafter place the animal with a veterinarian; or if one is not available, a responsible public or private caregiver.

ALASKA STAT. § 03.55.120(a)

Immediate notice of the seizure and the right to petition the court for return of the animal shall be given to the animal's owner.

ALASKA STAT. § 03.55.120(b)

ALASKA *continued*

8. FORFEITURE / POSSESSION[†]	<p>If seized animal's owner is unknown and cannot be reasonably ascertained, the animal shall be considered a stray or abandoned. ALASKA STAT.§ 03.55.120(c)</p> <p>Upon determination by a veterinarian if available, that it is probable a seized animal cannot recover, the animal may be humanely destroyed. A veterinarian may also recommend other instances where a seized animal should be humanely destroyed. ALASKA STAT.§ 03.55.130(a),(b)</p> <p>An owner may prevent a seized animal's adoption or destruction, by either petitioning the court for the animal's return or by posting a bond for the animal's care. If the bond expires and the court has not ordered an alternative disposition, the animal becomes the property of the custodian. ALASKA STAT.§ 03.55.130(d),(e)</p> <p>The court may require forfeiture of the animal affected and may prohibit or limit the defendant's ownership, possession or custody of animals for up to ten years. ALASKA STAT.§ 11.61.140(g),(h)</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----

*ALASKA*continued

<p>11. LAW ENFORCEMENT POLICIES</p>	<p>For purposes of the animal protection statutes, “peace officer” includes officers of the state troopers, municipal police force members, and village or regional public safety officers. ALASKA STAT.§ 03.55.110(c)</p>
<p>12. SEXUAL ASSAULT</p>	<p>Various activities involving the sexual assault of an animal are Class A misdemeanors on the first offense, and Class C felonies on subsequent offenses within ten years of a prior sexual assault, animal cruelty or fighting offense. ALASKA STAT. §§ 11.61.140(a)(6, 7),(f)</p>
<p>13. FIGHTING</p>	<p>Various animal fighting activities are Class C felonies; being a spectator at an animal fight is a violation for first offense, a Class B for the second offense, and a Class A misdemeanor for a third and any subsequent offenses. Upon conviction, animals, equipment, vehicles, money, and other personal property used in the offense are forfeited. ALASKA STAT.§ 11.61.145</p>
<p><i>Other Felony Provisions Affecting Animals</i>[‡]</p>	<p>-----</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 † This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 ‡ This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

ALASKA STAT. §03.55.190(2012). Definitions.

In AS 03.55.100 – 03.55.190,

- (1) “animal” has the meaning given in AS 11.81.900;*
- (2) “custodian” means a person responsible by law for the care, custody, or control of animals;*
- (3) “department” means the Department of Environmental Conservation.*

ALASKA STAT. §03.55.100(2012). Minimum standards of care for animals.

(a) The minimum standards of care for animals include

- (1) food and water sufficient to maintain each animal in good health;*
- (2) an environment compatible with protecting and maintaining the good health and safety of the animal; and*
- (3) reasonable medical care at times and to the extent available and necessary to maintain the animal in good health.*

(b) Any determination as to whether or not the standards of this chapter are met shall be based on the professional opinion of a veterinarian licensed under AS 08.98.

(c) The department may adopt regulations to implement this section.

ALASKA STAT. § 11.61.140 (2012). Cruelty to animals.

(a) A person commits cruelty to animals if the person

- (1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;*
- (2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;*
- (3) kills or injures an animal by the use of a decompression chamber;*
- (4) intentionally kills or injures a pet or livestock by the use of poison;*

(5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;

(6) knowingly

(A) engages in sexual conduct with an animal; or

(B) under circumstances not proscribed under AS 11.41.455,

(i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or

(ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or

(7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person's control.

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

(1) was part of scientific research governed by accepted standards;

(2) constituted the humane destruction of an animal;

(3) conformed to accepted veterinary or animal husbandry practices;

(4) was necessarily incidental to lawful fishing, hunting or trapping activities;

(5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) In this section, "sexual conduct" means any

(1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;

(2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this section is a class A misdemeanor. The court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. For a conviction under this subsection, the court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

ALASKA STAT. § 11.81.900 (2012).Definitions.

Editor's note: Unrelated statutory text has been omitted.

* * *

(b) In this title, unless otherwise specified or unless the context requires otherwise,

* * *

(3) *“animal” means a vertebrate living creature not a human being, but does not include fish.*

2. PENALTIES

Editor's note: ALASKA STAT.§ 12.55.015, punishment options are as follows: Class C felonies are punishable by a definite term of imprisonment not more than five years and a fine of not more than \$50,000. Class A misdemeanors are punishable by a definite term of imprisonment of not more than one year and/or a fine of not more than \$10,000. Class B misdemeanors are punishable by a definite term of imprisonment of not more than 90 days and/or a fine of not more than \$2,000. Violations are punishable by a fine not exceeding \$500. ALASKA STAT.§ 12.55.035(2012); ALASKA STAT.§§ 12.55.125, 135 (2012).

3. EXEMPTIONS

ALASKA STAT. § 11.61.140 (2012). Cruelty to animals.

(a) A person commits cruelty to animals if the person

(1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;

(2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;

(3) kills or injures an animal by the use of a decompression chamber;

(4) intentionally kills or injures a pet or livestock by the use of poison;

(5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;

(6) knowingly

(A) engages in sexual conduct with an animal; or

(B) under circumstances not proscribed under AS 11.41.455,

(i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or

(ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or

(7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person's control.

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) *It is a defense to a prosecution under this section that the conduct of the defendant*

(1) was part of scientific research governed by accepted standards;

(2) constituted the humane destruction of an animal;

(3) conformed to accepted veterinary or animal husbandry practices;

(4) was necessarily incidental to lawful fishing, hunting or trapping activities;

(5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) In this section, “sexual conduct” means any

(1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;

(2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this section is a class A misdemeanor. The court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant’s ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. For a conviction under this subsection, the court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

4. COUNSELING

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

ALASKA STAT. §03.55.130(2012). Destruction and adoption of animals.

(a) If a determination is made by a veterinarian licensed under AS 08.98, by a peace officer in consultation with a veterinarian licensed under AS 08.98, or by a peace officer who is unable to locate or communicate with a veterinarian licensed under AS 08.98 that an animal removed under AS 03.55.100 - 03.55.190 is injured or diseased to such an extent that, in the opinion of the veterinarian, it is probable the animal cannot recover, the veterinarian or the peace officer may humanely destroy the animal or arrange for the animal's humane destruction.

(b) Upon diagnosis and recommendation of a veterinarian licensed under AS 08.98, a public or private custodian may humanely destroy or arrange for the humane destruction of a severely injured, diseased, or suffering animal that has been removed under AS 03.55.100 - 03.55.190.

(c) An owner of an animal destroyed under this section may not recover damages for the destruction of the animal unless the owner shows that the destruction was not reasonable under the facts as known to the veterinarian or the peace officer authorizing the destruction.

(d) Except as provided in (a) or (b) of this section, the custodian of an animal may not adopt, provide for the adoption of, or euthanize the animal within 10 business days after the animal is taken into custody. *An owner may prevent the animal's adoption or destruction by*

(1) petitioning the court of the judicial district in which the animal was removed for the animal's immediate return, subject, if appropriate, to court-imposed conditions; or

(2) *posting a bond or security with the court of the judicial district in which the animal was seized in an amount determined by the court to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was removed.*

(e) If the custodian still has custody of the animal when the bond or security posted under (d)(2) of this section expires and the court has not ordered an alternative disposition, the animal becomes the custodian's property. *If a court order prevents the custodian from assuming ownership and the custodian continues to care for the animal, the court shall require the owner of the animal to pay by bond or otherwise for the custodian's continuing costs of care for the animal until a final disposition of the animal is made by the court.*

(f) *The state may not be required to reimburse a public or private agency, organization, or person that voluntarily assists with a removal of an animal or receives custody of an animal removed under this section for costs of shelter, care, veterinary assistance, or medical treatment rendered to the animal.*

ALASKA STAT. § 11.61.140 (2012). Cruelty to animals.

(a) A person commits cruelty to animals if the person

- (1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;
- (2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;
- (3) kills or injures an animal by the use of a decompression chamber;
- (4) intentionally kills or injures a pet or livestock by the use of poison;
- (5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;
- (6) knowingly
 - (A) engages in sexual conduct with an animal; or
 - (B) under circumstances not proscribed under AS 11.41.455,
 - (i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or
 - (ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or
- (7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person's control.

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

- (1) was part of scientific research governed by accepted standards;
- (2) constituted the humane destruction of an animal;
- (3) conformed to accepted veterinary or animal husbandry practices;
- (4) was necessarily incidental to lawful fishing, hunting or trapping activities;
- (5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) In this section, “sexual conduct” means any

(1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;

(2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this section is a class A misdemeanor. *The court may also*

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) *require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;*

(3) prohibit or limit the defendant’s ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. *For a conviction under this subsection, the court may also*

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) *require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;*

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

7. SEIZURE / ON-SITE SUPERVISION

ALASKA STAT. §03.55.110(2012). Investigation of cruelty to animals complaints.

(a) A person who believes that cruelty to animals has taken place or is taking place may file a complaint with a public or private animal control agency or organization, the department, or a peace officer. An agency or organization or the department may refer the complaint to a peace officer.

(b) A peace officer who receives a complaint of animal cruelty may apply for a search warrant under AS 12.35 to the judicial officer in the judicial district in which the alleged violation has taken place or is taking place. If the court finds that probable cause exists, the court shall issue a search warrant directing a peace officer to proceed immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, take property, including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

(c) Before a peace officer may take an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody. For purposes of this section, “peace officer” means

- (1) an officer of the state troopers;*
- (2) a member of the police force of a municipality;*
- (3) a village public safety officer; or*
- (4) a regional public safety officer.*

ALASKA STAT. §03.55.120(2012). Seizure of animals.

(a) A peace officer shall place an animal in protective custody before removing the animal from the location where it was found. If the animal is removed, the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention.

(b) A peace officer who has removed an animal shall immediately notify the animal's owner in writing of the removal and of the owner's right to petition the court under AS 03.55.130 for return of the animal. Notification may be delivered in person, posted at the owner's residence, or mailed to the owner.

(c) If a removed animal's owner is unknown and cannot be ascertained with reasonable effort, the animal shall be considered a stray or abandoned.

(d) The state, a municipality, or a person, that supplies shelter, care, veterinary attention or medical treatment for an animal seized under this section shall make a reasonable effort to locate the owner.

8. FORFEITURE / POSSESSION

ALASKA STAT. §03.55.120(2012). Seizure of animals.

(a) A peace officer shall place an animal in protective custody before removing the animal from the location where it was found. If the animal is removed, the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention.

(b) A peace officer who has removed an animal shall immediately notify the animal's owner in writing of the removal and of the owner's right to petition the court under AS 03.55.130 for return of the animal. Notification may be delivered in person, posted at the owner's residence, or mailed to the owner.

(c) If a removed animal's owner is unknown and cannot be ascertained with reasonable effort, the animal shall be considered a stray or abandoned.

(d) The state, a municipality, or a person, that supplies shelter, care, veterinary attention or medical treatment for an animal seized under this section shall make a reasonable effort to locate the owner.

ALASKA STAT. §03.55.130(2012). Destruction and adoption of animals.

(a) If a determination is made by a veterinarian licensed under AS 08.98, by a peace officer in consultation with a veterinarian licensed under AS 08.98, or by a peace officer who is unable to locate or communicate with a veterinarian licensed under AS 08.98 that an animal removed under AS 03.55.100 – 03.55.190 is injured or diseased to such an extent that, in the opinion of the veterinarian, it is probable the animal cannot recover, the veterinarian or the peace officer may humanely destroy the animal or arrange for the animal's humane destruction.

(b) Upon diagnosis and recommendation of a veterinarian licensed under AS 08.98, a public or private custodian may humanely destroy or arrange for the humane destruction of a severely injured, diseased, or suffering animal that has been removed under AS 03.55.100 – 03.55.190.

(c) An owner of an animal destroyed under this section may not recover damages for the destruction of the animal unless the owner shows that the destruction was not reasonable under the facts as known to the veterinarian or the peace officer authorizing the destruction.

(d) *Except as provided in (a) or (b) of this section, the custodian of an animal may not adopt, provide for the adoption of, or euthanize the animal within 10 business days after the animal is taken into custody. An owner may prevent the animal's adoption or destruction by*

(1) petitioning the court of the judicial district in which the animal was removed for the animal's immediate return, subject, if appropriate, to court-imposed conditions; or

(2) posting a bond or security with the court of the judicial district in which the animal was seized in an amount determined by the court to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was removed.

(e) *If the custodian still has custody of the animal when the bond or security posted under (d)(2) of this section expires and the court has not ordered an alternative disposition, the animal becomes the custodian's property. If a court order prevents the custodian from assuming ownership and the custodian continues to care for the animal, the court shall require the owner of the animal to pay by bond or otherwise for the custodian's continuing costs of care for the animal until a final disposition of the animal is made by the court.*

(f) The state may not be required to reimburse a public or private agency, organization, or person that voluntarily assists with a removal of an animal or receives custody of an animal removed under this section for costs of shelter, care, veterinary assistance, or medical treatment rendered to the animal.

ALASKA STAT. § 11.61.140 (2012). Cruelty to animals.

(a) A person commits cruelty to animals if the person

(1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;

(2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;

(3) kills or injures an animal by the use of a decompression chamber;

(4) intentionally kills or injures a pet or livestock by the use of poison;

(5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;

(6) knowingly

(A) engages in sexual conduct with an animal; or

(B) under circumstances not proscribed under AS 11.41.455,

(i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or

(ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or

(7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person's control.

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

(1) was part of scientific research governed by accepted standards;

(2) constituted the humane destruction of an animal;

(3) conformed to accepted veterinary or animal husbandry practices;

(4) was necessarily incidental to lawful fishing, hunting or trapping activities;

(5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) In this section, "sexual conduct" means any

(1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;

(2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this

section is a class A misdemeanor. *The court may also*

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. *For a conviction under this subsection, the court may also*

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

ALASKA STAT. §03.55.110(2012). Investigation of cruelty to animals complaints.

(a) A person who believes that cruelty to animals has taken place or is taking place may file a complaint with a public or private animal control agency or organization, the department, or a peace officer. An agency or organization or the department may refer the complaint to a peace officer.

(b) A peace officer who receives a complaint of animal cruelty may apply for a search warrant under AS 12.35 to the judicial officer in the judicial district in which the alleged violation has taken place or is taking place. If the court finds that probable cause exists, the court shall issue a search warrant directing a peace officer to proceed immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, take property, including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

(c) Before a peace officer may take an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody. *For purposes of this section, "peace officer" means*

- (1) *an officer of the state troopers;*
- (2) *a member of the police force of a municipality;*
- (3) *a village public safety officer; or*
- (4) *a regional public safety officer.*

12. SEXUAL ASSAULT

ALASKA STAT. § 11.61.140 (2012). Cruelty to animals.

(a) A person commits cruelty to animals if the person

- (1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;
- (2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;
- (3) kills or injures an animal by the use of a decompression chamber;
- (4) intentionally kills or injures a pet or livestock by the use of poison;
- (5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;

(6) knowingly

(A) engages in sexual conduct with an animal; or

(B) under circumstances not proscribed under AS 11.41.455,

(i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or

(ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or

(7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person's control.

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

- (1) was part of scientific research governed by accepted standards;
- (2) constituted the humane destruction of an animal;
- (3) conformed to accepted veterinary or animal husbandry practices;

(4) was necessarily incidental to lawful fishing, hunting or trapping activities;

(5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) *In this section, “sexual conduct” means any*

(1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;

(2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this section is a class A misdemeanor. The court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant’s ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. For a conviction under this subsection, the court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

13. FIGHTING

ALASKA STAT. § 11.61.145 (2012). Promoting an exhibition of fighting animals.

(a) A person commits the crime or offense, as applicable, of promoting an exhibition of fighting animals if the person

(1) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals;

*(2) instigates, promotes, or has a pecuniary interest in an exhibition of fighting animals;
or*

(3) attends an exhibition of fighting animals.

(b) The animals, equipment, vehicles, money, and other personal property used by a person in a violation of (a)(1) or (2) of this section shall be forfeited to the state if the person is convicted of an offense under this section.

(c) In this section, “animal” means a vertebrate living creature not a human being, but does not include fish.

(d) Promoting an exhibition of fighting animals

(1) under (a)(1) or (2) of this section is a class C felony;

(2) under (a)(3) of this section is a violation for the first offense, a class B misdemeanor for the second offense, and a class A misdemeanor for the third and each subsequent offense.

14. REFERENCED STATUTES

ALASKA STAT. §03.55.100(2012). Minimum standards of care for animals.

(a) The minimum standards of care for animals include

(1) food and water sufficient to maintain each animal in good health;

(2) an environment compatible with protecting and maintaining the good health and safety of the animal; and

(3) reasonable medical care at times and to the extent available and necessary to maintain the animal in good health.

(b) Any determination as to whether or not the standards of this chapter are met shall be based on the professional opinion of a veterinarian licensed under AS 08.98.

(c) The department may adopt regulations to implement this section.

ALASKA STAT. §03.55.110(2012). Investigation of cruelty to animals complaints.

(a) A person who believes that cruelty to animals has taken place or is taking place may file a complaint with a public or private animal control agency or organization, the department, or a peace officer. An agency or organization or the department may refer the complaint to a peace officer.

(b) A peace officer who receives a complaint of animal cruelty may apply for a search warrant under AS 12.35 to the judicial officer in the judicial district in which the alleged violation has taken place or is taking place. If the court finds that probable cause exists, the court shall issue a search warrant directing a peace officer to proceed immediately to the location of the alleged violation, search the place designated in the warrant, and, if warranted, take property, including animals, specified in the warrant. The warrant shall be executed by the peace officer and returned to the court.

(c) Before a peace officer may take an animal and place it into protective custody, the peace officer shall request an immediate inspection and decision by a veterinarian licensed under AS 08.98 that placement into protective custody is in the immediate best interest of the animal. If a veterinarian is not available to perform an inspection, before a peace officer may take an animal, the peace officer shall communicate with a veterinarian who has, after hearing a description of the condition of the animal and its environment, decided it is in the immediate best interest of the animal that it be placed into protective custody. If the peace officer is not able to communicate with a veterinarian, before the officer may take an animal, the officer shall decide it is in the immediate best interest of the animal that it be placed into protective custody. For purposes of this section, "peace officer" means

- (1) an officer of the state troopers;
- (2) a member of the police force of a municipality;
- (3) a village public safety officer; or
- (4) a regional public safety officer.

ALASKA STAT. §03.55.120(2012). Seizure of animals.

(a) A peace officer shall place an animal in protective custody before removing the animal from the location where it was found. If the animal is removed, the peace officer shall place the animal with a veterinarian licensed under AS 08.98 or, if a veterinarian is not readily available, with a responsible public or private custodian to be sheltered, cared for, and provided necessary medical attention.

(b) A peace officer who has removed an animal shall immediately notify the animal's owner in writing of the removal and of the owner's right to petition the court under AS 03.55.130 for return of the animal. Notification may be delivered in person, posted at the owner's residence, or mailed to the owner.

(c) If a removed animal's owner is unknown and cannot be ascertained with reasonable effort, the animal shall be considered a stray or abandoned.

(d) The state, a municipality, or a person, that supplies shelter, care, veterinary attention or medical treatment for an animal seized under this section shall make a reasonable effort to locate the owner.

ALASKA STAT. §03.55.130(2012). Destruction and adoption of animals.

(a) If a determination is made by a veterinarian licensed under AS 08.98, by a peace officer in consultation with a veterinarian licensed under AS 08.98, or by a peace officer who is unable to locate or communicate with a veterinarian licensed under AS 08.98 that an animal removed under AS 03.55.100 - 03.55.190 is injured or diseased to such an extent that, in the opinion of the veterinarian, it is probable the animal cannot recover, the veterinarian or the peace officer may humanely destroy the animal or arrange for the animal's humane destruction.

(b) Upon diagnosis and recommendation of a veterinarian licensed under AS 08.98, a public or private custodian may humanely destroy or arrange for the humane destruction of a severely injured, diseased, or suffering animal that has been removed under AS 03.55.100 - 03.55.190.

(c) An owner of an animal destroyed under this section may not recover damages for the destruction of the animal unless the owner shows that the destruction was not reasonable under the facts as known to the veterinarian or the peace officer authorizing the destruction.

(d) Except as provided in (a) or (b) of this section, the custodian of an animal may not adopt, provide for the adoption of, or euthanize the animal within 10 business days after the animal is taken into custody. An owner may prevent the animal's adoption or destruction by

(1) petitioning the court of the judicial district in which the animal was removed for the animal's immediate return, subject, if appropriate, to court-imposed conditions; or

(2) posting a bond or security with the court of the judicial district in which the animal was seized in an amount determined by the court to be sufficient to provide for the animal's care for a minimum of 30 days from the date the animal was removed.

(e) If the custodian still has custody of the animal when the bond or security posted under (d)(2) of this section expires and the court has not ordered an alternative disposition, the animal becomes the custodian's property. If a court order prevents the custodian from assuming ownership and the custodian continues to care for the animal, the court shall require the owner of the animal to pay by bond or otherwise for the custodian's continuing costs of care for the animal until a final disposition of the animal is made by the court.

(f) The state may not be required to reimburse a public or private agency, organization, or person that voluntarily assists with a removal of an animal or receives custody of an animal removed under this section for costs of shelter, care, veterinary assistance, or medical treatment rendered to the animal.

ALASKA STAT. §03.55.190(2012). Definitions.

In AS 03.55.100 – 03.55.190,

- (1) “animal” has the meaning given in AS 11.81.900;
- (2) “custodian” means a person responsible by law for the care, custody, or control of animals;
- (3) “department” means the Department of Environmental Conservation.

ALASKA STAT. § 11.61.140 (2012). Cruelty to animals.

(a) A person commits cruelty to animals if the person

- (1) knowingly inflicts severe and prolonged physical pain or suffering on an animal;
- (2) with criminal negligence, fails to care for an animal and, as a result, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal;
- (3) kills or injures an animal by the use of a decompression chamber;
- (4) intentionally kills or injures a pet or livestock by the use of poison;
- (5) knowingly kills or injures an animal, other than as provided in (1) or (3) of this subsection, with the intent to intimidate, threaten, or terrorize another person;
- (6) knowingly
 - (A) engages in sexual conduct with an animal; or
 - (B) under circumstances not proscribed under AS 11.41.455,
 - (i) photographs or films, for purposes of sexual gratification, a person engaged in sexual conduct with an animal; or
 - (ii) causes, induces, aids, or encourages another person to engage in sexual conduct with an animal; or
- (7) intentionally permits sexual conduct with an animal to be conducted on any premises under the person’s control.

(b) Each animal that is subject to cruelty to animals under (a) of this section shall constitute a separate offense.

(c) It is a defense to a prosecution under this section that the conduct of the defendant

- (1) was part of scientific research governed by accepted standards;
- (2) constituted the humane destruction of an animal;
- (3) conformed to accepted veterinary or animal husbandry practices;
- (4) was necessarily incidental to lawful fishing, hunting or trapping activities;
- (5) conformed to professionally accepted training and discipline standards.

(d) In (a)(2) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prima facie evidence of failure to care for an animal.

(e) This section does not apply to generally accepted dog mushing or pulling contests or practices or rodeos or stock contests.

(f) In this section, “sexual conduct” means any

- (1) touching or fondling by a person, either directly or through clothing, of the genitals or anus of an animal or any transfer or transmission of semen by the person on any part of the animal for the purpose of sexual gratification or arousal of the person;
- (2) contact, however slight, between the mouth, genitals, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the genitals or anus of the person into the mouth of the animal for the purpose of sexual gratification of the person.

(g) Except as provided in (h) of this section, cruelty to animals under (a)(2), (5), (6), or (7) of this section is a class A misdemeanor. The court may also

- (1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;
- (2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;
- (3) prohibit or limit the defendant’s ownership, possession, or custody of animals for up to 10 years.

(h) Cruelty to animals under (a)(1), (3), or (4) of this section is a class C felony. Cruelty to

animals is also a class C felony if the person is convicted under (a)(2), (5), (6), or (7) of this section and the person has been previously convicted on one or more separate occasions within 10 years of the date of the present offense of a crime under this section, AS 11.61.145(a)(1) or (2), or a law or ordinance of another jurisdiction having elements similar to those offenses. For a conviction under this subsection, the court may also

(1) require forfeiture of any animal affected to the state or to a custodian that supplies shelter, care, or medical treatment for the animal;

(2) require the defendant to reimburse the state or a custodian for all reasonable costs incurred in providing necessary shelter, care, veterinary attention, or medical treatment for any animal affected;

(3) prohibit or limit the defendant's ownership, possession, or custody of animals for up to 10 years.

ALASKA STAT. § 11.61.145 (2012). Promoting an exhibition of fighting animals.

(a) A person commits the crime or offense, as applicable, of promoting an exhibition of fighting animals if the person

(1) owns, possesses, keeps, or trains an animal with intent that it be engaged in an exhibition of fighting animals;

(2) instigates, promotes, or has a pecuniary interest in an exhibition of fighting animals;
or

(3) attends an exhibition of fighting animals.

(b) The animals, equipment, vehicles, money, and other personal property used by a person in a violation of (a)(1) or (2) of this section shall be forfeited to the state if the person is convicted of an offense under this section.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Promoting an exhibition of fighting animals

(1) under (a)(1) or (2) of this section is a class C felony;

(2) under (a)(3) of this section is a violation for the first offense, a class B misdemeanor for the second offense, and a class A misdemeanor for the third and each subsequent offense.

ALASKA STAT. § 11.81.900 (2011).Definitions.

Editor's note: Unrelated statutory text has been omitted.

* * *

(b) In this title, unless otherwise specified or unless the context requires otherwise,

* * *

(3) "animal" means a vertebrate living creature not a human being, but does not include fish.

PUNISHMENT OPTIONS

Editor's note: ALASKA STAT.§ 12.55.015, punishment options are as follows: Class C felonies are punishable by a definite term of imprisonment not more than five years and a fine of not more than \$50,000. Class A misdemeanors are punishable by a definite term of imprisonment of not more than one year and/or a fine of not more than \$10,000. Class B misdemeanors are punishable by a definite term of imprisonment of not more than 90 days and/or a fine of not more than \$2,000. Violations are punishable by a fine not exceeding \$500. ALASKA STAT.§ 12.55.035(2012); ALASKA STAT.§§ 12.55.125, 135 (2012).

ANIMAL PROTECTION LAWS OF ALBERTA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains Alberta's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Alberta may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in Alberta. Because the law is continually evolving, always review an official source for the most current language of any statute or regulation.

<p>1. GENERAL PROHIBITIONS*</p>	<p>Prohibition against causing distress R.S.A., c. A-41, s. 2</p> <p>Animal care duties R.S.A., c. A-41, s. 2.1</p> <p>Abandoned animal R.S.A., c. A-41, s. 4.1</p> <p>Transporting unfit animals A.R. 203/2005s. 10</p> <p>Crowding of animals during transport A.R. 203/2005s. 11</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[D]oes not include a human being” R.S.A., c. A-41, s. 1(1)(a)</p> <p>“Livestock” means horses, cattle, sheep, swine, goats, poultry and bees and means fur-bearing animals, alpacas, lamas, ratites, elk, deer and bison raised in captivity A.R. 203/2005s. 1(c)</p>
<p><i>Classification of Crimes</i></p>	<p>Summary conviction offence</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>\$20,000 fine R.S.A., c. A-41, s. 12(1)</p>
<p>3. EXEMPTIONS***</p>	<p>1, 3, 4, 5, 6 R.S.A., c. A-41, s. 2(2)</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>

ALBERTA*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>The owner of the animal is liable for the costs of destroying it R.S.A., c. A-41, s. 3(3)(b)</p> <p>A humane society or a caretaker may recover unpaid expenses incurred in respect of an animal in an action in debt against the owner of the animal. R.S.A., c. A-41, s. 5(4)</p> <p>Proceeds from any sale of an impounded animal shall first go towards the expenses incurred in the care of the animal and expenses in selling the animal R.S.A., c. A-41, s. 7(3)</p> <p>Tariff of expenses that may be charged for animals taken into custody A.R. 203/2005s. 18</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>A peace officer may take any action the peace officer considers necessary to locate the animal and relieve its distress, including taking custody of the animal and arranging for transportation, food, water, care, shelter and veterinary treatment for the animal, if necessary R.S.A., ch A-41, s.3(1)(b)</p> <p>A peace officer with reasonable and probable grounds to believe an animal is in distress in any place other than a private dwelling, and upon deciding that obtaining a warrant is not practical under the circumstances may enter the land, vehicle or place without a warrant; or may obtain a warrant to enter a private dwelling</p>

	R.S.A., c. A-41, ss. 4(1)(a-b), 4(2)
ALBERTA <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION <i>continued</i>	<p>A peace officer may take any abandoned animal into custody R.S.A., c. A-41, s. 4.1(2)</p> <p>A peace officer may apply to the court for an order granting custody of an animal in respect of which a charge has been laid under section 12. R.S.A., c. A-41, s. 13</p> <p>Peace officers must comply with notice requirements for animals taken into custody A.R. 203/2005s. 17</p>
8. FORFEITURE / POSSESSION^H	<p>If an animal cannot be relieved of its distress and live without undue suffering, a peace officer may destroy the animal or cause the animal to be destroyed R.S.A., c. A-41, s.3(3)(b)</p> <p>If the owner of an animal, within 3 business days (or 10 days if a purebred or bears obvious identification) after the date on which the animal was delivered, does not pay the expenses incurred in respect of the animal, the animal may be sold or given to any person by the humane society R.S.A., c. A-41, ss.7(1), 7(2)</p> <p>A humane society or a peace officer may destroy an impounded animal or cause the animal to be destroyed if it has not been claimed by its owner and in the opinion of the humane society or peace officer the animal is not suitable to be sold or given away in accordance with section 7 R.S.A., c. A-41, s. 8</p>

ALBERTA <i>continued</i>	
8. FORFEITURE / POSSESSION^H <i>continued</i>	If the owner of an animal is found guilty of an offence under section 2, the Court may make an order restraining the owner from continuing to have custody of an animal for a period of time specified by the Court R.S.A., ch A-41, s. 12(2)
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	A veterinarian, peace officer, caretaker, humane society is not liable for anything done in good faith under this Act R.S.A., ch A-41, s. 14(1) Any person, on reasonable and probable grounds, may report on a distressed animal to a peace officer is not liable for such reporting R.S.A., ch A-41, s. 14(2)
11. LAW ENFORCEMENT POLICIES	A peace officer may take any action the peace officer considers necessary to locate a distressed animal and relieve its distress R.S.A., c. A-41, s. 3(1)(b) A peace officer has the duty to provide care to impounded animals and to locate the animal's owner R.S.A., c. A-41, ss. 5, 6 A peace officer may enter and inspect, without a warrant, any premises, other than a private dwelling, where animals are kept for sale, hire or exhibition, including any vehicle used to transport animals R.S.A., c. A-41, s. 10 No person may hinder or obstruct a peace officer in the performance of the peace

	officer's animal protection duties R.S.A., c. A-41, s. 11
ALBERTA <i>continued</i>	
12. SEXUAL ASSAULT	-----
13. FIGHTING	-----

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Animal Protection Act, R.S.A. 2000, c. A-41, s. 1 (2012).

Interpretation

1(1)

In this Act,

(a) *"animal" does not include a human being;*

(b) *"business day" means a day on which*

(i) if an animal is delivered to a humane society under section 3(2)(a), the humane society, or

(ii) if an animal is delivered to a caretaker under section 3(2)(b), the office of the peace officer who delivered the animal is open for business;

(c) *"caretaker" means an individual who has an appropriate facility in which to keep an animal and agrees to care for the animal in accordance with this Act;*

(d) *"Court", except in section 13, means the Provincial Court;*

(e) *"humane society" means an organization that is approved as a humane society under section 9;*

(f) *"Minister" means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;*

(g) *"peace officer" means*

(i) a member of the Royal Canadian Mounted Police,

(ii) a member of a municipal police service, or

(iii) a special constable appointed under the Police Act for the purposes of this Act;

(h) *"registered veterinarian" means a registered veterinarian as defined in the Veterinary Profession Act.*

1(2)

For the purposes of this Act, an animal is in distress if it is

(a) deprived of adequate shelter, ventilation, space, food, water or veterinary care or reasonable protection from injurious heat or cold,

(b) injured, sick, in pain or suffering, or

(c) abused or subjected to undue hardship, privation or neglect.

Animal Protection Act, R.S.A., c. A-41, s. 2(2012).

Prohibition against causing distress

2(1)

No person shall cause or permit an animal of which the person is the owner or the person in charge to be or to continue to be in distress.

2(1.1)

No person shall cause an animal to be in distress.

2(2)

This section does not apply if the distress results from an activity carried on in accordance with the regulations or in accordance with reasonable and generally accepted practices of animal care, management, husbandry, hunting, fishing, trapping, pest control or slaughter.

Animal Protection Act, R.S.A., c. A-41, s. 2.1(2012).

Animal care duties

2.1

A person who owns or is in charge of an animal

(a) must ensure that the animal has adequate food and water,

(b) must provide the animal with adequate care when the animal is wounded or ill,

(c) must provide the animal with reasonable protection from injurious heat or cold, and

(d) must provide the animal with adequate shelter, ventilation and space.

Animal Protection Act, R.S.A., c. A-41, s. 4.1(2012).

Abandoned animal

4.1(1)

In this section, "abandoned animal" includes an animal that

(a) is left for more than 24 hours without adequate food or water or shelter,

(b) is left for 5 days or more after the expected retrieval time from a registered veterinarian or from a person who for money consideration or its equivalent stables, boards or cares for the animal, or

(c) is found on premises with respect to which the tenancy agreement has been terminated.

4.1(2)

A peace officer may take an abandoned animal into custody whether or not it is in distress.

4.1(3)

A peace officer who takes an animal into custody pursuant to subsection (2) shall deliver the animal to a humane society or caretaker.

Alberta Regulation 203/2005, s. 1 (2012).

Definitions

1

In this Regulation,

(a) "Act" means the *Animal Protection Act*;

(b) "Director" means an employee under the administration of the Minister designated as the Director for the purposes of this Regulation;

(c) "livestock" means *horses, cattle, sheep, swine, goats, poultry and bees and means*

fur-bearing animals, alpacas, lamas, ratites, elk, deer and bison raised in captivity;

(d) “livestock assembling station” means any place, including buildings, pens, fences, gates, chutes, weigh scales and any other equipment located on the land that is operated to assemble livestock for shipment by any form of transportation;

(e) “livestock market” means a place that is operated as a public market for the purchase or sale of livestock;

(f) “operator” means the operator of a livestock market or a livestock assembling station.

(g) repealed AR 210/2008 s2.

Alberta Regulation 203/2005, ss. 10, 11(2012).

Transportation of Animals

Animals unfit for transport

10(1)

No person shall load or transport animals that, by reason of infirmity, illness, injury, fatigue or any other cause, would suffer unduly during transport.

10(2)

Despite subsection (1), a person may transport animals to or from a veterinary clinic, a designated confinement area or the nearest suitable place to deal with health concerns as long as the animal is loaded and transported humanely.

10(3)

No person shall continue to transport an animal that becomes injured, ill or otherwise unfit for transport during a journey beyond the nearest suitable place where it can receive proper care and attention.

Crowding prohibited

11

No person shall load or transport animals in a vehicle in a manner that is likely to cause injury or undue suffering to the animals due to crowding.

2. PENALTIES

Animal Protection Act, R.S.A., c. A-41, s.12(2012).

Offence

12(1)

A person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$20,000.

12(2)

If the owner of an animal is found guilty of an offence under section 2, the Court may make an order restraining the owner from continuing to have custody of an animal for a period of time specified by the Court.

12(3)

The Court may make an order under subsection (2) on any terms and conditions it considers appropriate.

3. EXEMPTIONS

Animal Protection Act, R.S.A., c. A-41, s.2(2012).

Prohibition against causing distress

2(1)

No person shall cause or permit an animal of which the person is the owner or the person in charge to be or to continue to be in distress.

2(1.1)

No person shall cause an animal to be in distress.

2(2)

This section does not apply if the distress results from an activity carried on in accordance with the regulations or in accordance with reasonable and generally accepted practices of animal care, management, husbandry, hunting, fishing, trapping, pest control or slaughter.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Animal Protection Act, R.S.A., c. A-41, s.3(2012).

Powers of peace officer

3(1)

If an animal is in distress and

(a) the owner or person in charge of the animal does not forthwith take steps that will relieve its distress,

(a.1) a peace officer is of the opinion, on reasonable and probable grounds, that the owner or person in charge of the animal is not likely to ensure that the animal's distress is relieved or to ensure that the animal's distress will continue to be relieved, or

(b) the owner or person in charge of the animal cannot be found immediately and informed of the animal's distress, a peace officer may, in accordance with section 4, take any action the peace officer considers necessary to locate the animal and relieve its distress, including taking custody of the animal in accordance with the regulations and arranging for transportation, food, water, care, shelter and veterinary treatment for the animal, if necessary.

3(2)

A peace officer who takes custody of an animal pursuant to subsection (1) shall deliver the animal

(a) to a humane society, or

(b) to a caretaker, if there is no humane society close to the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

3(3)

If an animal is found to be in such distress that, in the opinion of

(a) a registered veterinarian, or

(b) if a registered veterinarian is not readily available, a peace officer, the animal cannot be relieved of its distress and live without undue suffering, the peace officer may destroy the animal or cause the animal to be destroyed and the owner of the animal is liable for the costs of destroying it.

Animal Protection Act, R.S.A., c. A-41, s. 5(2012).

Duty to provide care

5(1)

A peace officer who takes custody of an animal pursuant to section 3(1) or 4.1(2) shall take reasonable steps to ensure that the animal is provided with transportation, food, water, care, shelter and veterinary treatment, if necessary.

5(3)

A humane society to which or a caretaker to whom an animal is delivered under section 3(2) or 4.1(3) may, in accordance with the tariff provided for in the regulations, recover any expenses incurred in respect of the animal from the owner of the animal and may require the owner to pay those expenses before the animal is returned to the owner.

5(4)

A humane society or a caretaker may recover unpaid expenses incurred in respect of an animal in an action in debt against the owner of the animal.

Animal Protection Act, R.S.A., c. A-41, s. 7(2012).

Sale or gift of animal

7(1)

If the owner of an animal that has been delivered to a humane society or caretaker under section 3(2) or 4.1(3)

(a) is not located and notified within 3 business days after the date on which the animal was delivered, or

(b) is located and notified but does not, within 3 business days after the date on which the animal was delivered, pay the expenses incurred in respect of the animal pursuant to section 3(1) or 4.1 and section 5 or enter into an agreement for the payment of the expenses that is satisfactory to the humane society or the peace officer who delivered the animal, as the case may be, the animal may be sold or given to any person by the humane society, if the animal was delivered to a humane society, or the peace officer who delivered the animal, if the animal was delivered to a caretaker, and the animal becomes the property of the person to whom it is sold or given.

7(2)

Notwithstanding subsection (1), if in the opinion of the humane society or a peace officer the animal appears to be a purebred animal or if it bears an obvious identification device, tattoo, brand, mark, tag or licence, the applicable time limit under subsection (1) is 10 days after the date on which the animal was delivered.

7(3)

The proceeds of a sale of an animal pursuant to subsection (1) shall be disbursed in the following order of priority, on proof of the expenses having been incurred:

(a) to pay the expenses of selling the animal;

(b) to pay the expenses incurred in respect of the animal under section 3(1) or 4.1 and section 5.

7(4)

The balance of the sale proceeds remaining after the payment of the expenses referred to in subsection (3) shall be

(a) paid to the former owner of the animal, if the former owner has been located at the date of distribution of the sale proceeds, or

(b) held by the Minister for a period of one year after the date of the sale, if the former owner has not been located.

7(5)

The Minister may pay the balance remaining

(a) to a person who claims within the period set out in subsection (4)(b) and establishes to the satisfaction of the Minister that the person was the owner of the animal prior to the sale, or

(b) if no claim is made under clause (a), into the General Revenue Fund on the expiration of the period set out in subsection (4)(b).

Alberta Regulation 203/2005, s. 18(2012).

Expenses

Tariff

18(1)

The following is a tariff of expenses that may be charged pursuant to section 5 of the Act in respect of animals that have been taken into custody under the Act:

- (a) for the reasonably necessary transportation of livestock from the point of departure of the transporting vehicle to the point of delivery and return to the point of departure,*
 - (i) \$500 for a trip of 50 kilometres or less, and*
 - (ii) \$3.50 for each kilometre for a trip of more than 50 kilometres;*
- (b) for the reasonably necessary transportation of animals other than livestock,*
 - (i) a maximum of \$30 per trip for 50 kilometres or less, or*
 - (ii) \$1 for each kilometre for a trip of more than 50 kilometres;*
- (c) for food, water, care and shelter for an animal,*
 - (i) a maximum of \$15 per day for an animal weighing 20 kg or less,*
 - (ii) a maximum of \$30 per day for an animal weighing more than 20 kg but less than 200 kg, and*
 - (iii) a maximum of \$50 per day for an animal weighing 200 kg or more;*
- (d) for necessary veterinary treatment of an animal, including drugs and medicines, the actual cost of the treatment;*
- (e) the costs of destroying an animal under section 8 of the Act.*

18(2)

If in the opinion of the Director special circumstances exist, the Director may

- (a) approve a higher tariff of expenses than the tariff under subsection (1) if the higher tariff is related to the actual cost of the transportation, food, water, care and shelter of animals, and*
- (b) approve the actual cost of necessary expenses, approved by the Director, other than those expenses referred to in clause (a).*

7. SEIZURE / ON-SITE SUPERVISION

Animal Protection Act, R.S.A., c. A-41, s. 3(2012).

Powers of peace officer

3(1)

If an animal is in distress and

(a) the owner or person in charge of the animal does not forthwith take steps that will relieve its distress,

(a.1) a peace officer is of the opinion, on reasonable and probable grounds, that the owner or person in charge of the animal is not likely to ensure that the animal's distress is relieved or to ensure that the animal's distress will continue to be relieved, or

(b) the owner or person in charge of the animal cannot be found immediately and informed of the animal's distress, a peace officer may, in accordance with section 4, take any action the peace officer considers necessary to locate the animal and relieve its distress, including taking custody of the animal in accordance with the regulations and arranging for transportation, food, water, care, shelter and veterinary treatment for the animal, if necessary.

3(2)

A peace officer who takes custody of an animal pursuant to subsection (1) shall deliver the animal

(a) to a humane society, or

(b) to a caretaker, if there is no humane society close to the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

3(3)

If an animal is found to be in such distress that, in the opinion of

(a) a registered veterinarian, or

(b) if a registered veterinarian is not readily available, a peace officer,

the animal cannot be relieved of its distress and live without undue suffering, the peace officer may destroy the animal or cause the animal to be destroyed and the owner of the animal is liable for the costs of destroying it.

Animal Protection Act, R.S.A., c. A-41, s. 4(2012).

Authority to enter premises

4(1)

A peace officer who on reasonable and probable grounds believes

(a) that there is an animal that is in distress on any land or in any vehicle or place other than a private dwelling house, and

(b) that obtaining a warrant is not practical in the circumstances may enter the land, vehicle or place for the purpose of determining whether the animal is in distress and, if necessary, carrying out the peace officer's duties under section 3.

4(2)

A peace officer who on reasonable and probable grounds believes that there is an animal that is in distress in a private dwelling house shall obtain a warrant to enter the private dwelling house for the purpose of carrying out the peace officer's duties under section 3.

4(3)

A peace officer acting under the authority of this section shall, on request, produce the peace officer's certificate of appointment to the owner or occupant of any land, vehicle or place entered pursuant to this section.

4(4)

A peace officer shall use no more force than is reasonably required to enter or search any land, vehicle or place.

Animal Protection Act, R.S.A., c. A-41, s. 4.1 (2012).

Abandoned animal

4.1(1)

In this section, "abandoned animal" includes an animal that

- (a) is left for more than 24 hours without adequate food or water or shelter,
- (b) is left for 5 days or more after the expected retrieval time from a registered veterinarian or from a person who for money consideration or its equivalent stables, boards or cares for the animal, or
- (c) is found on premises with respect to which the tenancy agreement has been terminated.

4.1(2)

A peace officer may take an abandoned animal into custody whether or not it is in distress.

4.1(3)

A peace officer who takes an animal into custody pursuant to subsection (2) shall deliver the animal to a humane society or caretaker.

Animal Protection Act, R.S.A., c. A-41, s. 13(2012).

Order of custody

13(1)

A peace officer may apply to the Court of Queen's Bench for an order granting to the peace officer custody of an animal in respect of which a charge has been laid under section 12.

13(2)

An applicant under subsection (1) may retain custody of an animal in respect of which the application is made pending the outcome of any proceedings under section 12, notwithstanding that the owner of the animal

(a) pays the expenses incurred in respect of the animal under sections 3(1) and 5, and

(b) requests the peace officer, or any humane society or caretaker to whom the peace officer has delivered the animal, to return the animal to the owner.

13(3)

The Court may make an order under this section on any terms and conditions it considers appropriate.

Alberta Regulation 203/2005, s. 17(2012).

Custody

Notice of custody

17(1)

If a peace officer takes custody of an animal under section 3 of the Act, the peace officer must give to the owner or person in charge of the animal a notice in the form set out in the Schedule.

17(2)

If the owner or person in charge of the animal cannot be found or a peace officer takes custody of an animal under section 4.1 of the Act, the peace officer must post the notice in a prominent place where the animal was found.

8. FORFEITURE / POSSESSION

Animal Protection Act, R.S.A., c. A-41, s. 3(2012).

Powers of peace officer

3(1)

If an animal is in distress and

(a) the owner or person in charge of the animal does not forthwith take steps that will relieve its distress,

(a.1) a peace officer is of the opinion, on reasonable and probable grounds, that the owner or person in charge of the animal is not likely to ensure that the animal's distress is relieved or to ensure that the animal's distress will continue to be relieved, or

(b) the owner or person in charge of the animal cannot be found immediately and informed of the animal's distress, a peace officer may, in accordance with section 4, take any action the peace officer considers necessary to locate the animal and relieve its distress, including taking custody of the animal in accordance with the regulations and arranging for transportation, food, water, care, shelter and veterinary treatment for the animal, if necessary.

3(2)

A peace officer who takes custody of an animal pursuant to subsection (1) shall deliver the animal

(a) to a humane society, or

(b) to a caretaker, if there is no humane society close to the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

3(3)

If an animal is found to be in such distress that, in the opinion of

(a) a registered veterinarian, or

(b) if a registered veterinarian is not readily available, a peace officer,

the animal cannot be relieved of its distress and live without undue suffering, the peace officer may destroy the animal or cause the animal to be destroyed and the owner of the animal is liable for the costs of destroying it.

Animal Protection Act, R.S.A., c. A-41, s.7(2012).

Sale or gift of animal

7(1)

If the owner of an animal that has been delivered to a humane society or caretaker under section 3(2) or 4.1(3)

(a) is not located and notified within 3 business days after the date on which the animal was delivered, or

(b) is located and notified but does not, within 3 business days after the date on which the animal was delivered, pay the expenses incurred in respect of the animal pursuant to section 3(1) or 4.1 and section 5 or enter into an agreement for the payment of the expenses that is satisfactory to the humane society or the peace officer who delivered the animal, as the case may be, the animal may be sold or given to any person by the humane society, if the animal was delivered to a humane society, or the peace officer who delivered the animal, if the animal was delivered to a caretaker, and the animal becomes the property of the person to whom it is sold or given.

7(2)

Notwithstanding subsection (1), if in the opinion of the humane society or a peace officer the animal appears to be a purebred animal or if it bears an obvious identification device, tattoo, brand, mark, tag or licence, the applicable time limit under subsection (1) is 10 days after the date on which the animal was delivered.

7(3)

The proceeds of a sale of an animal pursuant to subsection (1) shall be disbursed in the following order of priority, on proof of the expenses having been incurred:

(a) to pay the expenses of selling the animal;

(b) to pay the expenses incurred in respect of the animal under section 3(1) or 4.1 and section 5.

7(4)

The balance of the sale proceeds remaining after the payment of the expenses referred to in subsection (3) shall be

(a) paid to the former owner of the animal, if the former owner has been located at the date of distribution of the sale proceeds, or

(b) held by the Minister for a period of one year after the date of the sale, if the former owner has not been located.

7(5)

The Minister may pay the balance remaining

(a) to a person who claims within the period set out in subsection (4)(b) and establishes to the satisfaction of the Minister that the person was the owner of the animal prior to the sale, or

(b) if no claim is made under clause (a), into the General Revenue Fund on the expiration of the period set out in subsection (4)(b).

Animal Protection Act, R.S.A., c. A-41, s. 8(2012).

Destruction of animal

8

A humane society, in respect of an animal that has been delivered to it, or a peace officer, in respect of an animal that has been delivered to a caretaker, may destroy the animal or cause the animal to be destroyed if it has not been claimed by its owner and in the opinion of the humane society or peace officer, as the case may be, the animal is not suitable to be sold or given away in accordance with section 7.

Animal Protection Act, R.S.A., c. A-41, s. 12(2012).

Offence

12(1)

A person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$20,000.

12(2)

If the owner of an animal is found guilty of an offence under section 2, the Court may make an order restraining the owner from continuing to have custody of an animal for a period of time specified by the Court.

12(3)

The Court may make an order under subsection (2) on any terms and conditions it considers appropriate.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Animal Protection Act, R.S.A., c. A-41, s.14(2012).

Protection from action

14(1)

No action lies against a peace officer, registered veterinarian, caretaker, humane society or an officer or employee of a humane society for anything done in good faith under this Act or the regulations.

14(2)

If a person, on reasonable and probable grounds, believes an animal is in distress and reports the distress to a peace officer, no action lies against that person for reporting unless that person reports maliciously or without reasonable or probable grounds for the belief.

11. LAW ENFORCEMENT POLICIES

Animal Protection Act, R.S.A., c. A-41, s. 3(2012).

Powers of peace officer

3(1)

If an animal is in distress and

(a) the owner or person in charge of the animal does not forthwith take steps that will relieve its distress,

(a.1) a peace officer is of the opinion, on reasonable and probable grounds, that the owner or person in charge of the animal is not likely to ensure that the animal's distress is relieved or to ensure that the animal's distress will continue to be relieved, or

(b) the owner or person in charge of the animal cannot be found immediately and informed of the animal's distress, a peace officer may, in accordance with section 4, take any action the peace officer considers necessary to locate the animal and relieve its distress, including taking custody of the animal in accordance with the regulations and arranging for transportation, food, water, care, shelter and veterinary treatment for the animal, if necessary.

3(2)

A peace officer who takes custody of an animal pursuant to subsection (1) shall deliver the animal

(a) to a humane society, or

(b) to a caretaker, if there is no humane society close to the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

3(3)

If an animal is found to be in such distress that, in the opinion of

(a) a registered veterinarian, or

(b) if a registered veterinarian is not readily available, a peace officer,

the animal cannot be relieved of its distress and live without undue suffering, the peace officer may destroy the animal or cause the animal to be destroyed and the owner of the animal is liable for the costs of destroying it.

Animal Protection Act, R.S.A., c. A-41, s.5 (2012).

Duty to provide care

5(1)

A peace officer who takes custody of an animal pursuant to section 3(1) or 4.1(2) shall take reasonable steps to ensure that the animal is provided with transportation, food, water, care, shelter and veterinary treatment, if necessary.

5(3)

A humane society to which or a caretaker to whom an animal is delivered under section 3(2) or 4.1(3) may, in accordance with the tariff provided for in the regulations, recover any expenses incurred in respect of the animal from the owner of the animal and may require the owner to pay those expenses before the animal is returned to the owner.

5(4)

A humane society or a caretaker may recover unpaid expenses incurred in respect of an animal in an action in debt against the owner of the animal.

Animal Protection Act, R.S.A., c. A-41, s.6(2012).

Duty to locate owner

6

If an animal is delivered

(a) to a humane society under section 3(2)(a) or 4.1(3), the humane society, or

(b) to a caretaker under section 3(2)(b) or 4.1(3), the peace officer who delivered the animal shall take reasonable steps to locate the owner of the animal, including a search of the brand record under the Brand Act, and shall notify the owner of the actions taken in respect of the animal.

Animal Protection Act, R.S.A., c. A-41, s. 11(2012).

Prohibition against obstruction

11

No person shall in any manner hinder or obstruct a peace officer in the performance of the peace officer's duties under this Act or the regulations.

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES & REGULATIONS

Animal Protection Act, R.S.A., c. A-41, s. 1-15 (2012).

Interpretation

1(1)

In this Act,

- (a) "animal" does not include a human being;
- (b) "business day" means a day on which
 - (i) if an animal is delivered to a humane society under section 3(2)(a), the humane society, or
 - (ii) if an animal is delivered to a caretaker under section 3(2)(b), the office of the peace officer who delivered the animal is open for business;
- (c) "caretaker" means an individual who has an appropriate facility in which to keep an animal and agrees to care for the animal in accordance with this Act;
- (d) "Court", except in section 13, means the Provincial Court;
- (e) "humane society" means an organization that is approved as a humane society under section 9;
- (f) "Minister" means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;
- (g) "peace officer" means
 - (i) a member of the Royal Canadian Mounted Police,
 - (ii) a member of a municipal police service, or
 - (iii) a special constable appointed under the Police Act for the purposes of this Act;
- (h) "registered veterinarian" means a registered veterinarian as defined in the Veterinary Profession Act.

1(2)

For the purposes of this Act, an animal is in distress if it is

- (a) deprived of adequate shelter, ventilation, space, food, water or veterinary care or reasonable protection from injurious heat or cold,
- (b) injured, sick, in pain or suffering, or
- (c) abused or subjected to undue hardship, privation or neglect.

Prohibition against causing distress

2(1)

No person shall cause or permit an animal of which the person is the owner or the person in charge to be or to continue to be in distress.

2(1.1)

No person shall cause an animal to be in distress.

2(2)

This section does not apply if the distress results from an activity carried on in accordance with the regulations or in accordance with reasonable and generally accepted practices of animal care, management, husbandry, hunting, fishing, trapping, pest control or slaughter.

Animal care duties

2.1

A person who owns or is in charge of an animal

- (a) must ensure that the animal has adequate food and water,
- (b) must provide the animal with adequate care when the animal is wounded or ill,
- (c) must provide the animal with reasonable protection from injurious heat or cold, and
- (d) must provide the animal with adequate shelter, ventilation and space.

Powers of peace officer

3(1)

If an animal is in distress and

(a) the owner or person in charge of the animal does not forthwith take steps that will relieve its distress,

(a.1) a peace officer is of the opinion, on reasonable and probable grounds, that the owner or person in charge of the animal is not likely to ensure that the animal's distress is relieved or to ensure that the animal's distress will continue to be relieved, or

(b) the owner or person in charge of the animal cannot be found immediately and informed of the animal's distress, a peace officer may, in accordance with section 4, take any action the peace officer considers necessary to locate the animal and relieve its distress, including taking custody of the animal in accordance with the regulations and arranging for transportation, food, water, care, shelter and veterinary treatment for the animal, if necessary.

3(2)

A peace officer who takes custody of an animal pursuant to subsection (1) shall deliver the animal

(a) to a humane society, or

(b) to a caretaker, if there is no humane society close to the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

3(3)

If an animal is found to be in such distress that, in the opinion of

(a) a registered veterinarian, or

(b) if a registered veterinarian is not readily available, a peace officer,

the animal cannot be relieved of its distress and live without undue suffering, the peace officer may destroy the animal or cause the animal to be destroyed and the owner of the animal is liable for the costs of destroying it.

Authority to enter premises

4(1)

A peace officer who on reasonable and probable grounds believes

(a) that there is an animal that is in distress on any land or in any vehicle or place other than a private dwelling house, and

(b) that obtaining a warrant is not practical in the circumstances may enter the land, vehicle or place for the purpose of determining whether the animal is in distress and, if necessary, carrying out the peace officer's duties under section 3.

4(2)

A peace officer who on reasonable and probable grounds believes that there is an animal that is in distress in a private dwelling house shall obtain a warrant to enter the private dwelling house for the purpose of carrying out the peace officer's duties under section 3.

4(3)

A peace officer acting under the authority of this section shall, on request, produce the peace officer's certificate of appointment to the owner or occupant of any land, vehicle or place entered pursuant to this section.

4(4)

A peace officer shall use no more force than is reasonably required to enter or search any land, vehicle or place.

Abandoned animal

4.1(1)

In this section, "abandoned animal" includes an animal that

(a) is left for more than 24 hours without adequate food or water or shelter,

(b) is left for 5 days or more after the expected retrieval time from a registered veterinarian or from a person who for money consideration or its equivalent stables, boards or cares for the animal, or

(c) is found on premises with respect to which the tenancy agreement has been terminated.

4.1(2)

A peace officer may take an abandoned animal into custody whether or not it is in distress.

4.1(3)

A peace officer who takes an animal into custody pursuant to subsection (2) shall deliver the animal to a humane society or caretaker.

Duty to provide care

5(1)

A peace officer who takes custody of an animal pursuant to section 3(1) or 4.1(2) shall take reasonable steps to ensure that the animal is provided with transportation, food, water, care, shelter and veterinary treatment, if necessary.

5(3)

A humane society to which or a caretaker to whom an animal is delivered under section 3(2) or 4.1(3) may, in accordance with the tariff provided for in the regulations, recover any expenses incurred in respect of the animal from the owner of the animal and may require the owner to pay those expenses before the animal is returned to the owner.

5(4)

A humane society or a caretaker may recover unpaid expenses incurred in respect of an animal in an action in debt against the owner of the animal.

Duty to locate owner

6

If an animal is delivered

(a) to a humane society under section 3(2)(a) or 4.1(3), the humane society, or

(b) to a caretaker under section 3(2)(b) or 4.1(3), the peace officer who delivered the animal shall take reasonable steps to locate the owner of the animal, including a search of the brand record under the Brand Act, and shall notify the owner of the actions taken in respect of the animal.

Sale or gift of animal

7(1)

If the owner of an animal that has been delivered to a humane society or caretaker under section 3(2) or 4.1(3)

(a) is not located and notified within 3 business days after the date on which the animal was delivered, or

(b) is located and notified but does not, within 3 business days after the date on which the animal was delivered, pay the expenses incurred in respect of the animal pursuant to section 3(1) or 4.1 and section 5 or enter into an agreement for the payment of the expenses that is satisfactory to the humane society or the peace officer who delivered the animal, as the case may be, the animal may be sold or given to any person by the humane society, if the animal was delivered to a humane society, or the peace officer who delivered the animal, if the animal was delivered to a caretaker, and the animal becomes the property of the person to whom it is sold or given.

7(2)

Notwithstanding subsection (1), if in the opinion of the humane society or a peace officer the animal appears to be a purebred animal or if it bears an obvious identification device, tattoo, brand, mark, tag or licence, the applicable time limit under subsection (1) is 10 days after the date on which the animal was delivered.

7(3)

The proceeds of a sale of an animal pursuant to subsection (1) shall be disbursed in the following order of priority, on proof of the expenses having been incurred:

(a) to pay the expenses of selling the animal;

(b) to pay the expenses incurred in respect of the animal under section 3(1) or 4.1 and section 5.

7(4)

The balance of the sale proceeds remaining after the payment of the expenses referred to in subsection (3) shall be

(a) paid to the former owner of the animal, if the former owner has been located at the date of distribution of the sale proceeds, or

(b) held by the Minister for a period of one year after the date of the sale, if the former owner has not been located.

7(5)

The Minister may pay the balance remaining

(a) to a person who claims within the period set out in subsection (4)(b) and establishes to the satisfaction of the Minister that the person was the owner of the animal prior to the sale, or

(b) if no claim is made under clause (a), into the General Revenue Fund on the expiration of the period set out in subsection (4)(b).

Destruction of animal

8

A humane society, in respect of an animal that has been delivered to it, or a peace officer, in respect of an animal that has been delivered to a caretaker, may destroy the animal or cause the animal to be destroyed if it has not been claimed by its owner and in the opinion of the humane society or peace officer, as the case may be, the animal is not suitable to be sold or given away in accordance with section 7.

Inspection re standards

10(1)

A peace officer may without a warrant during ordinary business hours enter

(a) any premises, other than a private dwelling house, where animals are kept for sale, hire or exhibition, or

(b) any vehicle used to transport animals
to inspect the animals or any vehicle in which animals are transported for the purpose of administering this Act, the regulations under this Act and any regulations prescribing standards for vehicles used to transport animals.

10(1.1)

In order to conduct an inspection under subsection (1), a peace officer may signal or otherwise order a person operating a vehicle to stop forthwith or to move the vehicle to a particular place and then stop it, and that person shall forthwith comply with that signal or order and shall not proceed until the peace officer has had a reasonable amount of time to inspect the vehicle and the animals in or on the vehicle.

10(2)

A peace officer acting under the authority of this section shall, on request, produce the peace officer's certificate of appointment to the owner or occupant of any premises or vehicle entered pursuant to subsection (1).

Prohibition against obstruction

11

No person shall in any manner hinder or obstruct a peace officer in the performance of the peace officer's duties under this Act or the regulations.

Offence

12(1)

A person who contravenes this Act or the regulations is guilty of an offence and liable to a fine of not more than \$20,000.

12(2)

If the owner of an animal is found guilty of an offence under section 2, the Court may make an order restraining the owner from continuing to have custody of an animal for a period of time specified by the Court.

12(3)

The Court may make an order under subsection (2) on any terms and conditions it considers appropriate.

Order of custody

13(1)

A peace officer may apply to the Court of Queen's Bench for an order granting to the peace officer custody of an animal in respect of which a charge has been laid under section 12.

13(2)

An applicant under subsection (1) may retain custody of an animal in respect of which the application is made pending the outcome of any proceedings under section 12, notwithstanding that the owner of the animal

(a) pays the expenses incurred in respect of the animal under sections 3(1) and 5, and

(b) requests the peace officer, or any humane society or caretaker to whom the peace officer has delivered the animal, to return the animal to the owner.

13(3)

The Court may make an order under this section on any terms and conditions it considers appropriate.

Protection from action

14(1)

No action lies against a peace officer, registered veterinarian, caretaker, humane society or an officer or employee of a humane society for anything done in good faith under this Act or the regulations.

14(2)

If a person, on reasonable and probable grounds, believes an animal is in distress and reports the distress to a peace officer, no action lies against that person for reporting unless that person reports maliciously or without reasonable or probable grounds for the belief.

Alberta Regulation 203/2005, ss. 1, 10, 11, 17, 18(2012).

Definitions

1

In this Regulation,

(a) “Act” means the *Animal Protection Act*;

(b) “Director” means an employee under the administration of the Minister designated as the Director for the purposes of this Regulation;

(c) “livestock” means horses, cattle, sheep, swine, goats, poultry and bees and means fur-bearing animals, alpacas, lamas, ratites, elk, deer and bison raised in captivity;

(d) “livestock assembling station” means any place, including buildings, pens, fences, gates, chutes, weigh scales and any other equipment located on the land that is operated to assemble livestock for shipment by any form of transportation;

(e) “livestock market” means a place that is operated as a public market for the purchase or sale of livestock;

(f) “operator” means the operator of a livestock market or a livestock assembling station.

(g) repealed AR 210/2008 s2.

* * * * *

Transportation of Animals

Animals unfit for transport

10(1)

No person shall load or transport animals that, by reason of infirmity, illness, injury, fatigue or any other cause, would suffer unduly during transport.

10(2)

Despite subsection (1), a person may transport animals to or from a veterinary clinic, a designated confinement area or the nearest suitable place to deal with health concerns as long as the animal is loaded and transported humanely.

10(3)

No person shall continue to transport an animal that becomes injured, ill or otherwise unfit for transport during a journey beyond the nearest suitable place where it can receive proper care and attention.

Crowding prohibited

11

No person shall load or transport animals in a vehicle in a manner that is likely to cause injury or undue suffering to the animals due to crowding.

* * * * *

Custody

Notice of custody

17(1)

If a peace officer takes custody of an animal under section 3 of the Act, the peace officer must give to the owner or person in charge of the animal a notice in the form set out in the Schedule.

17(2)

If the owner or person in charge of the animal cannot be found or a peace officer takes custody of an animal under section 4.1 of the Act, the peace officer must post the notice in a prominent place where the animal was found.

Expenses

Tariff

18(1)

The following is a tariff of expenses that may be charged pursuant to section 5 of the Act in respect of animals that have been taken into custody under the Act:

- (a) for the reasonably necessary transportation of livestock from the point of departure of the transporting vehicle to the point of delivery and return to the point of departure,
 - (i) \$500 for a trip of 50 kilometres or less, and
 - (ii) \$3.50 for each kilometre for a trip of more than 50 kilometres;
- (b) for the reasonably necessary transportation of animals other than livestock,
 - (i) a maximum of \$30 per trip for 50 kilometres or less, or

- (ii) \$1 for each kilometre for a trip of more than 50 kilometres;
- (c) for food, water, care and shelter for an animal,
 - (i) a maximum of \$15 per day for an animal weighing 20 kg or less,
 - (ii) a maximum of \$30 per day for an animal weighing more than 20 kg but less than 200 kg, and
 - (iii) a maximum of \$50 per day for an animal weighing 200 kg or more;
- (d) for necessary veterinary treatment of an animal, including drugs and medicines, the actual cost of the treatment;
- (e) the costs of destroying an animal under section 8 of the Act.

18(2)

If in the opinion of the Director special circumstances exist, the Director may

- (a) approve a higher tariff of expenses than the tariff under subsection (1) if the higher tariff is related to the actual cost of the transportation, food, water, care and shelter of animals, and
- (b) approve the actual cost of necessary expenses, approved by the Director, other than those expenses referred to in clause (a).

ANIMAL PROTECTION LAWS OF AMERICAN SAMOA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains American Samoa's general animal protection and related statutes enacted prior to July 15, 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

American Samoa may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

AMERICAN SAMOA

1. GENERAL PROHIBITIONS*	Confinement areas for animals to be kept sanitary AM. SAMOA CODE ANN. § 25.1605
<i>Animals Covered in Definition</i>	-----
<i>Classification of Crimes</i>	Class C misdemeanor AM. SAMOA CODE ANN. §§ 25.0107, 25.0110
2. MAXIMUM PENALTIES**	15 days imprisonment AM. SAMOA CODE ANN. § 46.2301 <i>and/or</i> \$300 fine AM. SAMOA CODE ANN. § 46.2102
3. EXEMPTIONS***	-----
4. COUNSELING / EVALUATIONS^H	-----
5. PROTECTIVE ORDERS^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	-----
7. SEIZURE / ON-SITE SUPERVISION	-----
8. FORFEITURE / POSSESSION^H	-----
9. CROSS ENFORCEMENT / REPORTING	-----
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AMERICAN SAMOA <i>continued</i>	
11. LAW ENFORCEMENT POLICIES	-----
12. SEXUAL ASSAULT	-----
13. FIGHTING	-----
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states and territories may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states and territories may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

AM. SAMOA CODE ANN. § 25.1605 (2012). Confinement areas for animals to be kept sanitary.

All poultry houses, yards, coops, pigeon runs, rabbit hutches, dog kennels, pens, barns, stables, or other structures or enclosures for any fowl or animal shall be kept clean and free from any accumulation of excreta decayed food and filth of every kind. All such structures and enclosures shall be maintained in a clean and sanitary condition.

2. PENALTIES

AM. SAMOA CODE ANN. § 25.0107 (2012). Penalty for maintaining or allowing public nuisance after notice to abate.

Every person who maintains a public nuisance or allows one to exist upon property or premises which he owns or occupies, after 10 days notice in writing to discontinue or abate the same has been personally served upon him, is guilty of a class C misdemeanor and upon conviction, shall be sentenced accordingly. The existence of such nuisance for each day beyond the tenth day after the service of such notice shall be deemed a separate and distinct offense.

AM. SAMOA CODE ANN. § 25.0110 (2012). Violation—Penalty.

Any person who violates any provision of this title, any valid rule promulgated under this title, or any village regulation for health and sanitation adopted in accordance with this Code, or refuses or neglects to comply with any lawful order issued by the director of health, the director of ASEPA or the solid waste official in carrying out the provisions of this title, the penalty for which is not otherwise prescribed in this title, is guilty of a class C misdemeanor and upon conviction, sentenced accordingly.

AM. SAMOA CODE ANN. § 46.2102 (2012). Misdemeanors and infractions.

(a) Except as otherwise provided for an offense outside this part, a person who has been convicted of a misdemeanor or infraction may be sentenced to pay a fine not exceeding:

* * * * *

3) \$300 for a class C misdemeanor;

* * * * *

(b) In lieu of a fine imposed under subsection (a), a person who has been convicted of a misdemeanor or infraction through which he derived “gain”, as defined in 46.2101, may be sentenced to a fine which does not exceed 2 times the amount of gain from the commission of the offense. An individual offender may be fined not more than \$20,000 under this provision.

AM. SAMOA CODE ANN. § 46.2301 (2012). Authorized terms.

The authorized terms of sentences of imprisonment, including both prison terms and parole terms are:

* * * * *

(7) for a class C misdemeanor, a term not to exceed 15 days.

3. EXEMPTIONS

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

7. SEIZURE / ON-SITE SUPERVISION

8. FORFEITURE / POSSESSION

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES

AM. SAMOA CODE ANN. § 25.1605 (2012). Confinement areas for animals to be kept sanitary.

All poultry houses, yards, coops, pigeon runs, rabbit hutches, dog kennels, pens, barns, stables, or other structures or enclosures for any fowl or animal shall be kept clean and free from any accumulation of excreta decayed food and filth of every kind. All such structures and enclosures shall be maintained in a clean and sanitary condition.

AM. SAMOA CODE ANN. § 25.0107 (2012). Penalty for maintaining or allowing public nuisance after notice to abate.

Every person who maintains a public nuisance or allows one to exist upon property or premises which he owns or occupies, after 10 days notice in writing to discontinue or abate the same has been personally served upon him, is guilty of a class C misdemeanor and upon conviction, shall be sentenced accordingly. The existence of such nuisance for each day beyond the tenth day after the service of such notice shall be deemed a separate and distinct offense.

AM. SAMOA CODE ANN. § 25.0110 (2012). Violation—Penalty.

Any person who violates any provision of this title, any valid rule promulgated under this title, or any village regulation for health and sanitation adopted in accordance with this Code, or refuses or neglects to comply with any lawful order issued by the director of health, the director of ASEPA or the solid waste official in carrying out the provisions of this title, the penalty for which is not otherwise prescribed in this title, is guilty of a class C misdemeanor and upon conviction, sentenced accordingly.

AM. SAMOA CODE ANN. § 46.2102 (2012). Misdemeanors and infractions.

(a) Except as otherwise provided for an offense outside this part, a person who has been convicted of a misdemeanor or infraction may be sentenced to pay a fine not exceeding:

* * * * *

(3) \$300 for a class C misdemeanor;

* * * * *

(b) In lieu of a fine imposed under subsection (a), a person who has been convicted of a misdemeanor or infraction through which he derived “gain”, as defined in 46.2101, may be sentenced to a fine which does not exceed 2 times the amount of gain from the commission of the offense. An individual offender may be fined not more than \$20,000 under this provision. **AM. SAMOA CODE ANN. § 46.2301 (2012).Authorized terms.**

The authorized terms of sentences of imprisonment, including both prison terms and parole terms are:

* * * * *

(7) for a class C misdemeanor, a term not to exceed 15 days.

ANIMAL PROTECTION LAWS OF ARIZONA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Arizona's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Arizona may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

ARIZONA

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) General cruelty, neglect, abandonment ARIZ. REV. STAT. §§13-2910(A)(1)-(7), (12)</p> <p>(2) Aggravated cruelty ARIZ. REV. STAT. §§13-2910(A)(8)-(11),(13)</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[M]ammal, bird, reptile or amphibian” ARIZ. REV. STAT. §13-2910(H)(1)</p>
<p><i>Classification of Crimes</i></p>	<p>(1) Class 1 misdemeanor</p> <p>(2) Class 6 felony</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1) 6 months imprisonment ARIZ. REV. STAT. §13-707(A)(1) <i>and/or</i> \$2,500 fine ARIZ. REV. STAT. §13-802(A)</p> <p>(2) (Aggravated) 2 years imprisonment ARIZ. REV. STAT. §13-702(D) <i>and/or</i> \$150,000 fine ARIZ. REV. STAT. §13-801(A)</p> <p>Repeat offenders may face additional penalties based on the history of offenses. ARIZ. REV. STAT. § 13-703</p>

*ARIZONA*continued

<i>ARIZONA</i> continued	
3. EXEMPTIONS ***	<p>3, 4, 5 ARIZ. REV. STAT. §13-2910(C) ARIZ. REV. STAT. §13-2910.05</p> <p>6 ARIZ. REV. STAT. §13-2910(B)</p> <p>7 ARIZ. REV. STAT. §13-2910.05</p> <p>9 ARIZ. REV. STAT. §13-2910(B) ARIZ. REV. STAT. §13-2910.05</p>
4. COUNSELING / EVALUATIONS †	-----
5. PROTECTIVE ORDERS †	ARIZ. REV. STAT. § 13-3602
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS †	<p>Owner may be required to pay impound fees and any other costs for boarding or necessary veterinary care of an animal impounded on probable cause that the animal is vicious or may be a danger to the safety of any person or other animals. ARIZ. REV. STAT. §11-1029(B)</p> <p>Upon conviction, owner is liable for the expenses incurred in rescuing the owner's cruelly treated or neglected animals. ARIZ. REV. STAT. § 12-1011</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>A peace officer, animal control agent or deputy may use reasonable force to open a vehicle and rescue an animal when physical injury or death is likely to result. ARIZ. REV. STAT. §13-2910(D)</p>
8. FORFEITURE / POSSESSION †	<p>If an owner fails to appear at a requested disposition hearing for a suspected vicious animal, or if the justice of the peace or city magistrate determines that the animal is vicious, the animal may be forfeited.</p>

	ARIZ. REV. STAT. §11-1029(B)
<i>ARIZONA</i> continued	
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians shall report in writing, within forty-eight hours of treatment or examination, any suspected dog fighting or animal abuse to a local law enforcement agency; and in cases of suspected abuse of livestock, to the department of agriculture. Veterinarians are immune from civil liability for reports filed in good faith.</p> <p>ARIZ. REV. STAT. §32-2239</p>
11. LAW ENFORCEMENT POLICIES	-----
12. SEXUAL ASSAULT	<p>A public act involving the sexual assault of an animal may be a Class 1 misdemeanor under certain circumstances, and a Class 5 felony if a minor under the age of fifteen is present.</p> <p>ARIZ. REV. STAT. §13-1403</p> <p>Sexual assault of an animal is a Class 6 felony, and a Class 3 felony if the defendant causes a person under the age of fifteen to sexually assault an animal.</p> <p>ARIZ. REV. STAT. §13-1411</p>

<i>ARIZONA</i> continued	
13. FIGHTING	<p>Various animal fighting and cockfighting activities are Class 5 felonies. ARIZ. REV. STAT. §§13-2910.01, -2910.03</p> <p>Being a spectator at an animal fight or being present at any place where an animal fight is being prepared is a Class 6 felony. ARIZ. REV. STAT. §13-2910.02</p> <p>Being a spectator at a cockfight or being present at any place where a cockfight is being prepared is a Class 1 misdemeanor. ARIZ. REV. STAT. §13-2910.04</p>
<i>Other Felony Provisions Affecting Animals</i> [†]	<p>Intentionally killing or disabling working or service animal is Class 6 felony. ARIZ. REV. STAT. §13-2910(E)</p> <p>Unlawful killing of livestock is a Class 5 felony. ARIZ. REV. STAT. §3-1307</p> <p>Theft of an animal for fighting purposes is a Class 6 felony. ARIZ. REV. STAT. §13-1802(G)</p>
NOTES	<p>Special provisions for seizure of horses ARIZ. REV. STAT. §3-1721</p> <p>Special provisions regulating the confinement of calves raised for veal and pregnant pigs ARIZ. REV. STAT. §13-2910.07</p> <p>Horse tripping is a misdemeanor. ARIZ. REV. STAT. § 13-2910.09</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control,

7-rodeo, 8-zoos/circuses, 9-other.

- † This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
- ‡ This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

ARIZ. REV. STAT. § 13-2910 (2012). Cruelty to animals; interference with working or service animal; classification; definitions.

A. *A person commits cruelty to animals if the person does any of the following:*

1. *Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.*
2. *Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.*
3. *Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.*
4. *Recklessly subjects any animal to cruel mistreatment.*
5. *Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.*
6. *Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.*
7. *Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.*
8. *Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.*
9. *Intentionally or knowingly subjects any animal to cruel mistreatment.*
10. *Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.*
11. *Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.*
12. *Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.*
13. *Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.*

B. It is a defense to subsection A of this section if:

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

2. Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in § 17-101.

C. This section does not prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to title 17.

2. Activities permitted by or pursuant to title 3.

3. Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.

D. A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.

E. A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:

1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.

2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.

3. To the owner for the owner's contractual losses with the agency.

F. An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.

G. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6, 7 or 12 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty of a class 6 felony.

H. For the purposes of this section:

1. *“Animal” means a mammal, bird, reptile or amphibian.*
2. *“Cruel mistreatment” means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.*
3. *“Cruel neglect” means to fail to provide an animal with necessary food, water or shelter.*
4. *“Handler” means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially trained animal under the direction of the person's agency or the service animal owner.*
5. *“Service animal” means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.*
6. *“Working animal” means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.*

2. PENALTIES

ARIZ. REV. STAT. § 13-701 (2012). Sentence of imprisonment for felony; presentence report; aggravating and mitigating factors; consecutive terms of imprisonment; definition.

A. A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law or subsection J of this section applies, shall be committed to the custody of the state department of corrections.

B. No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the sentencing judge, and a copy of a recent presentence investigation report unless the court has waived preparation of the report.

C. The minimum or maximum term imposed pursuant to section 13-702, 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be imposed only if one or more of the circumstances alleged to be in aggravation of the crime are found to be true by the trier of fact beyond a reasonable doubt or are admitted by the defendant, except that an alleged aggravating circumstance under subsection D, paragraph 11 of this section shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

D. For the purpose of determining the sentence pursuant to subsection C of this section, the trier of fact shall determine and the court shall consider the following aggravating circumstances, except that the court shall determine an aggravating circumstance under paragraph 11 of this subsection:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.

2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.

3. If the offense involves the taking of or damage to property, the value of the property taken or damaged.

4. Presence of an accomplice.

5. Especially heinous, cruel or depraved manner in which the offense was committed.

6. *The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.*
7. *The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.*
8. *At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.*
9. *The victim or, if the victim has died as a result of the conduct of the defendant, the victim's immediate family suffered physical, emotional or financial harm.*
10. *During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.*
11. *The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.*
12. *The defendant was wearing body armor as defined in section 13-3116.*
13. *The victim of the offense is at least sixty-five years of age or is a disabled person as defined in section 38-492, subsection B.*
14. *The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.*
15. *Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.*
16. *The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.*
17. *Lying in wait for the victim or ambushing the victim during the commission of any felony.*
18. *The offense was committed in the presence of a child and any of the circumstances exists that are set forth in section 13-3601, subsection A.*

19. *The offense was committed in retaliation for a victim either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.*

20. *The defendant was impersonating a peace officer as defined in section 1-215.*

21. *The defendant was in violation of 8 United States Code section 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.*

22. *The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:*

(a) "Authorized remote stun gun" means a remote stun gun that has all of the following:

(i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(iv) A training program that is offered by the manufacturer.

(b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

23. *During or immediately following the commission of the offense, the defendant committed a violation of section 28-661, 28-662 or 28-663.*

24. *Any other factor that the state alleges is relevant to the defendant's character or background or to the nature or circumstances of the crime.*

E. For the purpose of determining the sentence pursuant to subsection C of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. *The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.*

3. *The defendant was under unusual or substantial duress, although not to a degree that would constitute a defense to prosecution.*

4. *The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.*

5. *During or immediately following the commission of the offense, the defendant complied with all duties imposed under sections 28-661, 28-662 and 28-663.*

6. *Any other factor that is relevant to the defendant's character or background or to the nature or circumstances of the crime and that the court finds to be mitigating.*

F. If the trier of fact finds at least one aggravating circumstance, the trial court may find by a preponderance of the evidence additional aggravating circumstances. In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to justify the lesser term. If the trier of fact finds aggravating circumstances and the court does not find any mitigating circumstances, the court shall impose an aggravated sentence.

G. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

H. This section does not affect any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.

I. The intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title is malfeasance.

J. If a person is sentenced to serve one year or less in the state department of corrections, the person shall be committed to the custody of the county jail, unless the sheriff of the sentencing county has entered into an agreement to reimburse the state department of corrections for the incarceration costs pursuant to section 41-1610.02, in which case the person shall be committed to the custody of the state department of corrections. A person who is sentenced to a concurrent term of incarceration for more than one year shall be incarcerated in the state department of corrections.

K. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

ARIZ. REV. STAT. § 13-702 (2012). First time felony offenders; sentencing; definition.

A. Unless a specific sentence is otherwise provided, the term of imprisonment for a first felony offense shall be the presumptive sentence determined pursuant to subsection D of this section. Except for those felonies involving a dangerous offense or if a specific sentence is otherwise provided, the court may increase or reduce the presumptive sentence within the ranges set by subsection D of this section. Any reduction or increase shall be based on the aggravating and mitigating circumstances listed in § 13-701, subsections D and E and shall be within the ranges prescribed in subsection D of this section.

B. If a person is convicted of a felony without having previously been convicted of any felony and if at least two of the aggravating factors listed in § 13-701, subsection D apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense to an aggravated term. If a person is convicted of a felony without having previously been convicted of any felony and if the court finds at least two mitigating factors listed in § 13-701, subsection E apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense to a mitigated term.

C. The aggravated or mitigated term imposed pursuant to subsection D of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

D. The term of imprisonment for a presumptive, minimum, maximum, mitigated or aggravated sentence shall be within the range prescribed under this subsection. The terms are as follows:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.33 years	.5 years	1 year	1.5 years	2 years

E. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence to the aggravated or mitigated sentence pursuant this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

F. For the purposes of this section, “trier of fact” means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

ARIZ. REV. STAT. § 13-703(2012). Repetitive offenders; sentencing.

A. A person shall be sentenced as a category one repetitive offender if the person is convicted of two felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

B. A person shall be sentenced as a category two repetitive offender if the person either:

1. Is convicted of three or more felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

2. Except as provided in § 13-704 or 13-705, is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has one historical prior felony conviction.

C. Except as provided in § 13-704 or 13-705, a person shall be sentenced as a category three repetitive offender if the person is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has two or more historical prior felony convictions.

D. The presumptive term set by this section may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E.

E. If a person is sentenced as a category one repetitive offender pursuant to subsection A of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection H of this section.

F. If a person is sentenced as a category two repetitive offender pursuant to subsection B, paragraph 2 of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection I of this section.

G. If a person is sentenced as a category three repetitive offender pursuant to subsection C of this section and at least two aggravating circumstances listed in § 13-701, subsection D or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection J of this section.

H. A category one repetitive offender shall be sentenced within the following ranges:

<i>Felony</i>	<i>Mitigated</i>	<i>Minimum</i>	<i>Presumptive</i>	<i>Maximum</i>	<i>Aggravated</i>
<i>Class 2</i>	<i>3 years</i>	<i>4 years</i>	<i>5 years</i>	<i>10 years</i>	<i>12.5 years</i>
<i>Class 3</i>	<i>1.8 years</i>	<i>2.5 years</i>	<i>3.5 years</i>	<i>7 years</i>	<i>8.75 years</i>
<i>Class 4</i>	<i>1.1 years</i>	<i>1.5 years</i>	<i>2.5 years</i>	<i>3 years</i>	<i>3.75 years</i>
<i>Class 5</i>	<i>.5 years</i>	<i>.75 years</i>	<i>1.5 years</i>	<i>2 years</i>	<i>2.5 years</i>
<i>Class 6</i>	<i>.3 years</i>	<i>.5 years</i>	<i>1 year</i>	<i>1.5 years</i>	<i>1.8 years</i>

I. A category two repetitive offender shall be sentenced within the following ranges:

<i>Felony</i>	<i>Mitigated</i>	<i>Minimum</i>	<i>Presumptive</i>	<i>Maximum</i>	<i>Aggravated</i>
<i>Class 2</i>	<i>4.5 years</i>	<i>6 years</i>	<i>9.25 years</i>	<i>18.5 years</i>	<i>23.1 years</i>
<i>Class 3</i>	<i>3.3 years</i>	<i>4.5 years</i>	<i>6.5 years</i>	<i>13 years</i>	<i>16.25 years</i>
<i>Class 4</i>	<i>2.25 years</i>	<i>3 years</i>	<i>4.5 years</i>	<i>6 years</i>	<i>7.5 years</i>
<i>Class 5</i>	<i>1 year</i>	<i>1.5 years</i>	<i>2.25 years</i>	<i>3 years</i>	<i>3.75 years</i>
<i>Class 6</i>	<i>.75 years</i>	<i>1 year</i>	<i>1.75 years</i>	<i>2.25 years</i>	<i>2.75 years</i>

J. A category three repetitive offender shall be sentenced within the following ranges:

<i>Felony</i>	<i>Mitigated</i>	<i>Minimum</i>	<i>Presumptive</i>	<i>Maximum</i>	<i>Aggravated</i>
<i>Class 2</i>	<i>10.5 years</i>	<i>14 years</i>	<i>15.75 years</i>	<i>28 years</i>	<i>35 years</i>
<i>Class 3</i>	<i>7.5 years</i>	<i>10 years</i>	<i>11.25 years</i>	<i>20 years</i>	<i>25 years</i>
<i>Class 4</i>	<i>6 years</i>	<i>8 years</i>	<i>10 years</i>	<i>12 years</i>	<i>15 years</i>
<i>Class 5</i>	<i>3 years</i>	<i>4 years</i>	<i>5 years</i>	<i>6 years</i>	<i>3.75 years</i>
<i>Class 6</i>	<i>2.25 years</i>	<i>3 years</i>	<i>3.75 years</i>	<i>4.5 years</i>	<i>5.75 years</i>

K. The aggravated or mitigated term imposed pursuant to subsection H, I or J of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

L. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for the purposes of subsection B, paragraph 2 and subsection C of this

section.

M. For the purposes of subsection B, paragraph 2 and subsection C of this section, a person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a felony is subject to this section. A person who has been convicted as an adult of an offense punishable as a felony under the provisions of any prior code in this state is subject to this section.

N. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if an allegation of prior conviction is charged in the indictment or information and admitted or found by the court. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or a provision of law that specifies a later release or completion of the sentence imposed before release. The court shall allow the allegation of a prior conviction at any time before the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the person was in fact prejudiced by the untimely filing and states the reasons for these findings. If the allegation of a prior conviction is filed, the state must make available to the person a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction shall not be read to the jury. For the purposes of this subsection, "substantive offense" means the felony offense that the trier of fact found beyond a reasonable doubt the person committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the person otherwise would be subject.

O. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by § 31-233, subsection A or B, until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

P. The court shall inform all of the parties before sentencing occurs of its intent to impose an aggravated or mitigated sentence pursuant to subsection H, I or J of this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

Q. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

ARIZ. REV. STAT. § 13-707 (2012). Sentence of imprisonment for misdemeanor.

A. A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:

- 1. For a class 1 misdemeanor, six months.*
- 2. For a class 2 misdemeanor, four months.*
- 3. For a class 3 misdemeanor, thirty days.*

B. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which the person currently is convicted. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced shall not be included in the two years required to be free of convictions.

C. If a person is convicted of a misdemeanor offense and the offense requires enhanced punishment because it is a second or subsequent offense, the court shall determine the existence of the previous conviction. The court shall allow the allegation of a prior conviction to be made in the same manner as the allegation prescribed by section 28-1387, subsection A.

D. A person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a misdemeanor or petty offense is subject to this section. A person who has been convicted as an adult of an offense punishable as a misdemeanor or petty offense under the provisions of any prior code in this state is subject to this section.

E. The court may direct that a person who is sentenced pursuant to subsection A of this section shall not be released on any basis until the sentence imposed by the court has been served.

ARIZ. REV. STAT. § 13-801 (2012). Fines for felonies.

A. A sentence to pay a fine for a felony shall be a sentence to pay an amount fixed by the court not more than one hundred fifty thousand dollars.

B. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

C. This section does not apply to an enterprise.

ARIZ. REV. STAT. § 13-802 (2012). Fines for misdemeanor.

A. A sentence to pay a fine for a class 1 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than two thousand five hundred dollars.

B. A sentence to pay a fine for a class 2 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than seven hundred fifty dollars.

C. A sentence to pay a fine for a class 3 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than five hundred dollars.

D. A sentence to pay a fine for a petty offense shall be a sentence to pay an amount, fixed by the court, of not more than three hundred dollars.

E. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

F. This section does not apply to an enterprise.

3. EXEMPTIONS

ARIZ. REV. STAT. § 13-2910 (2012). Cruelty to animals; interference with working or service animal; classification; definitions.

A. A person commits cruelty to animals if the person does any of the following:

1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.
3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.
4. Recklessly subjects any animal to cruel mistreatment.
5. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.
6. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
7. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.
8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.
9. Intentionally or knowingly subjects any animal to cruel mistreatment.
10. Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
11. Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
12. Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
13. Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.

B. *It is a defense to subsection A of this section if:*

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

2. Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in § 17-101.

C. *This section does not prohibit or restrict:*

1. The taking of wildlife or other activities permitted by or pursuant to title 17.

2. Activities permitted by or pursuant to title 3.

3. Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.

D. A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.

E. A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:

1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.

2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.

3. To the owner for the owner's contractual losses with the agency.

F. An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.

G. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6, 7 or 12 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty of a class 6 felony.

H. For the purposes of this section:

1. "Animal" means a mammal, bird, reptile or amphibian.
2. "Cruel mistreatment" means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.
3. "Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.
4. "Handler" means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially trained animal under the direction of the person's agency or the service animal owner.
5. "Service animal" means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.
6. "Working animal" means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

ARIZ. REV. STAT. § 13-2910.05 (2012). Exempt activities.

Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, ranching, farming, rodeos, shows and security services shall be exempt from the provisions of §§ 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04.

ARIZ. REV. STAT. § 13-2910.06 (2012). Defense to cruelty to animals and bird fighting.

It is a defense to §§ 13-2910, 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04 that the activity charged involves the possession, training, exhibition or use of a bird or animal in the otherwise lawful sports of falconry, animal hunting, rodeos, ranching or the training or use of hunting dogs.

4. COUNSELING

5. PROTECTIVE ORDERS

ARIZ. REV. STAT. § 13-3602 (2012). Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction.

A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff and the minor is a specifically designated person for the purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

1. Unless the party who requests the order files a written verified petition for an order.
2. Against a person who is less than twelve years of age unless the order is granted by the juvenile division of the superior court.
3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an order of protection, the protected address shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.
2. Name and address, if known, of the defendant.
3. Specific statement, including dates, of the domestic violence alleged.
4. Relationship between the parties pursuant to section 13-3601, subsection A and whether there is pending between the parties an action for maternity or paternity, annulment, legal separation or dissolution of marriage.

5. Name of the court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.

6. Desired relief.

D. A fee shall not be charged for filing a petition under this section or for service of process. On request of the plaintiff, each order of protection that is issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection that is issued by a justice of the peace shall be served by the constable or sheriff for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable or sheriff in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff, each order of protection that is issued by a superior court judge or commissioner shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and counseling services that are available in the local area.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the orders requested should issue without further hearing. The court shall issue an order of protection under subsection G of this section if the court determines that there is reasonable cause to believe any of the following:

1. The defendant may commit an act of domestic violence.
2. The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.

F. For the purposes of determining the period of time under subsection E, paragraph 2 of this section, any time that the defendant has been incarcerated or out of this state shall not be counted. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

G. If a court issues an order of protection, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more of the offenses included in domestic violence.

2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result. If the other party is accompanied by a law enforcement officer, the other party may return to the residence on one occasion to retrieve belongings. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph.
3. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.
4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.
5. If the order was issued after notice and a hearing at which the defendant had an opportunity to participate, require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court.
6. Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.
7. *Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent or a minor child residing in the residence or household of the petitioner or the respondent, and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of section 13-2910 or otherwise disposing of the animal.*

H. The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.

I. At any time during the period during which the order is in effect, a party who is under an order of protection or who is restrained from contacting the other party is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a party who is under an order of protection or who is restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order.

J. The order shall include the following statement:

Warning

This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

K. A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

L. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the order or any modified order was issued shall forward to the sheriff of the county in which the court is located a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the order. Registration of an order means that a copy of the order of protection and a copy of the affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

M. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order that is issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued

pursuant to this section shall be referred to an appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For the purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

N. A person who is arrested pursuant to subsection M of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant. The agency with custody of the defendant shall make reasonable efforts to contact the victim and other specifically designated persons in the order of protection, if known to the custodial agency, who requested notification immediately on release of the arrested person from custody.

O. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal. For the

purposes of this subsection, “pending” means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

P. A peace officer who makes an arrest pursuant to this section or section 13-3601 is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

Q. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an order of protection that is issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

R. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.
2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.
3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:

(a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.

(b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.

4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

ARIZ. REV. STAT. §11-1029(2012).Hearing on disposition of vicious animals; forfeiture; exception.

A. A peace officer, county enforcement agent or animal control officer who has impounded an animal pursuant to section 11-1014, on a showing of probable cause that the animal is vicious or may be a danger to the safety of any person or other animal, may request a disposition hearing before a justice of the peace or city magistrate to determine whether the animal is vicious. The hearing shall be set within fifteen business days after the request has been filed.

B. The officer or agent who has requested a hearing under subsection A of this section shall serve the order on the owner of the animal either by personal service on the owner or by leaving a copy of the order with a person of suitable discretion at the owner's residence or place of business. Proof of service shall be filed with the court. If the justice of the peace or city magistrate determines that the animal is vicious, the justice of the peace or city magistrate may order that the animal be forfeited to the officer or agent for transfer to a legally incorporated humane society, county animal shelter or approved rescue agency or be humanely destroyed. *The owner shall pay impound fees and any other costs for boarding or necessary veterinary care. If the justice of the peace or city magistrate determines that the animal is not vicious, the justice of the peace or city magistrate may order the animal returned to the owner, except that if the owner fails to appear at the hearing, the justice of the peace or city magistrate may order that the animal be forfeited to the officer or agent for transfer to a legally incorporated humane society, county animal shelter or approved rescue agency and be made available for adoption or humane destruction.*

C. This section does not apply to the seizure of an equine pursuant to section 3-1721 or to a city, town or county that adopts or has adopted an ordinance or resolution providing for the forfeiture of a vicious animal if the ordinance or resolution imposes requirements that are equal to or more stringent than this section.

ARIZ. REV. STAT. § 12-1011 (2012). Liability for animal rescue costs.

An owner is liable to this state or a political subdivision of this state for the expenses incurred by this state or a political subdivision of this state in rescuing animals that belong to the owner if the animals have been cruelly treated or neglected and the owner has been convicted of a violation of § 13-2910.

7. SEIZURE / ON-SITE SUPERVISION

ARIZ. REV. STAT. § 13-2910 (2012). Cruelty to animals; interference with working or service animal; classification; definitions.

A. A person commits cruelty to animals if the person does any of the following:

1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.
3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.
4. Recklessly subjects any animal to cruel mistreatment.
5. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.
6. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
7. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.
8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.
9. Intentionally or knowingly subjects any animal to cruel mistreatment.
10. Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
11. Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
12. Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
13. Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.

B. It is a defense to subsection A of this section if:

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

2. Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in § 17-101.

C. This section does not prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to title 17.

2. Activities permitted by or pursuant to title 3.

3. Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.

D. A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.

E. A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:

1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.

2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.

3. To the owner for the owner's contractual losses with the agency.

F. An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.

G. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6, 7 or 12 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty of a class 6 felony.

H. For the purposes of this section:

1. "Animal" means a mammal, bird, reptile or amphibian.
2. "Cruel mistreatment" means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.
3. "Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.
4. "Handler" means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially trained animal under the direction of the person's agency or the service animal owner.
5. "Service animal" means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.
6. "Working animal" means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

8. FORFEITURE / POSSESSION

ARIZ. REV. STAT. §11-1029 (2012). Hearing on disposition of vicious animals; forfeiture; exception.

A. A peace officer, county enforcement agent or animal control officer who has impounded an animal pursuant to section 11-1014, on a showing of probable cause that the animal is vicious or may be a danger to the safety of any person or other animal, may request a disposition hearing before a justice of the peace or city magistrate to determine whether the animal is vicious. The hearing shall be set within fifteen business days after the request has been filed.

B. The officer or agent who has requested a hearing under subsection A of this section shall serve the order on the owner of the animal either by personal service on the owner or by leaving a copy of the order with a person of suitable discretion at the owner's residence or place of business. Proof of service shall be filed with the court. If the justice of the peace or city magistrate determines that the animal is vicious, the justice of the peace or city magistrate may order that the animal be forfeited to the officer or agent for transfer to a legally incorporated humane society, county animal shelter or approved rescue agency or be humanely destroyed. The owner shall pay impound fees and any other costs for boarding or necessary veterinary care. If the justice of the peace or city magistrate determines that the animal is not vicious, the justice of the peace or city magistrate may order the animal returned to the owner, except that if the owner fails to appear at the hearing, the justice of the peace or city magistrate may order that the animal be forfeited to the officer or agent for transfer to a legally incorporated humane society, county animal shelter or approved rescue agency and be made available for adoption or humane destruction.

C. This section does not apply to the seizure of an equine pursuant to section 3-1721 or to a city, town or county that adopts or has adopted an ordinance or resolution providing for the forfeiture of a vicious animal if the ordinance or resolution imposes requirements that are equal to or more stringent than this section.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

ARIZ. REV. STAT. §32-2239 (2012). Duty of veterinarian to report suspected abuse, cruelty, neglect or animal fighting; immunity.

A. A veterinarian who reasonably suspects or believes that an animal has been a victim of abuse, cruelty or neglect or has been involved in animal fighting shall report that suspicion, or cause a report to be made, to law enforcement within forty-eight hours after treatment or examination. The report shall include the breed and description of the animal and the name and address of the owner or person who sought the examination or treatment. Veterinary records shall be provided to local law enforcement on request in furtherance of any criminal investigation for abuse, cruelty, neglect or animal fighting.

B. A veterinarian shall report, in writing, suspected cases of abuse of livestock to the associate director of the division of animal services in the Arizona department of agriculture pursuant to title 3, chapter 11, article 1. The report shall be made within forty-eight hours after treatment or examination and shall include the breed and description of the animal together with the name and address of the owner.

C. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

ARIZ. REV. STAT. § 13-1403 (2012). Public sexual indecency; public sexual indecency to a minor; classifications.

A. A person commits public sexual indecency by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

1. An act of sexual contact.
2. An act of oral sexual contact.
3. An act of sexual intercourse.
4. *An act of bestiality.*

B. A person commits public sexual indecency to a minor if the person intentionally or knowingly engages in any of the acts listed in subsection A of this section and such person is reckless about whether a minor who is under fifteen years of age is present.

C. Public sexual indecency is a class 1 misdemeanor. Public sexual indecency to a minor is a class 5 felony.

D. A person who is convicted of a felony violation of this section and who has two or more historical prior felony convictions for a violation of this section or section 13-1402 involving indecent exposure or public sexual indecency to a minor who is under fifteen years of age shall be sentenced to a term of imprisonment as follows:

<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
6 years	8 years	10 years	12 years	15 years

E. The presumptive term imposed pursuant to subsection D of this section may be mitigated or aggravated pursuant to section 13-701, subsections D and E.

ARIZ. REV. STAT. § 13-1411(2012). Bestiality; classification; definition

A. A person commits bestiality by knowingly doing either of the following:

1. *Engaging in oral sexual contact, sexual contact or sexual intercourse with an animal.*

2. Causing another person to engage in oral sexual contact, sexual contact or sexual intercourse with an animal.

B. In addition to any other penalty imposed for a violation of subsection A of this section, the court may order that the convicted person do any of the following:

1. Undergo a psychological assessment and participate in appropriate counseling at the convicted person's own expense.

2. Reimburse an animal shelter as defined in § 11-1022 for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by subsection A of this section.

C. This section does not apply to:

1. Accepted veterinary medical practices performed by a licensed veterinarian or veterinary technician.

2. Insemination of animals by the same species, bred for commercial purposes.

3. Accepted animal husbandry practices that provide necessary care for animals bred for commercial purposes.

D. Bestiality is a class 6 felony, except that bestiality pursuant to subsection A, paragraph 2 of this section is a class 3 felony punishable pursuant to section 13-705 if the other person is a minor under fifteen years of age.

E. For the purposes of this section, "animal" means a nonhuman mammal, bird, reptile or amphibian, either dead or alive.

13. FIGHTING

ARIZ. REV. STAT. §13-2910.01(2012).Animal fighting; classification.

A. A person commits animal fighting by knowingly:

- 1. Owning, possessing, keeping or training any animal if the person knows or has reason to know that the animal will engage in an exhibition of fighting with another animal.*
- 2. For amusement or gain, causing any animal to fight with another animal, or causing any animals to injure each other.*
- 3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under the person's charge or control.*

B. This section does not:

- 1. Prohibit or restrict activities permitted by or pursuant to Title 3.*
- 2. Apply to animals that are trained to protect livestock from predation and that engage in actions to protect livestock.*

C. Animal fighting is a class 5 felony.

ARIZ. REV. STAT. §13-2910.02(2012). Presence at animal fight; classification.

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of animals, or who is present at such exhibition, is guilty of a class 6 felony.

ARIZ. REV. STAT. §13-2910.03(2012).Cockfighting; classification.

A. A person commits cockfighting by knowingly:

- 1. Owning, possessing, keeping or training any cock with the intent that such cock engage in an exhibition of fighting with another cock.*
- 2. For amusement or gain, causing any cock to fight with another cock or causing any cocks to injure each other.*
- 3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under his charge or control.*

B. Cockfighting is a class 5 felony.

C. For purposes of this section and § 13-2910.04, cock means any male chicken, including game fowl except wildlife as defined in A.R.S. § 17-101.

ARIZ. REV. STAT. §13-2910.04(2012).Presence at cockfight; classification.

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of cocks, or is present at such exhibition, is guilty of a class 1 misdemeanor.

14. REFERENCED STATUTES

ARIZ. REV. STAT. §11-1029(2012).Hearing on disposition of vicious animals; forfeiture; exception.

A. A peace officer, county enforcement agent or animal control officer who has impounded an animal pursuant to section 11-1014, on a showing of probable cause that the animal is vicious or may be a danger to the safety of any person or other animal, may request a disposition hearing before a justice of the peace or city magistrate to determine whether the animal is vicious. The hearing shall be set within fifteen business days after the request has been filed.

B. The officer or agent who has requested a hearing under subsection A of this section shall serve the order on the owner of the animal either by personal service on the owner or by leaving a copy of the order with a person of suitable discretion at the owner's residence or place of business. Proof of service shall be filed with the court. If the justice of the peace or city magistrate determines that the animal is vicious, the justice of the peace or city magistrate may order that the animal be forfeited to the officer or agent for transfer to a legally incorporated humane society, county animal shelter or approved rescue agency or be humanely destroyed. The owner shall pay impound fees and any other costs for boarding or necessary veterinary care. If the justice of the peace or city magistrate determines that the animal is not vicious, the justice of the peace or city magistrate may order the animal returned to the owner, except that if the owner fails to appear at the hearing, the justice of the peace or city magistrate may order that the animal be forfeited to the officer or agent for transfer to a legally incorporated humane society, county animal shelter or approved rescue agency and be made available for adoption or humane destruction.

C. This section does not apply to the seizure of an equine pursuant to section 3-1721 or to a city, town or county that adopts or has adopted an ordinance or resolution providing for the forfeiture of a vicious animal if the ordinance or resolution imposes requirements that are equal to or more stringent than this section.

ARIZ. REV. STAT. § 12-1011 (2012). Liability for animal rescue costs.

An owner is liable to this state or a political subdivision of this state for the expenses incurred by this state or a political subdivision of this state in rescuing animals that belong to the owner if the animals have been cruelly treated or neglected and the owner has been convicted of a violation of § 13-2910.

ARIZ. REV. STAT. § 13-701 (2012). Sentence of imprisonment for felony; presentence report; aggravating and mitigating factors; consecutive terms of imprisonment; definition.

A. A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law or subsection J of this section applies, shall be committed to the custody of the state department of corrections.

B. No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the sentencing judge, and a copy of a recent presentence investigation report unless the court has waived preparation of the report.

C. The minimum or maximum term imposed pursuant to section 13-702, 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be imposed only if one or more of the circumstances alleged to be in aggravation of the crime are found to be true by the trier of fact beyond a reasonable doubt or are admitted by the defendant, except that an alleged aggravating circumstance under subsection D, paragraph 11 of this section shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

D. For the purpose of determining the sentence pursuant to subsection C of this section, the trier of fact shall determine and the court shall consider the following aggravating circumstances, except that the court shall determine an aggravating circumstance under paragraph 11 of this subsection:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.
2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.
3. If the offense involves the taking of or damage to property, the value of the property taken or damaged.
4. Presence of an accomplice.
5. Especially heinous, cruel or depraved manner in which the offense was committed.
6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.
8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.
9. The victim or, if the victim has died as a result of the conduct of the defendant, the victim's immediate family suffered physical, emotional or financial harm.
10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.
11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.
12. The defendant was wearing body armor as defined in section 13-3116.
13. The victim of the offense is at least sixty-five years of age or is a disabled person as defined in section 38-492, subsection B.
14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.
15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.
16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.
17. Lying in wait for the victim or ambushing the victim during the commission of any felony.
18. The offense was committed in the presence of a child and any of the circumstances exists that are set forth in section 13-3601, subsection A.
19. The offense was committed in retaliation for a victim either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is

established for the purpose of reporting or preventing criminal activity.

20. The defendant was impersonating a peace officer as defined in section 1-215.

21. The defendant was in violation of 8 United States Code section 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

22. The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:

(a) "Authorized remote stun gun" means a remote stun gun that has all of the following:

(i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(iv) A training program that is offered by the manufacturer.

(b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

23. During or immediately following the commission of the offense, the defendant committed a violation of section 28-661, 28-662 or 28-663.

24. Any other factor that the state alleges is relevant to the defendant's character or background or to the nature or circumstances of the crime.

E. For the purpose of determining the sentence pursuant to subsection C of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired,

but not so impaired as to constitute a defense to prosecution.

3. The defendant was under unusual or substantial duress, although not to a degree that would constitute a defense to prosecution.

4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

5. During or immediately following the commission of the offense, the defendant complied with all duties imposed under sections 28-661, 28-662 and 28-663.

6. Any other factor that is relevant to the defendant's character or background or to the nature or circumstances of the crime and that the court finds to be mitigating.

F. If the trier of fact finds at least one aggravating circumstance, the trial court may find by a preponderance of the evidence additional aggravating circumstances. In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to justify the lesser term. If the trier of fact finds aggravating circumstances and the court does not find any mitigating circumstances, the court shall impose an aggravated sentence.

G. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

H. This section does not affect any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.

I. The intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title is malfeasance.

J. If a person is sentenced to serve one year or less in the state department of corrections, the person shall be committed to the custody of the county jail, unless the sheriff of the sentencing county has entered into an agreement to reimburse the state department of corrections for the incarceration costs pursuant to section 41-1610.02, in which case the person shall be committed to the custody of the state department of corrections. A person who is sentenced to a concurrent term of incarceration for more than one year shall be incarcerated in the state department of corrections.

K. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

ARIZ. REV. STAT. § 13-702 (2012). First time felony offenders; sentencing; definition.

A. Unless a specific sentence is otherwise provided, the term of imprisonment for a first felony offense shall be the presumptive sentence determined pursuant to subsection D of this section. Except for those felonies involving a dangerous offense or if a specific sentence is otherwise provided, the court may increase or reduce the presumptive sentence within the ranges set by subsection D of this section. Any reduction or increase shall be based on the aggravating and mitigating circumstances listed in § 13-701, subsections D and E and shall be within the ranges prescribed in subsection D of this section.

B. If a person is convicted of a felony without having previously been convicted of any felony and if at least two of the aggravating factors listed in § 13-701, subsection D apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense to an aggravated term. If a person is convicted of a felony without having previously been convicted of any felony and if the court finds at least two mitigating factors listed in § 13-701, subsection E apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense to a mitigated term.

C. The aggravated or mitigated term imposed pursuant to subsection D of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

D. The term of imprisonment for a presumptive, minimum, maximum, mitigated or aggravated sentence shall be within the range prescribed under this subsection. The terms are as follows:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.33 years	.5 years	1 year	1.5 years	2 years

E. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence to the aggravated or mitigated sentence pursuant this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

F. For the purposes of this section, “trier of fact” means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

ARIZ. REV. STAT. § 13-703 (2012). Repetitive offenders; sentencing.

A. A person shall be sentenced as a category one repetitive offender if the person is convicted of two felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

B. A person shall be sentenced as a category two repetitive offender if the person either:

1. Is convicted of three or more felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

2. Except as provided in § 13-704 or 13-705, is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has one historical prior felony conviction.

C. Except as provided in § 13-704 or 13-705, a person shall be sentenced as a category three repetitive offender if the person is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has two or more historical prior felony convictions.

D. The presumptive term set by this section may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E.

E. If a person is sentenced as a category one repetitive offender pursuant to subsection A of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection H of this section.

F. If a person is sentenced as a category two repetitive offender pursuant to subsection B, paragraph 2 of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection I of this section.

G. If a person is sentenced as a category three repetitive offender pursuant to subsection C of this section and at least two aggravating circumstances listed in § 13-701, subsection D or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection J of this section.

H. A category one repetitive offender shall be sentenced within the following ranges:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	1.8 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1.1 years	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.3 years	.5 years	1 year	1.5 years	1.8 years

I. A category two repetitive offender shall be sentenced within the following ranges:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	4.5 years	6 years	9.25 years	18.5 years	23.1 years
Class 3	3.3 years	4.5 years	6.5 years	13 years	16.25 years
Class 4	2.25 years	3 years	4.5 years	6 years	7.5 years
Class 5	1 year	1.5 years	2.25 years	3 years	3.75 years
Class 6	.75 years	1 year	1.75 years	2.25 years	2.75 years

J. A category three repetitive offender shall be sentenced within the following ranges:

Felony	Mitigated	Minimum	Presumptive	Maximum	Aggravated
Class 2	10.5 years	14 years	15.75 years	28 years	35 years
Class 3	7.5 years	10 years	11.25 years	20 years	25 years
Class 4	6 years	8 years	10 years	12 years	15 years
Class 5	3 years	4 years	5 years	6 years	3.75 years
Class 6	2.25 years	3 years	3.75 years	4.5 years	5.75 years

K. The aggravated or mitigated term imposed pursuant to subsection H, I or J of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

L. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for the purposes of subsection B, paragraph 2 and subsection C of this

section.

M. For the purposes of subsection B, paragraph 2 and subsection C of this section, a person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a felony is subject to this section. A person who has been convicted as an adult of an offense punishable as a felony under the provisions of any prior code in this state is subject to this section.

N. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if an allegation of prior conviction is charged in the indictment or information and admitted or found by the court. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or a provision of law that specifies a later release or completion of the sentence imposed before release. The court shall allow the allegation of a prior conviction at any time before the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the person was in fact prejudiced by the untimely filing and states the reasons for these findings. If the allegation of a prior conviction is filed, the state must make available to the person a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction shall not be read to the jury. For the purposes of this subsection, "substantive offense" means the felony offense that the trier of fact found beyond a reasonable doubt the person committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the person otherwise would be subject.

O. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by § 31-233, subsection A or B, until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

P. The court shall inform all of the parties before sentencing occurs of its intent to impose an aggravated or mitigated sentence pursuant to subsection H, I or J of this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

Q. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

ARIZ. REV. STAT. § 13-707 (2012). Sentence of imprisonment for misdemeanor.

A. A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:

1. For a class 1 misdemeanor, six months.
2. For a class 2 misdemeanor, four months.
3. For a class 3 misdemeanor, thirty days.

B. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which the person currently is convicted. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced shall not be included in the two years required to be free of convictions.

C. If a person is convicted of a misdemeanor offense and the offense requires enhanced punishment because it is a second or subsequent offense, the court shall determine the existence of the previous conviction. The court shall allow the allegation of a prior conviction to be made in the same manner as the allegation prescribed by section 28-1387, subsection A.

D. A person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a misdemeanor or petty offense is subject to this section. A person who has been convicted as an adult of an offense punishable as a misdemeanor or petty offense under the provisions of any prior code in this state is subject to this section.

E. The court may direct that a person who is sentenced pursuant to subsection A of this section shall not be released on any basis until the sentence imposed by the court has been served.

ARIZ. REV. STAT. § 13-801 (2012). Fines for felonies.

A. A sentence to pay a fine for a felony shall be a sentence to pay an amount fixed by the court not more than one hundred fifty thousand dollars.

B. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

C. This section does not apply to an enterprise.

ARIZ. REV. STAT. § 13-802 (2012). Fines for misdemeanor.

A. A sentence to pay a fine for a class 1 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than two thousand five hundred dollars.

B. A sentence to pay a fine for a class 2 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than seven hundred fifty dollars.

C. A sentence to pay a fine for a class 3 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than five hundred dollars.

D. A sentence to pay a fine for a petty offense shall be a sentence to pay an amount, fixed by the court, of not more than three hundred dollars.

E. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

F. This section does not apply to an enterprise.

ARIZ. REV. STAT. § 13-1403 (2012). Public sexual indecency; public sexual indecency to a minor; classifications.

A. A person commits public sexual indecency by intentionally or knowingly engaging in any of the following acts, if another person is present, and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

1. An act of sexual contact.
2. An act of oral sexual contact.
3. An act of sexual intercourse.
4. An act of bestiality.

B. A person commits public sexual indecency to a minor if the person intentionally or knowingly engages in any of the acts listed in subsection A of this section and such person is reckless about whether a minor who is under fifteen years of age is present.

C. Public sexual indecency is a class 1 misdemeanor. Public sexual indecency to a minor is a class 5 felony.

D. A person who is convicted of a felony violation of this section and who has two or more historical prior felony convictions for a violation of this section or section 13-1402 involving

indecent exposure or public sexual indecency to a minor who is under fifteen years of age shall be sentenced to a term of imprisonment as follows:

<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
6 years	8 years	10 years	12 years	15 years

E. The presumptive term imposed pursuant to subsection D of this section may be mitigated or aggravated pursuant to section 13-701, subsections D and E.

ARIZ. REV. STAT. § 13-1411(2012). Bestiality; classification; definition.

A. A person commits bestiality by knowingly doing either of the following:

1. Engaging in oral sexual contact, sexual contact or sexual intercourse with an animal.
2. Causing another person to engage in oral sexual contact, sexual contact or sexual intercourse with an animal.

B. In addition to any other penalty imposed for a violation of subsection A of this section, the court may order that the convicted person do any of the following:

1. Undergo a psychological assessment and participate in appropriate counseling at the convicted person's own expense.
2. Reimburse an animal shelter as defined in § 11-1022 for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by subsection A of this section.

C. This section does not apply to:

1. Accepted veterinary medical practices performed by a licensed veterinarian or veterinary technician.
2. Insemination of animals by the same species, bred for commercial purposes.
3. Accepted animal husbandry practices that provide necessary care for animals bred for commercial purposes.

D. Bestiality is a class 6 felony, except that bestiality pursuant to subsection A, paragraph 2 of this section is a class 3 felony punishable pursuant to section 13-705 if the other person is a minor under fifteen years of age.

E. For the purposes of this section, “animal” means a nonhuman mammal, bird, reptile or amphibian, either dead or alive.

ARIZ. REV. STAT. § 13-2910 (2012). Cruelty to animals; interference with working or service animal; classification; definitions.

A. A person commits cruelty to animals if the person does any of the following:

1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.
3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.
4. Recklessly subjects any animal to cruel mistreatment.
5. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.
6. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
7. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.
8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.
9. Intentionally or knowingly subjects any animal to cruel mistreatment.
10. Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
11. Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
12. Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
13. Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.

B. It is a defense to subsection A of this section if:

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

2. Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in § 17-101.

C. This section does not prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to title 17.

2. Activities permitted by or pursuant to title 3.

3. Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.

D. A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.

E. A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:

1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.

2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.

3. To the owner for the owner's contractual losses with the agency.

F. An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.

G. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6, 7 or 12 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty of a class 6 felony.

H. For the purposes of this section:

1. "Animal" means a mammal, bird, reptile or amphibian.
2. "Cruel mistreatment" means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.
3. "Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.
4. "Handler" means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially trained animal under the direction of the person's agency or the service animal owner.
5. "Service animal" means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.
6. "Working animal" means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

ARIZ. REV. STAT. § 13-2910.01(2012).Animal fighting; classification.

A. A person commits animal fighting by knowingly:

1. Owning, possessing, keeping or training any animal if the person knows or has reason to know that the animal will engage in an exhibition of fighting with another animal.
2. For amusement or gain, causing any animal to fight with another animal, or causing any animals to injure each other.

3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under the person's charge or control.

B. This section does not:

1. Prohibit or restrict activities permitted by or pursuant to Title 3.
2. Apply to animals that are trained to protect livestock from predation and that engage in actions to protect livestock.

C. Animal fighting is a class 5 felony.

ARIZ. REV. STAT. § 13-2910.02(2012). Presence at animal fight; classification.

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of animals, or who is present at such exhibition, is guilty of a class 6 felony.

ARIZ. REV. STAT. §13-2910.03(2012).Cockfighting; classification.

A. A person commits cockfighting by knowingly:

1. Owning, possessing, keeping or training any cock with the intent that such cock engage in an exhibition of fighting with another cock.
2. For amusement or gain, causing any cock to fight with another cock or causing any cocks to injure each other.
3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under his charge or control.

B. Cockfighting is a class 5 felony.

C. For purposes of this section and § 13-2910.04, cock means any male chicken, including game fowl except wildlife as defined in A.R.S. § 17-101.

ARIZ. REV. STAT. §13-2910.04(2012).Presence at cockfight; classification.

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of cocks, or is present at such exhibition, is guilty of a class 1 misdemeanor.

ARIZ. REV. STAT. § 13-2910.05 (2012). Exempt activities.

Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, ranching, farming, rodeos, shows and security services shall be exempt from the provisions of §§ 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04.

ARIZ. REV. STAT. § 13-2910.06 (2012). Defense to cruelty to animals and bird fighting.

It is a defense to §§ 13-2910, 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04 that the activity charged involves the possession, training, exhibition or use of a bird or animal in the otherwise lawful sports of falconry, animal hunting, rodeos, ranching or the training or use of hunting dogs.

ARIZ. REV. STAT. § 13-3602 (2012). Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction.

A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or custodian as the plaintiff and the minor is a specifically designated person for the purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

1. Unless the party who requests the order files a written verified petition for an order.
2. Against a person who is less than twelve years of age unless the order is granted by the juvenile division of the superior court.
3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an order of protection, the protected

address shall be maintained in a separate document or automated database and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.

2. Name and address, if known, of the defendant.
3. Specific statement, including dates, of the domestic violence alleged.
4. Relationship between the parties pursuant to section 13-3601, subsection A and whether there is pending between the parties an action for maternity or paternity, annulment, legal separation or dissolution of marriage.
5. Name of the court in which any prior or pending proceeding or order was sought or issued concerning the conduct that is sought to be restrained.
6. Desired relief.

D. A fee shall not be charged for filing a petition under this section or for service of process. On request of the plaintiff, each order of protection that is issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection that is issued by a justice of the peace shall be served by the constable or sheriff for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable or sheriff in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff, each order of protection that is issued by a superior court judge or commissioner shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and counseling services that are available in the local area.

E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the orders requested should issue without further hearing. The court shall issue an order of protection under subsection G of this section if the court determines that there is reasonable cause to believe any of the following:

1. The defendant may commit an act of domestic violence.
2. The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.

F. For the purposes of determining the period of time under subsection E, paragraph 2 of this section, any time that the defendant has been incarcerated or out of this state shall not be counted. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

G. If a court issues an order of protection, the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more of the offenses included in domestic violence.
2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result. If the other party is accompanied by a law enforcement officer, the other party may return to the residence on one occasion to retrieve belongings. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph.
3. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.
4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.
5. If the order was issued after notice and a hearing at which the defendant had an opportunity to participate, require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court.
6. Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.
7. Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent or a

minor child residing in the residence or household of the petitioner or the respondent, and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of section 13-2910 or otherwise disposing of the animal.

H. The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.

I. At any time during the period during which the order is in effect, a party who is under an order of protection or who is restrained from contacting the other party is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a party who is under an order of protection or who is restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order that is issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order.

J. The order shall include the following statement:

Warning

This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.

K. A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not served on the defendant within one year expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective on service and expires one year after service of the initial order and petition.

L. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit, acceptance or return of service has been filed, excluding weekends and holidays, the court from which the order or any modified order was issued shall forward to the sheriff of the county in which the court is located a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the order. Registration of an order means that a copy of the order of protection and a copy of the

affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant.

M. A peace officer, with or without a warrant, may arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order that is issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For the purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

N. A person who is arrested pursuant to subsection M of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions that are necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for any other additional conditions that the court deems appropriate, including participation in any counseling programs available to the defendant. The agency with custody of the defendant shall make reasonable efforts to contact the victim and other specifically designated persons in the order of protection, if known to the custodial agency, who requested notification immediately on release of the arrested person from custody.

O. The remedies provided in this section for enforcement of the orders of the court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the

superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order that is entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, section 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fee may be charged to either party for filing an appeal. For the purposes of this subsection, "pending" means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

P. A peace officer who makes an arrest pursuant to this section or section 13-3601 is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice.

Q. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an order of protection that is issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

R. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.
2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an

Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.

3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:
 - (a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.
 - (b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.
4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

ARIZ. REV. STAT. §32-2239 (2012). Duty of veterinarian to report suspected abuse, cruelty, neglect or animal fighting; immunity.

A. A veterinarian who reasonably suspects or believes that an animal has been a victim of abuse, cruelty or neglect or has been involved in animal fighting shall report that suspicion, or cause a report to be made, to law enforcement within forty-eight hours after treatment or examination. The report shall include the breed and description of the animal and the name and address of the owner or person who sought the examination or treatment. Veterinary records shall be provided to local law enforcement on request in furtherance of any criminal investigation for abuse, cruelty, neglect or animal fighting.

B. A veterinarian shall report, in writing, suspected cases of abuse of livestock to the associate director of the division of animal services in the Arizona department of agriculture pursuant to title 3, chapter 11, article 1. The report shall be made within forty-eight hours after treatment or examination and shall include the breed and description of the animal together with the name and address of the owner.

C. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

ANIMAL PROTECTION LAWS OF ARKANSAS

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Arkansas's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Arkansas may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

ARKANSAS

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Cruelty to animals ARK. CODE ANN. §5-62-103</p> <p>(2) Aggravated cruelty to dogs, cats, horses ARK. CODE. ANN.§ 5-62-104</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[A]ny living vertebrate creature, except human beings and fish” ARK. CODE ANN. §5-62-102(2)</p>
<p><i>Classification of Crimes</i></p>	<p>(1) [1st – 3rd offense]: Unclassified misdemeanor</p> <p>[4th& subsequent offenses]: Class D felony</p> <p>(2) [1st offense]: Class D felony</p> <p>[Subsequent offenses]: Class C felony</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1) [1st- 3rdoffense]: \$1,000 fine <i>and</i> 1 year imprisonment or community service ARK. CODE ANN. § 5-62-103</p> <p>[4th& subsequent offenses]: \$10,000 fine ARK. CODE ANN. § 5-4-201(a)(2) <i>and</i> 6 years imprisonment ARK. CODE ANN. § 5-4-401(a)(5)</p>

ARKANSAS*continued*

<p>2. MAXIMUM PENALTIES ** <i>continued</i></p>	<p>(2) [1st offense]: \$10,000 fine ARK. CODE ANN. § 5-4-201(a)(2) <i>and</i> 6 years imprisonment ARK. CODE ANN. § 5-4-401(a)(5) <i>and</i> 400 hours community service ARK. CODE ANN. § 5-62-104(b)</p> <p>[2nd & subsequent offenses]: \$10,000 fine ARK. CODE ANN. § 5-4-201(a)(2) <i>and</i> 10 years imprisonment ARK. CODE ANN. § 5-4-401(a)(4)</p> <p>NOTE: Any aggravated cruelty to a dog, cat, or horse offender may be subject to an enhanced sentence of an additional term of imprisonment not to exceed five (5) years if the offense was committed in the presence of a child. ARK. CODE ANN. § 5-4-702</p>
<p>3. EXEMPTIONS ***</p>	<p>1, 2, 3, 4, 5, 6, 7, 8, 9 ARK. CODE ANN. § 5-62-105</p> <p>9 ARK. CODE ANN. § 5-62-126</p>
<p>4. COUNSELING / EVALUATIONS †</p>	<p>Upon conviction, the court shall order a psychiatric or psychological evaluation, and if warranted, counseling or treatment. Costs to be borne by offender. ARK. CODE ANN. §§5-62-103(c)-(f), 5-62-104(c), (d)</p>

ARKANSAS^{continued}

5. PROTECTIVE ORDERS[†]	Court may order the direct care, custody, or control of any pet in a domestic household. ARK. CODE ANN. § 9-15-205(a)(7)
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	Court may order defendant to post a bond for the care of impounded animals. ARK. CODE. ANN. § 5-62-106(b) Before an impounded animal may be reclaimed, all reasonable costs incurred in caring for the animal must be paid. ARK. CODE. ANN. § 5-62-106(e)
7. SEIZURE / ON-SITE SUPERVISION	If a law enforcement officer arrests a person in charge of any vehicle drawn by or containing an animal, the law enforcement officer may seize the animal. ARK. CODE ANN. § 5-62-108 Law enforcement may be issued search warrants by a judge or magistrate if he or she has reasonable cause to believe that the search will discover persons or things specified in the application and subject to seizure. ARK. CODE ANN. § 5-62-112
8. FORFEITURE / POSSESSION[†]	The court, upon petition by prosecutor, may order impounded animal forfeited if owner does not contest impoundment, or an ordered bond for costs of care is not posted or renewed. Upon conviction, the court shall order the animal victim of the offender forfeited. ARK. CODE ANN. §5-62-106

*ARKANSAS*continued

9. CROSS ENFORCEMENT / REPORTING	A person who in good faith reports suspected animal cruelty or aggravated animal cruelty is immune from civil or criminal liability for such reporting. ARK. CODE ANN. §5-62-107
10. VETERINARIAN REPORTING/ IMMUNITY	A person who in good faith reports suspected animal cruelty or aggravated animal cruelty is immune from civil or criminal liability for such reporting. ARK. CODE ANN. §5-62-107 A licensed veterinarian or a person acting at the direction of a licensed veterinarian is immune from civil or criminal liability for assistance in an animal cruelty investigation. ARK. CODE ANN. §5-62-109
11. LAW ENFORCEMENT POLICIES	Any person may lawfully interfere to prevent cruelty. ARK. CODE ANN. § 5-62-111 Law enforcement officers have the authority to make arrests for animal protection violations. ARK. CODE ANN. § 5-62-113
12. SEXUAL ASSAULT	Sexual assault of an animal is a Class A misdemeanor. ARK. CODE ANN. § 5-14-122
13. FIGHTING	Various animal fighting activities are Class D felonies; being a spectator at an animal fight is a Class A misdemeanor. Upon conviction, the court may order animals forfeited and may require restitution for costs of care for seized animals. ARK. CODE ANN. § 5-62-120

<i>ARKANSAS</i> continued	
<i>Other Felony Provisions Affecting Animals</i> [‡]	Purposely killing or physically injuring animals used by law enforcement ARK. CODE ANN. § 5-54-126 Unlawful bear exploitation ARK. CODE ANN. § 5-62-124

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 † This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 ‡ This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

ARK. CODE ANN. § 5-62-102 (2012). Definitions.

As used in this subchapter:

- (1) *“Abandon” means to desert, surrender, forsake, or to give up absolutely;*
- (2) *“Animal” means any living vertebrate creature, except human beings and fish;*
- (3) *“Animal control officer” means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental or political subdivision of the state which is responsible for animal control operations in its jurisdiction;*
- (4)
 - (A) *“Animal husbandry practices” means the breeding, raising, production, and management of animals.*
 - (B) *“Animal husbandry practice” includes without limitation dehorning, docking, and castration;*
- (5) *“Animal identification” means the use of a microchip, tattoo, an ear tag, an ear notch, branding, or any similar technology to identify the owner of an animal and that is generally accepted for the breed, species, and type of animal being identified;*
- (6) *“Appropriate place of custody” means:*
 - (A) *A nonprofit animal shelter;*
 - (B) *An animal pound;*
 - (C) *A location owned or managed by a society incorporated for the prevention of cruelty to animals;*
 - (D) *A location owned or managed by an agency of the state, county, municipality, or other governmental or political subdivision of the state that is responsible for animal control operations in its jurisdiction;*
 - (E) *A location owned or managed by a public or private custodian that provides shelter, care, and necessary medical treatment to an animal; or*
 - (F) *The residence or other place owned by the owner of the animal, if approved by written order of a court of competent jurisdiction;*

- (7) *“Competitive activity” means a lawful activity that is generally recognized as having an established schedule of events involving competition of animals or exhibitions of animals;*
- (8) *“Cruel mistreatment” means any act that causes or permits the continuation of unjustifiable pain or suffering;*
- (9) *“Equine” means a horse, pony, mule, donkey, or hinny;*
- (10) *“Equine activity” means:*
- (A) Equine participation in equine shows, fairs, competitions, performances, or parades that involve any breed of equine and any of the equine disciplines, including without limitation dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, pulling, cutting, polo, steeplechasing, endurance trail riding and western games, and hunting;*
 - (B) Teaching and training activities of an equine show or rodeo;*
 - (C) Boarding an equine;*
 - (D) Riding, inspecting, or evaluating an equine owned by another person, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine; or*
 - (E) Any activity that involves riding or hunting;*
- (11) *“Euthanizing” means humanely killing an animal accomplished by a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death, and administered by a licensed veterinarian or a euthanasia technician licensed by the federal Drug Enforcement Administration and certified by the Department of Health;*
- (12) *“Humanely killing” means causing the death of an animal in a manner intended to limit the pain or suffering of the animal as much as reasonably possible under the circumstances;*
- (13) *“Law enforcement officer” means any public servant vested by law with a duty to maintain public order or to make an arrest for an offense;*
- (14) *“Licensed veterinarian” means a veterinarian licensed to engage in the practice of veterinary medicine in Arkansas in accordance with applicable Arkansas laws;*
- (15) *“Livestock” means a horse, mule, bovine animal, goat, sheep, swine, chicken, duck, or similar animal or fowl commonly raised or used for farm purposes;*

(16) *“Local law enforcement agency” means the police force of a municipality or the office of the county sheriff;*

(17) *“Owner” means a person that:*

(A) Has a right of property or title in an animal;

(B) Keeps or harbors an animal;

(C) Has an animal in his, her, or its care;

(D) Acts as an animal's custodian; or

(E) Knowingly permits an animal to remain on or about any premises occupied by him or her or it;

(18) *“Person” means an individual, company, partnership, limited liability company, joint venture, joint agreement, mutual association or other, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other private entity;*

(19) *“Professional pest control activities” means those activities governed by the Arkansas Pesticide Control Act, § 2-16-401 et seq., and the Arkansas Pest Control Law, § 17-37-101 et seq.;*

(20) *“Rodeo” means an event involving a practice accepted by the Professional Rodeo Cowboys Association on January 1, 2009; and*

(21) *“Torture” means:*

(A) The knowing commission of physical injury to a dog, cat, or horse by the infliction of inhumane treatment or gross physical abuse, causing the dog, cat, or horse intensive or prolonged pain, serious physical injury, or thereby causing death; and

(B) Mutilating, maiming, burning, poisoning, drowning, or starving a dog, cat, or horse.

ARK. CODE. ANN. § 5-62-103 (2012). Offense of cruelty to animals.

(a) A person commits the offense of cruelty to animals if he or she knowingly:

(1) Subjects any animal to cruel mistreatment;

(2) Kills or injures any animal owned by another person without legal privilege or consent of the owner;

(3) Abandons an animal at a location without providing for the animal's continued care;

(4) Fails to supply an animal in his or her custody with a sufficient quantity of wholesome food and water;

(5) Fails to provide an animal in his or her custody with adequate shelter that is consistent with the breed, species, and type of animal; or

(6) Carries or causes to be carried in or upon any motorized vehicle or boat an animal in a cruel or inhumane manner.

(b) For purposes of this section, each alleged act of the offense of cruelty to animals committed against more than one (1) animal may constitute a separate offense.

(c) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than one hundred fifty dollars (\$150) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no less than one (1) day and no more than one (1) year in jail; or

(B) Ordered to complete community service; and

(3)

(A) Both:

(i) Ordered to complete a psychiatric or psychological evaluation; and

(ii) If determined appropriate, psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment

may be ordered paid by the person up to the jurisdictional limit of the court.

(d) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a second offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than four hundred dollars (\$400) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than seven (7) days and no more than one (1) year; or

(B) Ordered to complete no fewer than thirty (30) days of community service; and

(3)

(A) Both:

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(e) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a third offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than nine hundred dollars (\$900) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than ninety (90) days and no more than one (1) year; or

(B) Ordered to complete no fewer than ninety (90) days of community service; and

(3)

(A) Both:

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(f)

(1) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals for a fourth or subsequent offense occurring within (5) five years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class D felony and shall be:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(2) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person.

(g)

(1) For the sole purpose of calculating the number of previous offenses under subsections (d), (e), and (f) of this section, all offenses that are committed against one (1) or more animals and as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of cruelty to animals that is committed by a person against one (1) or more animals within a period of twenty-four (24) hours.

ARK. CODE. ANN. § 5-62-104 (2012). Offense of aggravated cruelty to a dog, cat, or horse.

(a) A person commits the offense of aggravated cruelty to a dog, cat, or horse if he or she knowingly tortures any dog, cat, or horse.

(b) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse:

(1) Shall be guilty of a Class D felony;

(2) May be ordered to perform up to four hundred (400) hours of community service; and

(3) Both:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(c) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse for a subsequent offense occurring within five (5) years from a previous offense of aggravated cruelty to a dog, cat, or horse or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class C felony and shall be:

(1) Ordered to receive a psychiatric or psychological evaluation; and

(2) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(d) The cost of any psychiatric or psychological evaluation, counseling, or treatment ordered under this section shall be paid by the person ordered to receive the psychiatric or psychological evaluation, counseling, or treatment.

(e) For purposes of this section, each alleged act of the offense of aggravated cruelty to a dog, cat, or horse committed against more than one (1) dog, cat or horse may constitute a separate offense.

(f)

(1) For the sole purpose of calculating the number of previous offenses under subsection (b) of this section, all offenses of aggravated cruelty to a dog, cat or horse that are committed against one (1) or more dogs, cats, or horses, as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of aggravated cruelty to a dog, cat, or horse, committed by a person against one (1) or more dogs, cats, or horses within a period of twenty-four (24) hours.

2. PENALTIES

ARK. CODE ANN. § 5-4-201 (2012).Fines -- Limitations on amount.

(a) A defendant convicted of a felony may be sentenced to pay a fine:

(1) Not exceeding fifteen thousand dollars (\$15,000) if the conviction is of a Class A felony or Class B felony;

(2) Not exceeding ten thousand dollars (\$10,000) if the conviction is of a Class C felony or Class D felony;

(3) In accordance with a limitation of the statute defining the felony if the conviction is of an unclassified felony.

(b) A defendant convicted of a misdemeanor may be sentenced to pay a fine:

(1) Not exceeding two thousand five hundred dollars (\$ 2,500) if the conviction is of a Class A misdemeanor;

(2) Not exceeding one thousand dollars (\$ 1,000) if the conviction is of a Class B misdemeanor;

(3) Not exceeding five hundred dollars (\$500) if the conviction is of a Class C misdemeanor; or

(4) In accordance with a limitation of the statute defining the misdemeanor if the conviction is of an unclassified misdemeanor.

(c) A defendant convicted of a violation may be sentenced to pay a fine:

(1) Not exceeding one hundred dollars (\$100) if the violation is defined by the Arkansas Criminal Code or defined by a statute enacted subsequent to January 1, 1976, that does not prescribe a different limitation on the amount of the fine; or

(2) In accordance with a limitation of the statute defining the violation if that statute prescribes limitations on the amount of the fine.

(d)

(1) Notwithstanding a limit imposed by this section, if the defendant has derived pecuniary gain from commission of an offense, then upon conviction of the offense the defendant may be sentenced to pay a fine not exceeding two (2) times the amount of the pecuniary gain.

(2) As used in this subsection, “pecuniary gain” means the amount of money or the value of property derived from the commission of the offense, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to a lawful authority prior to the time sentence is imposed.

(e) An organization convicted of an offense may be sentenced to pay a fine authorized by subsection (d) of this section or not exceeding two (2) times the maximum fine otherwise authorized upon conviction of the offense by subsections (a), (b), or (c) of this section.

(f)

(1) Notwithstanding a limit imposed by this section or the section defining the felony offense, if a defendant has derived pecuniary gain from the commission of a felony offense under § 5-68-201 et seq., § 5-68-301 et seq., the Arkansas Law on Obscenity, § 5-68-401 et seq., or § 5-68-501 et seq., then upon conviction of the felony offense, the defendant may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars (\$250,000).

(2) As used in this subsection, “derived pecuniary gain” means that a defendant received income, benefit, property, money, or anything of value from the commission of a felony offense under § 5-68-201 et seq., § 5-68-301 et seq., the Arkansas Law on Obscenity, § 5-68-401 et seq., or § 5-68-501 et seq.

ARK. CODE. ANN. § 5-4-401 (2012).Sentence.

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

(1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life;

(2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;

(3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years;

(4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;

(5) For a Class D felony, the sentence shall not exceed six (6) years;

(6) For an unclassified felony, the sentence shall be in accordance with the limitations of the statute defining the felony.

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

(1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;

(2) For a Class B misdemeanor, the sentence shall not exceed ninety (90) days;

(3) For a Class C misdemeanor, the sentence shall not exceed thirty (30) days;

(4) For an unclassified misdemeanor, the sentence shall be in accordance with the limitations of the statute defining the misdemeanor.

ARK. CODE. ANN. § 5-4-701 (2012). Definitions.

As used in this subchapter:

(1) "Child" means a person under sixteen (16) years of age; and

(2) "In the presence of a child" means in the physical presence of a child or knowing or having reason to know that a child is present and may see or hear an act.

ARK. CODE. ANN. § 5-4-702 (2012). Enhanced penalties for offenses committed in presence of a child.

(a) Any person who commits a felony offense involving assault, battery, domestic battering, or assault on a family member or household member, under § 5-13-201 et seq. or § 5-26-303 —5-26-306, may be subject to an enhanced sentence of an additional term of imprisonment of not less than one (1) year and not greater than ten (10) years if the offense is committed in the presence of a child.

(b) Any person who commits the offense of aggravated cruelty to a dog, cat, or horse under § 5-62-104, may be subject to an enhanced sentence of an additional term of imprisonment not to exceed five (5) years if the offense is committed in the presence of a child.

(c)

(1) To seek an enhanced penalty established in this section, a prosecuting attorney shall notify the defendant in writing that the defendant is subject to the enhanced penalty.

(2) If the defendant is charged by information or indictment, the prosecuting attorney may include the written notice in the information or indictment.

(d) The enhanced portion of the sentence is consecutive to any other sentence imposed.

(e) Any person convicted under this section is not eligible for early release on parole or community correction transfer for the enhanced portion of the sentence.

ARK. CODE. ANN. § 5-62-103 (2012). Offense of cruelty to animals.

(a) A person commits the offense of cruelty to animals if he or she knowingly:

(1) Subjects any animal to cruel mistreatment;

(2) Kills or injures any animal owned by another person without legal privilege or consent of the owner;

(3) Abandons an animal at a location without providing for the animal's continued care;

(4) Fails to supply an animal in his or her custody with a sufficient quantity of wholesome food and water;

(5) Fails to provide an animal in his or her custody with adequate shelter that is consistent with the breed, species, and type of animal; or

(6) Carries or causes to be carried in or upon any motorized vehicle or boat an animal in a cruel or inhumane manner.

(b) For purposes of this section, each alleged act of the offense of cruelty to animals committed against more than one (1) animal may constitute a separate offense.

(c) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than one hundred fifty dollars (\$150) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no less than one (1) day and no more than one (1) year in jail; or

(B) Ordered to complete community service; and

(3)

(A) Both:

(i) Ordered to complete a psychiatric or psychological evaluation; and

(ii) If determined appropriate, psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(d) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a second offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than four hundred dollars (\$400) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than seven (7) days and no more than one (1) year; or

(B) Ordered to complete no fewer than thirty (30) days of community service; and

(3)

(A) Both:

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(e) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a third offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than nine hundred dollars (\$900) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than ninety (90) days and no more than one (1) year; or

(B) Ordered to complete no fewer than ninety (90) days of community service; and

(3) Both:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(f)

(1) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals for a fourth or subsequent offense occurring within (5) five years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class D felony and shall be:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(2) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person.

(g)

(1) For the sole purpose of calculating the number of previous offenses under subsections (d), (e), and (f) of this section, all offenses that are committed against one (1) or more animals and as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of cruelty to animals that is committed by a person against one (1) or more animals within a period of twenty-four (24) hours.

ARK. CODE. ANN. § 5-62-104 (2012). Offense of aggravated cruelty to a dog, cat, or horse.

(a) A person commits the offense of aggravated cruelty to a dog, cat, or horse if he or she knowingly tortures any dog, cat, or horse.

(b) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse:

(1) Shall be guilty of a Class D felony;

(2) May be ordered to perform up to four hundred (400) hours of community service; and

(3) Both:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(c) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse for a subsequent offense occurring within five (5) years from a previous offense of aggravated cruelty to a dog, cat, or horse or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class C felony and shall be:

(1) Ordered to receive a psychiatric or psychological evaluation; and

(2) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(d) The cost of any psychiatric or psychological evaluation, counseling, or treatment ordered under this section shall be paid by the person ordered to receive the psychiatric or psychological evaluation, counseling, or treatment.

(e) For purposes of this section, each alleged act of the offense of aggravated cruelty to a dog, cat, or horse committed against more than one (1) dog, cat or horse may constitute a separate offense.

(f)

(1) For the sole purpose of calculating the number of previous offenses under subsection (b) of this section, all offenses of aggravated cruelty to a dog, cat or horse that are committed against one (1) or more dogs, cats, or horses, as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of aggravated cruelty to a dog, cat, or horse, committed by a person against one (1) or more dogs, cats, or horses within a period of twenty-four (24) hours.

3. EXEMPTIONS

ARK. CODE. ANN. § 5-62-105 (2012). Exemptions.

(a) *This subchapter does not prohibit any of the following activities:*

- (1) *Reasonably acting to protect a person or a person's property from damage;*
- (2) *Injuring or humanely killing an animal on the property of a person if the person is acting as a reasonable person would act under similar circumstances and if the animal is reasonably believed to constitute a threat of physical injury or damage to any animal under the care or control of the person;*
- (3) *Engaging in practices lawful under the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq., or engaging in activities by or at the direction of any licensed veterinarian while following accepted standards of practice of the profession, including the euthanizing of an animal;*
- (4) *Rendering emergency care, treatment, or assistance, including humanely killing an animal, that is abandoned, ill, injured, or in distress related to an accident or disaster, or where there appears to be no reasonable probability that the life or usefulness of the animal can be saved, if the person rendering the emergency care, treatment, or assistance is:
 - (A) *Acting in good faith;*
 - (B) *Not receiving compensation; and*
 - (C) *Acting as a reasonable person would act under similar circumstances;**
- (5) *Performing generally accepted animal husbandry practices;*
- (6) *Performing professional pest control activities in a lawful manner;*
- (7) *Performing generally accepted training for or participating in a rodeo, equine activity, or competitive activity;*
- (8) *Engaging in generally accepted practices of animal identification;*
- (9) *Engaging in the taking of game or fish through hunting, trapping, or fishing, or engaging in any other activity authorized by Amendment 35 of the Arkansas Constitution, by § 15-41-101 et seq., or by any Arkansas State Game and Fish Commission regulation promulgated under either Amendment 35 of the Arkansas Constitution or statute;*

(10) Conducting activities undertaken by research and education facilities or institutions that are:

(A) Regulated under the Animal Welfare Act, 7 U.S.C. 2131 et seq., as in effect on January 1, 2009;

(B) Regulated under the Health Research Extension Act of 1985, Pub. L. No. 99-158; or

(C) Subject to any federal law or regulation governing animal research that is in effect on January 1, 2009; and

(11) Applying generally accepted methods used to train dogs engaged in hunting, field trials, service work, obedience training, or any similar activities authorized by the Arkansas State Game and Fish Commission.

(b) In addition to the exemptions in subsection (a) of this section, this subchapter does not prohibit a person from engaging in or performing conduct that is otherwise permitted under the laws of this state or of the United States, including without limitation agricultural activities, butchering, food processing, marketing, medical activities, zoological activities, or exhibitions.

ARK. CODE. ANN. § 5-62-126 (2012). Acts of God -- Emergency conditions.

An owner of an animal or person in control of an animal is not guilty of either the offense of cruelty to animals or the offense of aggravated cruelty to a dog, cat, or horse if the owner of the animal or the person in control of the animal was reasonably precluded as the result of an act of God or emergency conditions from engaging in an act or omission that might prevent an allegation of the offense of cruelty to animals or the offense of aggravated cruelty to a dog, cat, or horse.

4. COUNSELING/EVALUATIONS

ARK. CODE. ANN. § 5-62-103 (2012). Offense of cruelty to animals.

(a) A person commits the offense of cruelty to animals if he or she knowingly:

- (1) Subjects any animal to cruel mistreatment;
- (2) Kills or injures any animal owned by another person without legal privilege or consent of the owner;
- (3) Abandons an animal at a location without providing for the animal's continued care;
- (4) Fails to supply an animal in his or her custody with a sufficient quantity of wholesome food and water;
- (5) Fails to provide an animal in his or her custody with adequate shelter that is consistent with the breed, species, and type of animal; or
- (6) Carries or causes to be carried in or upon any motorized vehicle or boat an animal in a cruel or inhumane manner.

(b) For purposes of this section, each alleged act of the offense of cruelty to animals committed against more than one (1) animal may constitute a separate offense.

(c) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals is guilty of an unclassified misdemeanor and shall be:

- (1) Fined no less than one hundred fifty dollars (\$150) and no more than one thousand dollars (\$1,000);
- (2) Either:
 - (A) Imprisoned for no less than one (1) day and no more than one (1) year in jail; or
 - (B) Ordered to complete community service; *and*
- (3)
 - (A) *Both:*
 - (i) *Ordered to complete a psychiatric or psychological evaluation; and*

(ii) If determined appropriate, psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(d) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a second offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than four hundred dollars (\$400) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than seven (7) days and no more than one (1) year; or

(B) Ordered to complete no fewer than thirty (30) days of community service; *and*

(3)

(A) *Both:*

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(e) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a third offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than nine hundred dollars (\$900) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than ninety (90) days and no more than one (1) year; or

(B) Ordered to complete no fewer than ninety (90) days of community service; *and*

(3)

(A) *Both:*

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(f)

(1) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals for a fourth or subsequent offense occurring within (5) five years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class D felony *and shall be:*

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(2) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person.

(g)

(1) For the sole purpose of calculating the number of previous offenses under subsections (d), (e), and (f) of this section, all offenses that are committed against one (1) or more animals and as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of cruelty to animals that is committed by a person against one (1) or more animals within a period of twenty-four (24) hours.

ARK. CODE. ANN. § 5-62-104 (2012). Offense of aggravated cruelty to a dog, cat, or horse.

(a) A person commits the offense of aggravated cruelty to a dog, cat, or horse if he or she knowingly tortures any dog, cat, or horse.

(b) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse:

(1) Shall be guilty of a Class D felony;

(2) May be ordered to perform up to four hundred (400) hours of community service; and

(3) *Both:*

(A) *Ordered to receive a psychiatric or psychological evaluation; and*

(B) *If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.*

(c) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse for a subsequent offense occurring within five (5) years from a previous offense of aggravated cruelty to a dog, cat, or horse or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class C felony and *shall be:*

(1) *Ordered to receive a psychiatric or psychological evaluation; and*

(2) *If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.*

(d) *The cost of any psychiatric or psychological evaluation, counseling, or treatment ordered under this section shall be paid by the person ordered to receive the psychiatric or psychological evaluation, counseling, or treatment.*

(e) For purposes of this section, each alleged act of the offense of aggravated cruelty to a dog, cat, or horse committed against more than one (1) dog, cat or horse may constitute a separate offense.

(f)

(1) For the sole purpose of calculating the number of previous offenses under subsection (b) of this section, all offenses of aggravated cruelty to a dog, cat or horse that are committed against one (1) or more dogs, cats, or horses, as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of aggravated cruelty to a dog, cat, or horse, committed by a person against one (1) or more dogs, cats, or horses within a period of twenty-four (24) hours.

5. PROTECTIVE ORDERS

ARK. CODE ANN. § 9-15-205 (2012). Relief generally—Duration.

(a) At the hearing on the petition filed under this chapter, upon a finding of domestic abuse as defined in § 9-15-103, the court may provide the following relief:

- (1) Exclude the abusing party from the dwelling that the parties share or from the residence of the petitioner or victim;
- (2) Exclude the abusing party from the place of business or employment, school, or other location of the petitioner or victim;
- (3)
 - (A) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties.
 - (B)
 - (i) If a previous child custody or visitation determination has been made by another court with continuing jurisdiction with regard to the minor children of the parties, a temporary child custody or visitation determination may be made under subdivision (a)(3)(A) of this section.
 - (ii) The order shall remain in effect until the court with original jurisdiction enters a subsequent order regarding the children;
- (4) Order temporary support for minor children or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards;
- (5) Allow the prevailing party a reasonable attorney's fee as part of the costs;
- (6) Prohibit the abusing party directly or through an agent from contacting the petitioner or victim except under specific conditions named in the order;
- (7) Direct the care, custody, or control of any pet owned, possessed, leased, kept, or held by either party residing in the household; and*
- (8)
 - (A) Order other relief as the court deems necessary or appropriate for the protection of a family or household member.

(B) The relief may include, but not be limited to, enjoining and restraining the abusing party from doing, attempting to do, or threatening to do any act injuring, mistreating, molesting, or harassing the petitioner.

(b) Any relief granted by the court for protection under the provisions of this chapter shall be for a fixed period of time not less than ninety (90) days nor more than ten (10) years in duration, in the discretion of the court, and may be renewed at a subsequent hearing upon proof and a finding by the court that the threat of domestic abuse still exists.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

ARK. CODE. ANN. § 5-62-106 (2012). Disposition of animal.

(a)

(1) Unless otherwise ordered by a court, for purposes of this subchapter, an animal that has been seized by a law enforcement officer or animal control officer under this subchapter shall remain at the appropriate place of custody for a period of at least fifteen (15) consecutive days, including weekends and holidays, after written notice is received by the owner.

(2) The written notice shall:

(A) Be left at the last known address of the owner; and

(B) Contain a description of the animal seized, the date seized, the name and contact information of the law enforcement or animal control officer seizing the animal, the location of the animal, and the reason for the seizure.

(3) If the owner of the animal cannot be determined, a written notice regarding the seizure of the animal shall be conspicuously posted where the animal is seized at the time the seizure occurs if practicable and a notice shall be published in a local newspaper of general circulation in the jurisdiction where the animal was seized at least two (2) times each week for two (2) consecutive weeks, with the first notice published within three (3) days of the seizure, and no less than at least five (5) days before a hearing conducted under this section.

(4)

(A) After written notice is received by the owner or published under subdivision (a)(3) of this section, the owner within fifteen (15) business days may petition the district court having jurisdiction where the animal was seized to determine the custody of the animal.

(B) If a petition is not filed by the owner within the time period prescribed by this section, the prosecuting attorney shall file a petition in the district court to divest the owner of ownership of the animal and, after a hearing, the district court may order the animal transferred to an appropriate place of custody, euthanized, or any other disposition the district court deems appropriate.

(b)

(1)

(A) When an owner files a petition under subsection (a) of this section and the district court determines that the owner shall be divested of custody of the animal, the district court shall order the owner of the animal to post a bond with the district court in an amount the district court determines is sufficient to care for the animal for at least thirty (30) days.

(B) The bond shall not prevent the appropriate place of custody from disposing of the animal at the end of the thirty-day period covered by the bond, unless a person claiming an interest in the animal posts a new bond for an amount determined by the court for an additional thirty-day period.

(2)

(A) If a petition has been filed by the owner of an animal or the prosecuting attorney under subsection (a) of this section, a person claiming an interest in an animal seized may prevent disposition of the animal as provided in subsection (a) of this section by posting a bond with the district court in an amount the district court determines is sufficient to care for the animal for at least thirty (30) days.

(B) If a person who claims an interest in the animal has not posted bond in accordance with subdivision (b)(2)(A) of this section, the district court shall determine final disposition of the animal in accordance with reasonable practices for the humane treatment of animals.

(c)

(1) A diseased or injured animal:

(A) Seized under this section may be appropriately treated for injury or disease without a court order; and

(B) Is subject to being euthanized without a court order when it is determined by a licensed veterinarian that euthanizing is necessary to prevent the suffering of the animal.

(2)

(A) Except as provided in subdivision (c)(1) of this section, an appropriate place of custody shall not alter or modify an animal in any manner, including without limitation the neutering, spaying, or castration of the animal, without:

(i) A written court order that is issued after a petition is filed by the prosecuting attorney requesting alteration or modification and a hearing involving all interested parties as set forth in subsection (a) of this section; or

(ii) The written consent of the owner.

(B) A violation of this subsection is a Class B misdemeanor.

(d)

(1) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, and if that person is also the owner of the animal, the court shall divest the person of ownership of the animal, and the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(2) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, and the person is not the owner of the animal, the court shall order that the animal be returned to the owner, if practicable, or, if not practicable, the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(e) The court shall order an animal seized under this section returned to the owner if the owner:

(1) Filed a petition under subsection (a) of this section;

(2) *Paid all reasonable expenses incurred in caring for the animal; and*

(3) Is found not guilty of the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, or the proceedings against the owner have otherwise terminated.

7. SEIZURE / ON-SITE SUPERVISION

ARK. CODE. ANN. § 5-62-108 (2012). Arrested persons -- Animal possession.

(a) If a law enforcement officer arrests a person in charge of any vehicle drawn by or containing an animal, the law enforcement officer may seize the animal and impound in any lawful manner the vehicle and the contents of the vehicle.

(b)

(1) A law enforcement officer that seizes an animal under subsection (a) of this section shall place the animal with an appropriate place of custody.

(2) If an animal is seized under this section, an owner of the animal may petition to regain possession of the animal in the manner proscribed in § 5-62-106.

(c) Any vehicle or contents of the vehicle impounded under subsection (a) of this section shall be returned to the owner as soon as reasonably practicable under the circumstances unless the vehicle or contents of the vehicle are subject to seizure for any other lawful reason.

ARK. CODE. ANN. § 5-62-112 (2012). Search Warrant.

A search warrant related to an investigation under this subchapter may be:

*(1) Issued by a judge or magistrate if he or she has reasonable cause to believe that the search will discover persons or things specified in the application and subject to seizure;
and*

(2) Executed by any law enforcement officer.

8. FORFEITURE / POSSESSION

ARK. CODE. ANN. § 5-62-106 (2012). Disposition of animal.

(a)

(1) Unless otherwise ordered by a court, for purposes of this subchapter, an animal that has been seized by a law enforcement officer or animal control officer under this subchapter shall remain at the appropriate place of custody for a period of at least fifteen (15) consecutive days, including weekends and holidays, after written notice is received by the owner.

(2) The written notice shall:

(A) Be left at the last known address of the owner; and

(B) Contain a description of the animal seized, the date seized, the name and contact information of the law enforcement or animal control officer seizing the animal, the location of the animal, and the reason for the seizure.

(3) If the owner of the animal cannot be determined, a written notice regarding the seizure of the animal shall be conspicuously posted where the animal is seized at the time the seizure occurs if practicable and a notice shall be published in a local newspaper of general circulation in the jurisdiction where the animal was seized at least two (2) times each week for two (2) consecutive weeks, with the first notice published within three (3) days of the seizure, and no less than at least five (5) days before a hearing conducted under this section.

(4)

(A) After written notice is received by the owner or published under subdivision (a)(3) of this section, the owner within fifteen (15) business days may petition the district court having jurisdiction where the animal was seized to determine the custody of the animal.

(B) If a petition is not filed by the owner within the time period prescribed by this section, the prosecuting attorney shall file a petition in the district court to divest the owner of ownership of the animal and, after a hearing, the district court may order the animal transferred to an appropriate place of custody, euthanized, or any other disposition the district court deems appropriate.

(b)

(1)

(A) When an owner files a petition under subsection (a) of this section and the district court determines that the owner shall be divested of custody of the animal, the district court shall order the owner of the animal to post a bond with the district court in an amount the district court determines is sufficient to care for the animal for at least thirty (30) days.

(B) The bond shall not prevent the appropriate place of custody from disposing of the animal at the end of the thirty-day period covered by the bond, unless a person claiming an interest in the animal posts a new bond for an amount determined by the court for an additional thirty-day period.

(2)

(A) If a petition has been filed by the owner of an animal or the prosecuting attorney under subsection (a) of this section, a person claiming an interest in an animal seized may prevent disposition of the animal as provided in subsection (a) of this section by posting a bond with the district court in an amount the district court determines is sufficient to care for the animal for at least thirty (30) days.

(B) If a person who claims an interest in the animal has not posted bond in accordance with subdivision (b)(2)(A) of this section, the district court shall determine final disposition of the animal in accordance with reasonable practices for the humane treatment of animals.

(c)

(1) A diseased or injured animal:

(A) Seized under this section may be appropriately treated for injury or disease without a court order; and

(B) Is subject to being euthanized without a court order when it is determined by a licensed veterinarian that euthanizing is necessary to prevent the suffering of the animal.

(2)

(A) Except as provided in subdivision (c)(1) of this section, an appropriate place of custody shall not alter or modify an animal in any manner, including without limitation the neutering, spaying, or castration of the animal, without:

(i) A written court order that is issued after a petition is filed by the prosecuting attorney requesting alteration or modification and a hearing involving all interested parties as set forth in subsection (a) of this section; or

(ii) The written consent of the owner.

(B) A violation of this subsection is a Class B misdemeanor.

(d)

(1) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, and if that person is also the owner of the animal, the court shall divest the person of ownership of the animal, and the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(2) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, and the person is not the owner of the animal, the court shall order that the animal be returned to the owner, if practicable, or, if not practicable, the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(e) The court shall order an animal seized under this section returned to the owner if the owner:

(1) Filed a petition under subsection (a) of this section;

(2) Paid all reasonable expenses incurred in caring for the animal; and

(3) Is found not guilty of the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, or the proceedings against the owner have otherwise terminated.

9. CROSS ENFORCEMENT / REPORTING

ARK. CODE. ANN. § 5-62-107 (2012). Immunity for reporting cruelty to animals or aggravated cruelty to a dog, cat, or horse.

Except as provided in § 5-54-122, a person who in good faith reports a suspected incident of cruelty to animals or aggravated cruelty to a dog, cat, or horse to a local law enforcement agency or to the Department of Arkansas State Police is immune from civil and criminal liability for reporting the incident.

10. VETERINARIAN REPORTING / IMMUNITY

ARK. CODE. ANN. § 5-62-107 (2012). Immunity for reporting cruelty to animals or aggravated cruelty to a dog, cat, or horse.

Except as provided in § 5-54-122, a person who in good faith reports a suspected incident of cruelty to animals or aggravated cruelty to a dog, cat, or horse to a local law enforcement agency or to the Department of Arkansas State Police is immune from civil and criminal liability for reporting the incident.

ARK. CODE. ANN. § 5-62-109 (2012). Immunity -- Veterinarians.

(a) A licensed veterinarian or a person acting at the direction of a licensed veterinarian in Arkansas is:

(1) Held harmless from either criminal or civil liability for any decision made or service rendered in conjunction with this subchapter; and

(2) Immune from suit for his or her part in an investigation of cruelty to animals.

(b) A veterinarian or person acting at the direction of a licensed veterinarian who participates or reports in bad faith or with malice is not protected under this subchapter.

11. LAW ENFORCEMENT POLICIES

ARK. CODE. ANN. § 5-62-111 (2012). Prevention of cruelty.

(a) A person may lawfully interfere to prevent the imminent or ongoing perpetration of any offense of cruelty to animals or aggravated cruelty to a dog, cat, or horse upon any animal in his or her presence.

(b) Upon a conviction, a person who knowingly interferes with or obstructs a person acting under subsection (a) of this section is guilty of a Class A misdemeanor.

ARK. CODE. ANN. § 5-62-113 (2012). Authority to make arrests.

A law enforcement officer may make an arrest under the Arkansas Rules of Criminal Procedure and bring before a court or magistrate having jurisdiction any person alleged to have violated this subchapter.

12. SEXUAL ASSAULT

ARK. CODE. ANN. §5-14-122 (2012). Bestiality.

(a) As used in this section, “animal” means any dead or alive nonhuman vertebrate.

(b) A person commits bestiality if he or she performs or submits to any act of sexual gratification with an animal involving his or her or the animal's sex organs and the mouth, anus, penis, or vagina of the other.

(c) Bestiality is a Class A misdemeanor.

13. FIGHTING

ARK. CODE. ANN. § 5-62-120 (2012). Unlawful animal fighting.

(a)

(1) A person commits the offense of unlawful animal fighting in the first degree if he or she knowingly:

(A) Promotes, engages in, or is employed at animal fighting;

(B) Receives money for the admission of another person to a place kept for animal fighting; or

(C) Sells, purchases, possesses, or trains an animal for animal fighting.

(2) Unlawful animal fighting in the first degree is a Class D felony.

(b)

(1) A person commits the offense of unlawful animal fighting in the second degree if he or she knowingly:

(A) Purchases a ticket of admission to or is present at an animal fight; or

(B) Witnesses an animal fight if it is presented as a public spectacle.

(2) Unlawful animal fighting in the second degree is a Class A misdemeanor.

(c) Upon the arrest of any person for violating a provision of this section, the arresting law enforcement officer or animal control officer may seize and take custody of all animals in the possession of the arrested person.

(d)

(1) Upon the conviction of any person for violating a provision of this section, any court of competent jurisdiction may order the forfeiture by the convicted person of all animals the use of which was the basis of the conviction.

(2) Any animal ordered forfeited under a provision of this subsection shall be placed with an appropriate place of custody or an animal control agency.

(e) In addition to the fines, penalties, and forfeitures imposed under this section, the court may require the defendant to make restitution to the state, any of its political subdivisions, or an appropriate place of custody for housing, feeding, or providing medical treatment to an animal used for unlawful animal fighting.

(f) As used in this section, “animal fighting” means fighting between roosters or other birds or between dogs, bears, or other animals.

14. REFERENCED STATUTES

ARK. CODE. ANN. § 5-4-201 (2012). Fines -- Limitations on amount.

(a) A defendant convicted of a felony may be sentenced to pay a fine:

(1) Not exceeding fifteen thousand dollars (\$15,000) if the conviction is of a Class A felony or Class B felony;

(2) Not exceeding ten thousand dollars (\$10,000) if the conviction is of a Class C felony or Class D felony;

(3) In accordance with a limitation of the statute defining the felony if the conviction is of an unclassified felony.

(b) A defendant convicted of a misdemeanor may be sentenced to pay a fine:

(1) Not exceeding two thousand five hundred dollars (\$2,500) if the conviction is of a Class A misdemeanor;

(2) Not exceeding one thousand dollars (\$1,000) if the conviction is of a Class B misdemeanor;

(3) Not exceeding five hundred dollars (\$500) if the conviction is of a Class C misdemeanor; or

(4) In accordance with a limitation of the statute defining the misdemeanor if the conviction is of an unclassified misdemeanor.

(c) A defendant convicted of a violation may be sentenced to pay a fine:

(1) Not exceeding one hundred dollars (\$100) if the violation is defined by the Arkansas Criminal Code or defined by a statute enacted subsequent to January 1, 1976, that does not prescribe a different limitation on the amount of the fine; or

(2) In accordance with a limitation of the statute defining the violation if that statute prescribes limitations on the amount of the fine.

(d)

(1) Notwithstanding a limit imposed by this section, if the defendant has derived pecuniary gain from commission of an offense, then upon conviction of the offense the defendant may be sentenced to pay a fine not exceeding two (2) times the amount of the pecuniary gain.

(2) As used in this subsection, “pecuniary gain” means the amount of money or the value of property derived from the commission of the offense, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to a lawful authority prior to the time sentence is imposed.

(e) An organization convicted of an offense may be sentenced to pay a fine authorized by subsection (d) of this section or not exceeding two (2) times the maximum fine otherwise authorized upon conviction of the offense by subsections (a), (b), or (c) of this section.

(f)

(1) Notwithstanding a limit imposed by this section or the section defining the felony offense, if a defendant has derived pecuniary gain from the commission of a felony offense under § 5-68-201 et seq., § 5-68-301 et seq., the Arkansas Law on Obscenity, § 5-68-401 et seq., or § 5-68-501 et seq., then upon conviction of the felony offense, the defendant may be sentenced to pay a fine not exceeding two hundred fifty thousand dollars (\$250,000).

(2) As used in this subsection, “derived pecuniary gain” means that a defendant received income, benefit, property, money, or anything of value from the commission of a felony offense under § 5-68-201 et seq., § 5-68-301 et seq., the Arkansas Law on Obscenity, § 5-68-401 et seq., or § 5-68-501 et seq.

ARK. CODE. ANN. § 5-4-401 (2012). Sentence.

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

(1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life;

(2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;

(3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years;

(4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;

(5) For a Class D felony, the sentence shall not exceed six (6) years;

(6) For an unclassified felony, the sentence shall be in accordance with the limitations of the statute defining the felony.

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

(1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;

(2) For a Class B misdemeanor, the sentence shall not exceed ninety (90) days;

(3) For a Class C misdemeanor, the sentence shall not exceed thirty (30) days;

(4) For an unclassified misdemeanor, the sentence shall be in accordance with the limitations of the statute defining the misdemeanor.

ARK. CODE. ANN. § 5-4-701 (2012). Definitions.

As used in this subchapter:

(1) “Child” means a person under sixteen (16) years of age; and

(2) “In the presence of a child” means in the physical presence of a child or knowing or having reason to know that a child is present and may see or hear an act.

ARK. CODE. ANN. § 5-4-702 (2012). Enhanced penalties for offenses committed in presence of a child.

(a) Any person who commits a felony offense involving assault, battery, domestic battering, or assault on a family member or household member, under § 5-13-201 et seq. or § 5-26-303 —5-26-306, may be subject to an enhanced sentence of an additional term of imprisonment of not less than one (1) year and not greater than ten (10) years if the offense is committed in the presence of a child.

(b) Any person who commits the offense of aggravated cruelty to a dog, cat, or horse under § 5-62-104, may be subject to an enhanced sentence of an additional term of imprisonment not to exceed five (5) years if the offense is committed in the presence of a child.

(c)

(1) To seek an enhanced penalty established in this section, a prosecuting attorney shall notify the defendant in writing that the defendant is subject to the enhanced penalty.

(2) If the defendant is charged by information or indictment, the prosecuting attorney may include the written notice in the information or indictment.

(d) The enhanced portion of the sentence is consecutive to any other sentence imposed.

(e) Any person convicted under this section is not eligible for early release on parole or community correction transfer for the enhanced portion of the sentence.

ARK. CODE. ANN. §5-14-122 (2012). Bestiality.

(a) As used in this section, “animal” means any dead or alive nonhuman vertebrate.

(b) A person commits bestiality if he or she performs or submits to any act of sexual gratification with an animal involving his or her or the animal's sex organs and the mouth, anus, penis, or vagina of the other.

(c) Bestiality is a Class A misdemeanor.

ARK. CODE. ANN. § 5-62-102 (2012). Definitions.

As used in this subchapter:

(1) “Abandon” means to desert, surrender, forsake, or to give up absolutely;

(2) “Animal” means any living vertebrate creature, except human beings and fish;

(3) “Animal control officer” means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental or political subdivision of the state which is responsible for animal control operations in its jurisdiction;

(4)

(A) “Animal husbandry practices” means the breeding, raising, production, and management of animals.

(B) “Animal husbandry practices” includes without limitation dehorning, docking, and castration;

(5) “Animal identification” means the use of a microchip, tattoo, an ear tag, an ear notch, branding, or any similar technology to identify the owner of an animal and that is generally accepted for the breed, species, and type of animal being identified;

(6) “Appropriate place of custody” means:

(A) A nonprofit animal shelter;

(B) An animal pound;

(C) A location owned or managed by a society incorporated for the prevention of cruelty to animals;

(D) A location owned or managed by an agency of the state, county, municipality, or other governmental or political subdivision of the state that is responsible for animal control operations in its jurisdiction;

(E) A location owned or managed by a public or private custodian that provides shelter, care, and necessary medical treatment to an animal; or

(F) The residence or other place owned by the owner of the animal, if approved by written order of a court of competent jurisdiction;

(7) “Competitive activity” means a lawful activity that is generally recognized as having an established schedule of events involving competition of animals or exhibitions of animals;

(8) “Cruel mistreatment” means any act that causes or permits the continuation of unjustifiable pain or suffering;

(9) “Equine” means a horse, pony, mule, donkey, or hinny;

(10) “Equine activity” means:

(A) Equine participation in equine shows, fairs, competitions, performances, or parades that involve any breed of equine and any of the equine disciplines, including without limitation dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, pulling, cutting, polo, steeplechasing, endurance trail riding and western games, and hunting;

(B) Teaching and training activities of an equine show or rodeo;

(C) Boarding an equine;

(D) Riding, inspecting, or evaluating an equine owned by another person, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine; or

(E) Any activity that involves riding or hunting;

(11) “Euthanizing” means humanely killing an animal accomplished by a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death, and administered by a licensed veterinarian or a euthanasia technician licensed by the federal Drug Enforcement Administration and certified by the Department of Health;

(12) “Humanely killing” means causing the death of an animal in a manner intended to limit the pain or suffering of the animal as much as reasonably possible under the circumstances;

(13) “Law enforcement officer” means any public servant vested by law with a duty to maintain public order or to make an arrest for an offense;

(14) “Licensed veterinarian” means a veterinarian licensed to engage in the practice of veterinary medicine in Arkansas in accordance with applicable Arkansas laws;

(15) “Livestock” means a horse, mule, bovine animal, goat, sheep, swine, chicken, duck, or similar animal or fowl commonly raised or used for farm purposes;

(16) “Local law enforcement agency” means the police force of a municipality or the office of the county sheriff;

(17) “Owner” means a person that:

(A) Has a right of property or title in an animal;

(B) Keeps or harbors an animal;

(C) Has an animal in his, her, or its care;

(D) Acts as an animal's custodian; or

(E) Knowingly permits an animal to remain on or about any premises occupied by him or her or it;

(18) "Person" means an individual, company, partnership, limited liability company, joint venture, joint agreement, mutual association or other, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other private entity;

(19) "Professional pest control activities" means those activities governed by the Arkansas Pesticide Control Act, § 2-16-401 et seq., and the Arkansas Pest Control Law, § 17-37-101 et seq.;

(20) "Rodeo" means an event involving a practice accepted by the Professional Rodeo Cowboys Association on January 1, 2009; and

(21) "Torture" means:

(A) The knowing commission of physical injury to a dog, cat, or horse by the infliction of inhumane treatment or gross physical abuse, causing the dog, cat, or horse intensive or prolonged pain, serious physical injury, or thereby causing death; and

(B) Mutilating, maiming, burning, poisoning, drowning, or starving a dog, cat, or horse.

ARK. CODE. ANN. § 5-62-103 (2012). Offense of cruelty to animals.

(a) A person commits the offense of cruelty to animals if he or she knowingly:

(1) Subjects any animal to cruel mistreatment;

(2) Kills or injures any animal owned by another person without legal privilege or consent of the owner;

(3) Abandons an animal at a location without providing for the animal's continued care;

(4) Fails to supply an animal in his or her custody with a sufficient quantity of wholesome food and water;

(5) Fails to provide an animal in his or her custody with adequate shelter that is consistent with the breed, species, and type of animal; or

(6) Carries or causes to be carried in or upon any motorized vehicle or boat an animal in a cruel or inhumane manner.

(b) For purposes of this section, each alleged act of the offense of cruelty to animals committed against more than one (1) animal may constitute a separate offense.

(c) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than one hundred fifty dollars (\$150) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no less than one (1) day and no more than one (1) year in jail; or

(B) Ordered to complete community service; and

(3)

(A) Both:

(i) Ordered to complete a psychiatric or psychological evaluation; and

(ii) If determined appropriate, psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(d) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a second offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than four hundred dollars (\$400) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than seven (7) days and no more than one (1) year; or

(B) Ordered to complete no fewer than thirty (30) days of community service; and

(3)

(A) Both:

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(e) Any person who pleads guilty or nolo contendere to or is found guilty of the offense of cruelty to animals for a third offense occurring within five (5) years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of an unclassified misdemeanor and shall be:

(1) Fined no less than nine hundred dollars (\$900) and no more than one thousand dollars (\$1,000);

(2) Either:

(A) Imprisoned for no fewer than ninety (90) days and no more than one (1) year; or

(B) Ordered to complete no fewer than ninety (90) days of community service; and

(3)

(A) Both:

(i) Ordered to receive a psychiatric or psychological evaluation; and

(ii) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(B) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person up to the jurisdictional limit of the court.

(f)

(1) Any person who pleads guilty or nolo contendere to or is found guilty of cruelty to animals for a fourth or subsequent offense occurring within (5) five years of a previous offense of cruelty to animals or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class D felony and shall be:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(2) The cost of any psychiatric or psychological evaluation, counseling, or treatment may be ordered paid by the person.

(g)

(1) For the sole purpose of calculating the number of previous offenses under subsections (d), (e), and (f) of this section, all offenses that are committed against one (1) or more animals and as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of cruelty to animals that is committed by a person against one (1) or more animals within a period of twenty-four (24) hours.

ARK. CODE. ANN. § 5-62-104 (2012). Offense of aggravated cruelty to a dog, cat, or horse.

(a) A person commits the offense of aggravated cruelty to a dog, cat, or horse if he or she knowingly tortures any dog, cat, or horse.

(b) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse:

(1) Shall be guilty of a Class D felony;

(2) May be ordered to perform up to four hundred (400) hours of community service; and

(3) Both:

(A) Ordered to receive a psychiatric or psychological evaluation; and

(B) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(c) A person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse for a subsequent offense occurring within five (5) years from a previous offense of aggravated cruelty to a dog, cat, or horse or of any other equivalent penal offense of another state or foreign jurisdiction is guilty of a Class C felony and shall be:

(1) Ordered to receive a psychiatric or psychological evaluation; and

(2) If determined appropriate, ordered to receive psychiatric or psychological counseling or treatment for a length of time prescribed by the court.

(d) The cost of any psychiatric or psychological evaluation, counseling, or treatment ordered under this section shall be paid by the person ordered to receive the psychiatric or psychological evaluation, counseling, or treatment.

(e) For purposes of this section, each alleged act of the offense of aggravated cruelty to a dog, cat, or horse committed against more than one (1) dog, cat or horse may constitute a separate offense.

(f)

(1) For the sole purpose of calculating the number of previous offenses under subsection (b) of this section, all offenses of aggravated cruelty to a dog, cat or horse that are committed against one (1) or more dogs, cats, or horses, as part of the same criminal episode are a single offense.

(2) As used in this section, “criminal episode” means an act that constitutes the offense of aggravated cruelty to a dog, cat, or horse, committed by a person against one (1) or more dogs, cats, or horses within a period of twenty-four (24) hours.

ARK. CODE ANN. § 5-62-105 (2012). Exemptions.

(a) This subchapter does not prohibit any of the following activities:

(1) Reasonably acting to protect a person or a person’s property from damage;

(2) Injuring or humanely killing an animal on the property of a person if the person is acting as a reasonable person would act under similar circumstances and if the animal is reasonably believed to constitute a threat of physical injury or damage to any animal under the care or control of the person;

(3) Engaging in practices lawful under the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq., or engaging in activities by or at the direction of any licensed veterinarian while following accepted standards of practice of the profession, including the euthanizing of an animal;

(4) Rendering emergency care, treatment, or assistance, including humanely killing an animal, that is abandoned, ill, injured, or in distress related to an accident or disaster, or where there appears to be no reasonable probability that the life or usefulness of the animal can be saved, if the person rendering the emergency care, treatment, or assistance is:

(A) Acting in good faith;

(B) Not receiving compensation; and

- (C) Acting as a reasonable person would act under similar circumstances;
 - (5) Performing generally accepted animal husbandry practices;
 - (6) Performing professional pest control activities in a lawful manner;
 - (7) Performing generally accepted training for or participating in a rodeo, equine activity, or competitive activity;
 - (8) Engaging in generally accepted practices of animal identification;
 - (9) Engaging in the taking of game or fish through hunting, trapping, or fishing, or engaging in any other activity authorized by Amendment 35 of the Arkansas Constitution, by § 15-41-101 et seq., or by any Arkansas State Game and Fish Commission regulation promulgated under either Amendment 35 of the Arkansas Constitution or statute;
 - (10) Conducting activities undertaken by research and education facilities or institutions that are:
 - (A) Regulated under the Animal Welfare Act, 7 U.S.C. 2131 et seq., as in effect on January 1, 2009;
 - (B) Regulated under the Health Research Extension Act of 1985, Pub. L. No. 99-158; or
 - (C) Subject to any federal law or regulation governing animal research that is in effect on January 1, 2009; and
 - (11) Applying generally accepted methods used to train dogs engaged in hunting, field trials, service work, obedience training, or any similar activities authorized by the Arkansas State Game and Fish Commission.
- (b) In addition to the exemptions in subsection (a) of this section, this subchapter does not prohibit a person from engaging in or performing conduct that is otherwise permitted under the laws of this state or of the United States, including without limitation agricultural activities, butchering, food processing, marketing, medical activities, zoological activities, or exhibitions.

ARK. CODE. ANN. § 5-62-106 (2012). Disposition of animal.

(a)

(1) Unless otherwise ordered by a court, for purposes of this subchapter, an animal that has been seized by a law enforcement officer or animal control officer under this subchapter shall remain at the appropriate place of custody for a period of at least fifteen (15) consecutive days, including weekends and holidays, after written notice is received by the owner.

(2) The written notice shall:

(A) Be left at the last known address of the owner; and

(B) Contain a description of the animal seized, the date seized, the name and contact information of the law enforcement or animal control officer seizing the animal, the location of the animal, and the reason for the seizure.

(3) If the owner of the animal cannot be determined, a written notice regarding the seizure of the animal shall be conspicuously posted where the animal is seized at the time the seizure occurs if practicable and a notice shall be published in a local newspaper of general circulation in the jurisdiction where the animal was seized at least two (2) times each week for two (2) consecutive weeks, with the first notice published within three (3) days of the seizure, and no less than at least five (5) days before a hearing conducted under this section.

(4)

(A) After written notice is received by the owner or published under subdivision (a)(3) of this section, the owner within fifteen (15) business days may petition the district court having jurisdiction where the animal was seized to determine the custody of the animal.

(B) If a petition is not filed by the owner within the time period prescribed by this section, the prosecuting attorney shall file a petition in the district court to divest the owner of ownership of the animal and, after a hearing, the district court may order the animal transferred to an appropriate place of custody, euthanized, or any other disposition the district court deems appropriate.

(b)

(1)

(A) When an owner files a petition under subsection (a) of this section and the district court determines that the owner shall be divested of custody of the animal, the district court shall order the owner of the animal to post a bond with the district court in an amount the district court determines is sufficient to care for the animal for at least thirty (30) days.

(B) The bond shall not prevent the appropriate place of custody from disposing of the animal at the end of the thirty-day period covered by the bond, unless a person claiming an interest in the animal posts a new bond for an amount determined by the court for an additional thirty-day period.

(2)

(A) If a petition has been filed by the owner of an animal or the prosecuting attorney under subsection (a) of this section, a person claiming an interest in an animal seized may prevent disposition of the animal as provided in subsection (a) of this section by posting a bond with the district court in an amount the district court determines is sufficient to care for the animal for at least thirty (30) days.

(B) If a person who claims an interest in the animal has not posted bond in accordance with subdivision (b)(2)(A) of this section, the district court shall determine final disposition of the animal in accordance with reasonable practices for the humane treatment of animals.

(c)

(1) A diseased or injured animal:

(A) Seized under this section may be appropriately treated for injury or disease without a court order; and

(B) Is subject to being euthanized without a court order when it is determined by a licensed veterinarian that euthanizing is necessary to prevent the suffering of the animal.

(2)

(A) Except as provided in subdivision (c)(1) of this section, an appropriate place of custody shall not alter or modify an animal in any manner, including without limitation the neutering, spaying, or castration of the animal, without:

(i) A written court order that is issued after a petition is filed by the prosecuting attorney requesting alteration or modification and a hearing involving all interested parties as set forth in subsection (a) of this section; or

(ii) The written consent of the owner.

(B) A violation of this subsection is a Class B misdemeanor.

(d)

(1) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, and if that person is also the owner of the animal, the court shall divest the person of ownership of the animal, and the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(2) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, and the person is not the owner of the animal, the court shall order that the animal be returned to the owner, if practicable, or, if not practicable, the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(e) The court shall order an animal seized under this section returned to the owner if the owner:

(1) Filed a petition under subsection (a) of this section;

(2) Paid all reasonable expenses incurred in caring for the animal; and

(3) Is found not guilty of the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or horse, § 5-62-104, or the proceedings against the owner have otherwise terminated.

ARK. CODE. ANN. § 5-62-107 (2012). Immunity for reporting cruelty to animals or aggravated cruelty to a dog, cat, or horse.

Except as provided in § 5-54-122, a person who in good faith reports a suspected incident of cruelty to animals or aggravated cruelty to a dog, cat, or horse to a local law enforcement agency or to the Department of Arkansas State Police is immune from civil and criminal liability for reporting the incident.

ARK. CODE. ANN. § 5-62-108 (2012). Arrested persons -- Animal possession.

(a) If a law enforcement officer arrests a person in charge of any vehicle drawn by or containing an animal, the law enforcement officer may seize the animal and impound in any lawful manner the vehicle and the contents of the vehicle.

(b)

(1) A law enforcement officer that seizes an animal under subsection (a) of this section shall place the animal with an appropriate place of custody.

(2) If an animal is seized under this section, an owner of the animal may petition to regain possession of the animal in the manner proscribed in § 5-62-106.

(c) Any vehicle or contents of the vehicle impounded under subsection (a) of this section shall be returned to the owner as soon as reasonably practicable under the circumstances unless the vehicle or contents of the vehicle are subject to seizure for any other lawful reason.

ARK. CODE. ANN. § 5-62-109 (2012). Immunity -- Veterinarians.

(a) A licensed veterinarian or a person acting at the direction of a licensed veterinarian in Arkansas is:

(1) Held harmless from either criminal or civil liability for any decision made or service rendered in conjunction with this subchapter; and

(2) Immune from suit for his or her part in an investigation of cruelty to animals.

(b) A veterinarian or person acting at the direction of a licensed veterinarian who participates or reports in bad faith or with malice is not protected under this subchapter.

ARK. CODE. ANN.§ 5-62-111 (2012). Prevention of cruelty.

(a) A person may lawfully interfere to prevent the imminent or ongoing perpetration of any offense of cruelty to animals or aggravated cruelty to a dog, cat, or horse upon any animal in his or her presence.

(b) Upon a conviction, a person who knowingly interferes with or obstructs a person acting under subsection (a) of this section is guilty of a Class A misdemeanor.

ARK. CODE. ANN.§ 5-62-112 (2012). Search Warrant.

A search warrant related to an investigation under this subchapter may be:

(1) Issued by a judge or magistrate if he or she has reasonable cause to believe that the search will discover persons or things specified in the application and subject to seizure; and

(2) Executed by any law enforcement officer.

ARK. CODE. ANN.§ 5-62-113 (2012). Authority to make arrests.

A law enforcement officer may make an arrest under the Arkansas Rules of Criminal Procedure and bring before a court or magistrate having jurisdiction any person alleged to have violated this subchapter.

ARK. CODE. ANN.§ 5-62-120(2012). Unlawful animal fighting.

(a)

(1) A person commits the offense of unlawful animal fighting in the first degree if he or she knowingly:

(A) Promotes, engages in, or is employed at animal fighting;

(B) Receives money for the admission of another person to a place kept for animal fighting; or

(C) Sells, purchases, possesses, or trains an animal for animal fighting.

(2) Unlawful animal fighting in the first degree is a Class D felony.

(b)

(1) A person commits the offense of unlawful animal fighting in the second degree if he or she knowingly:

(A) Purchases a ticket of admission to or is present at an animal fight; or

(B) Witnesses an animal fight if it is presented as a public spectacle.

(2) Unlawful animal fighting in the second degree is a Class A misdemeanor.

(c) Upon the arrest of any person for violating a provision of this section, the arresting law enforcement officer or animal control officer may seize and take custody of all animals in the possession of the arrested person.

(d)

(1) Upon the conviction of any person for violating a provision of this section, any court of competent jurisdiction may order the forfeiture by the convicted person of all animals the use of which was the basis of the conviction.

(2) Any animal ordered forfeited under a provision of this subsection shall be placed with an appropriate place of custody or an animal control agency.

(e) In addition to the fines, penalties, and forfeitures imposed under this section, the court may require the defendant to make restitution to the state, any of its political subdivisions, or an appropriate place of custody for housing, feeding, or providing medical treatment to an animal used for unlawful animal fighting.

(f) As used in this section, "animal fighting" means fighting between roosters or other birds or between dogs, bears, or other animals.

ARK. CODE. ANN. § 5-62-126 (2012). Acts of God -- Emergency conditions.

An owner of an animal or person in control of an animal is not guilty of either the offense of cruelty to animals or the offense of aggravated cruelty to a dog, cat, or horse if the owner of the animal or the person in control of the animal was reasonably precluded as the result of an act of God or emergency conditions from engaging in an act or omission that might prevent an allegation of the offense of cruelty to animals or the offense of aggravated cruelty to a dog, cat, or horse.

ARK. CODE ANN. § 9-15-205 (2012). Relief generally—Duration.

(a) At the hearing on the petition filed under this chapter, upon a finding of domestic abuse as defined in § 9-15-103, the court may provide the following relief:

- (1) Exclude the abusing party from the dwelling that the parties share or from the residence of the petitioner or victim;
- (2) Exclude the abusing party from the place of business or employment, school, or other location of the petitioner or victim;
- (3)
 - (A) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties.
 - (B)
 - (i) If a previous child custody or visitation determination has been made by another court with continuing jurisdiction with regard to the minor children of the parties, a temporary child custody or visitation determination may be made under subdivision (a)(3)(A) of this section.
 - (ii) The order shall remain in effect until the court with original jurisdiction enters a subsequent order regarding the children;
- (4) Order temporary support for minor children or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards;
- (5) Allow the prevailing party a reasonable attorney's fee as part of the costs;
- (6) Prohibit the abusing party directly or through an agent from contacting the petitioner or victim except under specific conditions named in the order;
- (7) Direct the care, custody, or control of any pet owned, possessed, leased, kept, or held by either party residing in the household; and
- (8)
 - (A) Order other relief as the court deems necessary or appropriate for the protection of a family or household member.
 - (B) The relief may include, but not be limited to, enjoining and restraining the abusing party from doing, attempting to do, or threatening to do any act injuring, mistreating, molesting, or harassing the petitioner.

(b) Any relief granted by the court for protection under the provisions of this chapter shall be for a fixed period of time not less than ninety (90) days nor more than ten (10) years in duration, in the discretion of the court, and may be renewed at a subsequent hearing upon proof and a finding by the court that the threat of domestic abuse still exists.

ANIMAL PROTECTION LAWS OF BRITISH COLUMBIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains British Columbia's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

British Columbia may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in British Columbia. Because the law is continually evolving, always review an official source for the most current language of any statute.

BRITISH COLUMBIA

<p>1. GENERAL PROHIBITIONS*</p>	<p>Animal care duties R.S.B.C., c. 372, s.9.1(1)</p> <p>Causing or permitting an animal to be or to continue to be in distress R.S.B.C., c. 372, ss. 9.1(2), 23.2(1)</p> <p>Animal care duties of operators R.S.B.C., c. 372, s.9.2</p> <p>Transportation of animals R.S.B.C., c. 372, s.9.3</p> <p>Abandoned animals R.S.B.C., c. 372, s.10.1</p> <p>Service animals R.S.B.C., c. 372, s.23.1</p> <p>Killing animals R.S.B.C., c. 372, s.23.2(2)</p> <p>Harm to animals by animals R.S.B.C., c. 372, s.23.3(1)</p>
<p><i>Animals Covered in Definition</i></p>	<p>-----</p>
<p><i>Classification of Crimes</i></p>	<p>Summary conviction offence</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>2 years imprisonment <i>and/or</i> \$75,000 fine R.S.B.C., c.372, s.24.1</p>

BRITISH COLUMBIA*continued*

<p>3. EXEMPTIONS^{***}</p>	<p>1 R.S.B.C., c. 372, s. 24.02</p> <p>3 R.S.B.C., c. 372, s. 2</p> <p>Reasonable and generally accepted practices of animal management R.S.B.C., c. 372, s. 24.02</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>The owner of an animal is liable for the costs of care for the animal R.S.B.C., c. 372, s. 20(1)</p> <p>The society may require the owner to pay the costs before returning the animal R.S.B.C., c. 372, s. 20(2)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>An authorized agent may impound animals determined to be abandoned and provide care for the animal R.S.B.C., c. 372, s. 10.1</p> <p>An authorized agent may take any action considered necessary to relieve an animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter and veterinary treatment for it R.S.B.C., c. 372, s. 11</p>

BRITISH COLUMBIA*continued*

7. SEIZURE / ON-SITE SUPERVISION*continued*

An authorized agent may request a search warrant on reasonable grounds that an animal is in distress

R.S.B.C., c. 372, s. 13

If an animal is in critical distress, an authorized agent may enter any premises, other than a dwelling house, for the purpose of taking any action authorized by law

R.S.B.C., c. 372, s. 14

An authorized agent may, without a warrant, during business hours enter any premises, other than a dwelling house, where animals are kept for sale, hire or exhibition for the purpose of determining whether an animal is in distress

R.S.B.C., c. 372, s. 15

An authorized agent may enter any premises or a vehicle where an operator is engaging in a regulated activity for the purpose of determining whether the Act and regulations are being complied with

R.S.B.C., c. 372, s. 15.1

For the purposes of inspection, an authorized agent may be assisted by an expert, require a person to produce records, copy or remove records, require a person to demonstrate a skill

R.S.B.C., c. 372, s. 15.2

An authorized agent may apply to the Supreme Court for an order of custody of an animal in respect of which a charge has been laid under section 24.

R.S.B.C., c. 372, s. 25(1)

BRITISH COLUMBIA*continued*

8. FORFEITURE / POSSESSION^H	<p>A veterinarian, or authorized agent if a veterinarian is not readily available, may euthanize an animal in critical distress R.S.B.C., c. 372, s. 12</p> <p>Four days after a stray or abandoned animal is impounded when the owner is unknown, or four days after the society gives notice to the owner, the animal is forfeited to the society which may then destroy, sell or otherwise dispose of the animal R.S.B.C., c. 372, s. 17</p> <p>If an animal in distress is removed from an owner and impounded by the society, the society may destroy, sell or otherwise dispose of the animal 14 days after giving notice to the owner R.S.B.C., c. 372, s. 18</p> <p>Notice requirements R.S.B.C., c. 372, s. 19</p> <p>All rights to abandoned or seized animals that are later sold or disposed of vest in the new owner R.S.B.C., c. 372, s. 19.1</p> <p>Upon conviction for causing or permitting an animal to be in distress, a justice may, in addition to any other penalty, prohibit the person from owning or having custody or control of an animal for a period of time specified by the justice R.S.B.C., c. 372, s. 24(3)</p>
9. CROSS ENFORCEMENT / REPORTING	-----

BRITISH COLUMBIA*continued*

10. VETERINARIAN REPORTING / IMMUNITY	<p>A veterinarian who believes on reasonable grounds that a person responsible for an animal is causing or permitting the animal to be in distress must report this information to an authorized agent R.S.B.C., c. 372, s. 22.1</p> <p>No legal proceeding for damages lies against a registered veterinarian because of anything done or omitted in the making of a report R.S.B.C., c. 372, s. 25.2(1)</p> <p>Immunity for society and employees, agents for actions taken in good faith under this Act R.S.B.C., c. 372, s. 25.1</p>
11. LAW ENFORCEMENT POLICIES	<p>An authorized agent appointed by the society may exercise the powers of an authorized agent under this Act or any other law relating to the prevention of cruelty to animals only if he or she has been appointed as a special provincial constable under the Police Act. R.S.B.C., c. 372, s. 10</p> <p>A peace officer must assist authorized agents of the society in the enforcement of laws relating to the prevention of cruelty to animals R.S.B.C., c. 372, s. 21</p> <p>For parts of the province without an authorized agent, a peace officer in that jurisdiction has and may exercise any of the powers of an authorized agent of the society R.S.B.C., c. 372, s. 22</p> <p>It is an offence to interfere or obstruct a person in the discharge or the exercise of powers under the Prevention of Cruelty to Animals Act</p>

	R.S.B.C., c. 372, s. 23
BRITISH COLUMBIA <i>continued</i>	
12. SEXUAL ASSAULT	-----
13. FIGHTING	<p>A person responsible for an animal must take reasonable steps to prevent the animal from attacking or otherwise harming another animal R.S.B.C., c. 372, s. 23.3(1)</p> <p>A person must not use, breed, raise, train, or dispose of an animal for the purpose of baiting or fighting another animal or another another prescribed activity that involves an animal attacking or harming another animal R.S.B.C., c. 372, s. 23.3(2)</p> <p>A person must not possess equipment ordinarily used for the breeding, raising or training of animals for a purposes described in subsection (2). R.S.B.C., c. 372, s. 23.3(3)</p>
NOTES	Detailed standards of care for sled dogs are set out in the Sled Dog Standards of Care Regulation, BC Reg 21/2012

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372, ss. 1, 9.1, 9.2, 9.3, 10.1, 23.1, 23.2, 23.3(2012).

Definitions

1(1)

In this Act:

"authorized agent" means a person appointed as an authorized agent under section 10 (1);

"justice" means a justice as defined in the *Offence Act*;

"operator" means a person who engages in a regulated activity, and includes any person who assists, directs, supervises or employs that person for the purpose of doing the regulated activity;

"person responsible", in relation to an animal, includes a person who

(a) owns an animal,

(b) has custody or control of an animal, or

(c) is an operator in relation to an animal;

"registered veterinarian" means an individual who is authorized under the *Veterinarians Act* to practise veterinary medicine;

"regulated activity" means a prescribed activity in relation to the breeding, care, keeping, training, use, transportation, disposition, assembly or killing of animals;

"rules", in relation to the society, include except in section 5 the constitution, bylaws and regulations of the society;

"service animal" means an animal that is trained

(a) to assist in law enforcement activities, whether the animal is used by a peace officer or a person acting under the direction of a peace officer, or

(b) for use

(i) by a person within a prescribed class of persons, or

(ii) for prescribed purposes,

and that is engaged in activities relating to the service for which it is trained;

"society" means the society continued under section 3.

1(2)

For the purposes of this Act, an animal is in distress if it is

(a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,

(a.1) kept in conditions that are unsanitary,

(a.2) not protected from excessive heat or cold,

(b) injured, sick, in pain or suffering, or

(c) abused or neglected.

1(3)

[Repealed 2011-7-1.]

* * * * *

Duties of persons responsible for animals

9.1(1)

A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.

9.1(2)

A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

Duties of operators

9.2(1)

An operator engaging in a regulated activity

(a) must comply with each requirement and duty set out in, and

(b) must not engage in any practice or carry out any procedure that is prohibited under a regulation respecting the regulated activity.

9.2(2)

An operator who is an employer must ensure that employees are adequately trained and sufficiently equipped to comply with any requirement or duty set out in a regulation respecting the regulated activity in which the operator is engaged.

Transportation of animals

9.3(1)

A person responsible for an animal must not transport the animal by vehicle unless the animal is

(a) inside the passenger compartment, or

(b) confined or secured in a manner that will prevent the animal from

(i) falling from the vehicle,

(ii) being injured during transport, or

(iii) causing a hazard to the safe operation of other vehicles.

9.3(2)

A person responsible for an animal must not attach the animal to a vehicle that is in operation unless the animal is confined or secured as described in subsection (1) (b).

9.3(3)

Subsections (1) and (2) do not apply to a person operating a vehicle that is designed for use as a mobility aid for persons with a disability and that is being used for that purpose.

Abandoned animals

10.1(1)

In this section, "abandoned animal" includes an animal that

(a) is apparently ownerless,

(b) is found straying,

(c) is found in a rental unit after expiry of the tenancy agreement in respect of the rental unit, or

(d) if a person agreed to care for the animal, is not retrieved from that person within 4 days following the end of that agreement.

10.1(2)

If an authorized agent is of the opinion that an animal is an abandoned animal, the authorized agent may take custody of the animal and arrange for food, water, shelter, care and veterinary treatment for it.

* * * * *

Service animals

23.1(1)

A person must not do, or attempt to do, any of the following without lawful excuse or authority:

- (a) harm a service animal;*
- (b) touch, directly or indirectly, a service animal;*
- (c) interfere with or obstruct a service animal.*

23.1(2)

A person responsible for an animal must take reasonable steps to prevent the animal from doing a thing described in subsection (1).

Harm to animals by persons

23.2(1)

A person must not cause an animal to be in distress.

23.2(2)

A person who kills an animal

- (a) must comply with prescribed requirements, and*
- (b) must not, in killing the animal, cause the animal to be in distress or do anything that is prohibited by the regulations.*

Harm to animals by animals

23.3(1)

A person responsible for an animal must take reasonable steps to prevent the animal from attacking or otherwise harming another animal.

23.3(2)

A person must not use an animal for, or breed, raise, train or dispose of an animal for the purpose of having the animal used for,

- (a) baiting or fighting another animal, or
- (b) another prescribed activity that involves an animal attacking or harming another animal.

23.3(3)

A person must not possess equipment ordinarily used for the breeding, raising or training of animals for a purpose described in subsection (2).

2. PENALTIES

Offence Act, R.S.B.C. 1996,c. 338, s. 2 (2012).

Offence punishable on summary conviction

2

An offence created under an enactment is punishable on summary conviction.

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c. 372, ss.24, 24.01, 24.1 (2012).

Offences

24(1)

A person who contravenes section 9.1, 9.2, 9.3, 23, 23.1, 23.2 or 23.3 commits an offence.

24(2)

[Repealed 2011-7-6.]

24(3)

If a person is convicted of an offence under subsection (1), a justice may, in addition to any other penalty that may be imposed for the offence, prohibit the person from owning or having custody or control of an animal for a period of time specified by the justice.

24(4)

A justice may make an order under subsection (3) on any terms the justice considers appropriate.

24(5)

A person who fails to comply with an order made under subsection (3) commits an offence.

24(6)

A proceeding for an offence under this Act may not be commenced in any court more than 3 years after the facts on which the proceeding is based first come to the knowledge of an authorized agent who is a special provincial constable under the *Police Act*.

Offence by corporation or employee

24.01(1)

If a corporation commits an offence under this Act, an employee, an officer, a director or an agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence whether or not the corporation is convicted.

24.01(2)

If an employee commits an offence under this Act, an employer who authorized, permitted or acquiesced in the offence commits the offence whether or not the employee is identified or convicted.

Penalties

24.1

A person who commits an offence under this Act is liable on conviction to a fine not exceeding \$75 000 or to imprisonment for a term not exceeding 2 years, or to both.

Animals taken into custody

24.2

Sections 23 to 24.2 of the *Offence Act* do not apply to an animal taken into custody under this Act.

3. EXEMPTIONS

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c. 372, ss.2, 24.02(2012).

Application

2

This Act does not apply to wildlife, as defined in the Wildlife Act, that is not in captivity.

* * * * *

Defence

24.02

A person must not be convicted of an offence under this Act in relation to an animal in distress if

(a) the person is

(i) a registered veterinarian,

(ii) an employee of a registered veterinarian who is acting under the supervision of the registered veterinarian, or

(iii) an enrolled student of veterinary medicine who is an employee of a registered veterinarian and is acting as authorized by the registered veterinarian, and

the person is practising veterinary medicine in accordance with the standards of the profession,

(b) if the person is an operator, the distress results from an activity that is carried out in accordance with the prescribed standards of care that apply to the regulated activity in which the operator is engaged, or

(c) the distress results from an activity that is carried out in accordance with reasonable and generally accepted practices of animal management that apply to the activity in which the person is engaged, unless the person is an operator and those practices are inconsistent with prescribed standards.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c. 372, s. 20 (2012).

Costs of taking action and proceeds of disposition

20(1)

The owner of an animal taken into custody or destroyed under this Act is liable to the society for the costs incurred by the society under this Act with respect to the animal.

20(2)

The society may require the owner to pay the costs for which he or she is liable under subsection (1) before returning the animal.

20(3)

Subject to subsection (4), the society may retain the proceeds of a sale or other disposition of an animal under section 17 or 18.

20(4)

If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within 6 months of the date the animal was taken into custody, claim the balance from the society.

7. SEIZURE / ON-SITE SUPERVISION

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c. 372, ss.10.1, 11, 13-15.2, 25 (2012).

Abandoned animals

10.1(1)

In this section, "abandoned animal" includes an animal that

- (a) is apparently ownerless,*
- (b) is found straying,*
- (c) is found in a rental unit after expiry of the tenancy agreement in respect of the rental unit, or*
- (d) if a person agreed to care for the animal, is not retrieved from that person within 4 days following the end of that agreement.*

10.1(2)

If an authorized agent is of the opinion that an animal is an abandoned animal, the authorized agent may take custody of the animal and arrange for food, water, shelter, care and veterinary treatment for it.

Relieving distress in animals

11

If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal

- (a) does not promptly take steps that will relieve its distress, or*
- (b) cannot be found immediately and informed of the animal's distress,*

the authorized agent may, in accordance with sections 13 and 14, take any action that the authorized agent considers necessary to relieve the animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter, care and veterinary treatment for it.

Authority to enter with a warrant

13(1)

An authorized agent who believes, on reasonable grounds,

(a) that there is an animal in distress in any premises, vehicle, aircraft or vessel, or

(b) that an offence under section 24 has been committed and that there is in any premises, vehicle, aircraft or vessel, any thing that will afford evidence of that offence,

may enter the premises, vehicle, aircraft or vessel with a warrant issued under subsection (2) for the purpose of

(c) determining whether any action authorized by this Act should be taken to relieve the animal's distress, or

(d) searching for, and seizing, any thing that will afford evidence of an offence under section 24.

13(2)

A justice who is satisfied by information on oath in the prescribed form that there are reasonable grounds

(a) under paragraph (1)(a), may issue a warrant in the prescribed form authorizing an authorized agent to enter the premises, vehicle, aircraft or vessel for the purpose of taking any action authorized by this Act to relieve the animal's distress, and

(b) under paragraph (1)(b), may issue a warrant in the prescribed form authorizing an authorized agent to enter the premises, vehicle, aircraft or vessel for the purpose of searching for, and seizing, a thing that will afford evidence of an offence under section 24.

13(2.1)

If an authorized agent believes that it would be impracticable to appear personally before a justice to apply for a warrant under this section, the authorized agent may submit an information on oath by telephone or other means of telecommunication and, for this purpose, section 22 of the Offence Act applies.

13(3)

A justice may issue a warrant under subsection (2) or (2.1) for either or both of the purposes referred to in subsection (2).

13(4)

A warrant issued under subsection (2) or (2.1) is subject to the conditions specified in the warrant.

Authority to enter without a warrant

14(1)

In this section, 'critical distress' means distress in an animal of such a nature that

(a) immediate veterinary treatment cannot prolong the animal's life,

(b) prolonging the animal's life would result in the animal suffering unduly, or

(c) immediate veterinary intervention is necessary to prevent the imminent death of the animal.

14(2)

An authorized agent who believes on reasonable grounds that there is an animal in critical distress in any premises, other than a dwelling house, or in any vehicle, aircraft or vessel, may enter the premises, vehicle, aircraft or vessel without a warrant for the purpose of taking any action authorized by this Act to relieve that critical distress.

Entry to determine distress

15

An authorized agent may, without a warrant, during ordinary business hours enter any premises, other than a dwelling house, where animals are kept for sale, hire or exhibition for the purpose of determining whether any animal is in distress in the premises.

Inspection

15.1(1)

Subject to subsection (3), an authorized agent may enter any premises or a vehicle where an operator is engaging in a regulated activity for the purpose of determining whether this Act and the regulations made under it are being complied with.

15.1(2)

Subject to subsection (3), an authorized agent who believes on reasonable grounds that premises or a vehicle is being used for the purposes of carrying out a regulated activity may enter the premises to determine

(a) whether the premises or vehicle is being used for the purposes of carrying out a regulated activity, and

(b) if so, who the operator is in relation to the regulated activity being carried out.

15.1(3)

Entry under subsection (1) or (2) may be without a warrant or the consent of the person responsible for the premises or vehicle only if

(a) the premises or vehicle is not used as a dwelling house, and

(b) entry is during ordinary business hours.

Inspection powers

15.2(1)

For the purposes of an inspection under section 15.1, an authorized agent may do one or more of the following:

(a) be accompanied or assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection;

(b) require a person to produce relevant records or things in the person's possession or control;

(c) inspect, copy or remove relevant records or things;

(d) require a person to

(i) demonstrate a skill, or

(ii) operate a thing or carry out a procedure as directed by the authorized agent in relation to a requirement set out in a regulation made under section 26 (2) (e), (f), (g), (h) or (j);

(e) make records in respect of a person, place or thing;

(f) take samples and perform analyses and tests, including tests in which a sample is destroyed.

15.2(2)

If an authorized agent removes records or things under subsection (1) (c), the authorized agent must

(a) provide a receipt for the records or things to the person from whom they were taken, and

(b) subject to a power under this or any other enactment to order a thing destroyed, promptly return the records or things

(i) when they have served the purposes for which they were taken, or

(ii) if an action or a proceeding is taken under this or any other enactment as a result of an inspection, and the records or things are relevant to the action or proceeding, no later than 3 months after the conclusion of the action or proceeding.

15.2(3) Sections 23 to 24.2 of the Offence Act do not apply to the removal of records or things under subsection (1) (c) of this Act.

* * * * *

Order of custody

25(1)

An authorized agent may apply to the Supreme Court for an order of custody of an animal in respect of which a charge has been laid under section 24.

25(2)

An applicant under subsection (1) may retain custody of an animal in respect of which the application is made pending the outcome of any proceedings under section 24, despite the fact that the owner of the animal

(a) has paid the costs incurred by the society for which the owner is liable under section 20, and

(b) has requested the authorized agent to return the animal.

25(3)

The Supreme Court may make an order under this section on any terms it considers appropriate.

8. FORFEITURE / POSSESSION

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c. 372, ss. 12, 17-19.1, 24 (2012).

Relieving critical distress in animals

12(1)

In this section, 'critical distress' means distress in an animal of such a nature that

- (a) immediate veterinary treatment cannot prolong the animal's life, or*
- (b) prolonging the animal's life would result in the animal suffering unduly.*

12(2)

If, in the opinion of

- (a) a registered veterinarian, or*
- (b) an authorized agent, if a registered veterinarian is not readily available, an animal is in critical distress, the authorized agent may destroy the animal or have the animal destroyed.*

Disposition of abandoned animals taken into custody

17

If an animal is taken into custody under section 10.1 and

- (a) the owner is unknown, the society may destroy, sell or otherwise dispose of the animal after the society has held the animal for a period of at least 4 days, or*
- (b) the owner is known, the society may destroy, sell or otherwise dispose of the animal 4 days after the society has given notice to the owner in accordance with section 19.*

Disposition of animals removed from custody of owner

18

If an animal is removed from the custody of its owner under section 11 and taken into the custody of the society, the society may destroy, sell or otherwise dispose of the animal 14 days after the society has given notice to the owner in accordance with section 19.

Form of notice

19

The notice referred to in sections 17(b) and 18 must be in writing and

(a) mailed to or served personally on the owner, or

(b) if it cannot be mailed to or served personally on the owner,

(i) published at least 3 times at 2 day intervals in a newspaper circulating in the area in which the animal was taken into custody, or

(ii) posted in a conspicuous place at either the owner's last known address or the location at which the animal was taken into custody.

Animal is property of new owner

19.1

If an animal has been sold or otherwise disposed of under section 17 or 18, all rights and interests in the animal

(a) vest in the person to whom it has been sold or otherwise disposed of, and

(b) the former owner ceases to have any of those rights and interests.

Offence

24(1)

A person who contravenes section 9.1, 9.2, 9.3, 23, 23.1, 23.2 or 23.3 commits an offence.

24(2)

[Repealed 2011-7-6.]

24(3)

If a person is convicted of an offence under subsection (1), a justice may, in addition to any other penalty that may be imposed for the offence, prohibit the person from owning or having custody or control of an animal for a period of time specified by the justice.

24(4)

A justice may make an order under subsection (3) on any terms the justice considers appropriate.

24(5)

A person who fails to comply with an order made under subsection (3) commits an offence.

24(6)

A proceeding for an offence under this Act may not be commenced in any court more than 3 years after the facts on which the proceeding is based first come to the knowledge of an authorized agent who is a special provincial constable under the *Police Act*.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c. 372, ss.22.1, 25.2(2012).

Duty to report distress

22.1

A registered veterinarian who believes on reasonable grounds that a person responsible for an animal is, or is likely, causing or permitting the animal to be in distress in contravention of this Act must promptly report, to the best of the registered veterinarian's knowledge and belief, all of the following information to an authorized agent:

- (a) the reason for believing that an animal is in distress;*
- (b) sufficient information to contact the person responsible for the animal, including the person's name and address;*
- (c) sufficient information to identify the animal.*

Immunity

25.1(1)

Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against the society, an authorized agent or a member, officer, agent or employee of the society because of anything done or omitted

- (a) in the performance or intended performance, by an authorized agent, of any duty under this Act, or*
- (b) in the exercise or intended exercise, by an authorized agent, of any power under this Act.*

(2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted in bad faith.

Immunity for persons who report

25.2(1)

Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a registered veterinarian because of anything done or omitted in the making of a report as required under section 22.1.

25.2(2)

Subsection (1) does not apply to a registered veterinarian in relation to anything done or omitted in bad faith.

11. LAW ENFORCEMENT POLICIES

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c.372, ss.10, 21, 22, 23, 25.1(2012).

Authorized agents

10(1)

The society may appoint an officer or employee of the society or any other person as an authorized agent for the purposes of this Act.

10(2)

An authorized agent may exercise the powers of an authorized agent under this Act or any other law relating to the prevention of cruelty to animals only if he or she has been appointed as a special provincial constable under the Police Act.

Aid by police

21

A peace officer must assist the authorized agents of the society in enforcing this or any other law relating to the prevention of cruelty to animals.

Police powers

22

In a part of British Columbia in which the society does not function through a branch or authorized agent, a peace officer who has jurisdiction in the part has and may exercise any of the powers of an authorized agent of the society under this Act.

Obstruction

23

A person must not wilfully or knowingly

(a) interfere with or obstruct, or

*(b) provide false or misleading information to
a person in the discharge of duties or the exercise of powers under this Act.*

12. SEXUAL ASSAULT

13. FIGHTING

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c.372, s.23.3(2012).

Harm to animals by animals

23.3(1)

A person responsible for an animal must take reasonable steps to prevent the animal from attacking or otherwise harming another animal.

23.3(2)

A person must not use an animal for, or breed, raise, train or dispose of an animal for the purpose of having the animal used for,

(a) baiting or fighting another animal, or

(b) another prescribed activity that involves an animal attacking or harming another animal.

23.3(3)

A person must not possess equipment ordinarily used for the breeding, raising or training of animals for a purpose described in subsection (2).

14. REFERENCED STATUTES & REGULATIONS

Prevention of Cruelty to Animals Act, R.S.B.C. 1996,c. 372 (2012).

Part 1 -- Interpretation and Application

Definitions

1(1)

In this Act:

"authorized agent" means a person appointed as an authorized agent under section 10 (1);

"justice" means a justice as defined in the Offence Act;

"operator" means a person who engages in a regulated activity, and includes any person who assists, directs, supervises or employs that person for the purpose of doing the regulated activity;

"person responsible", in relation to an animal, includes a person who

- (a) owns an animal,
- (b) has custody or control of an animal, or
- (c) is an operator in relation to an animal;

"registered veterinarian" means an individual who is authorized under the Veterinarians Act to practise veterinary medicine;

"regulated activity" means a prescribed activity in relation to the breeding, care, keeping, training, use, transportation, disposition, assembly or killing of animals;

"rules", in relation to the society, include except in section 5 the constitution, bylaws and regulations of the society;

"service animal" means an animal that is trained

- (a) to assist in law enforcement activities, whether the animal is used by a peace officer or a person acting under the direction of a peace officer, or
- (b) for use
 - (i) by a person within a prescribed class of persons, or
 - (ii) for prescribed purposes,

and that is engaged in activities relating to the service for which it is trained;

"society" means the society continued under section 3.

1(2)

For the purposes of this Act, an animal is in distress if it is

(a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,

(a.1) kept in conditions that are unsanitary,

(a.2) not protected from excessive heat or cold,

(b) injured, sick, in pain or suffering, or

(c) abused or neglected.

1(3)

[Repealed 2011-7-1.]

Application

2

This Act does not apply to wildlife, as defined in the *Wildlife Act*, that is not in captivity.

* * * * *

Part 2.1 -- Standards of Care

Duties of persons responsible for animals

9.1(1)

A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.

9.1(2)

A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

Duties of operators

9.2(1)

An operator engaging in a regulated activity

- (a) must comply with each requirement and duty set out in, and
- (b) must not engage in any practice or carry out any procedure that is prohibited under a regulation respecting the regulated activity.

9.2(2)

An operator who is an employer must ensure that employees are adequately trained and sufficiently equipped to comply with any requirement or duty set out in a regulation respecting the regulated activity in which the operator is engaged.

Transportation of animals

9.3(1)

A person responsible for an animal must not transport the animal by vehicle unless the animal is

- (a) inside the passenger compartment, or
- (b) confined or secured in a manner that will prevent the animal from
 - (i) falling from the vehicle,
 - (ii) being injured during transport, or
 - (iii) causing a hazard to the safe operation of other vehicles.

9.3(2)

A person responsible for an animal must not attach the animal to a vehicle that is in operation unless the animal is confined or secured as described in subsection (1) (b).

9.3(3)

Subsections (1) and (2) do not apply to a person operating a vehicle that is designed for use as a mobility aid for persons with a disability and that is being used for that purpose.

Part 3 -- Relieving Distress in Animals

Authorized agents

10(1)

The society may appoint an officer or employee of the society or any other person as an authorized agent for the purposes of this Act.

10(2)

An authorized agent may exercise the powers of an authorized agent under this Act or any other law relating to the prevention of cruelty to animals only if he or she has been appointed as a special provincial constable under the *Police Act*.

Abandoned animals

10.1(1)

In this section, "abandoned animal" includes an animal that

- (a) is apparently ownerless,
- (b) is found straying,
- (c) is found in a rental unit after expiry of the tenancy agreement in respect of the rental unit, or
- (d) if a person agreed to care for the animal, is not retrieved from that person within 4 days following the end of that agreement.

10.1(2)

If an authorized agent is of the opinion that an animal is an abandoned animal, the authorized agent may take custody of the animal and arrange for food, water, shelter, care and veterinary treatment for it.

Relieving distress in animals

11

If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal

- (a) does not promptly take steps that will relieve its distress, or
- (b) cannot be found immediately and informed of the animal's distress,

the authorized agent may, in accordance with sections 13 and 14, take any action that the authorized agent considers necessary to relieve the animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter, care and veterinary treatment for it.

Relieving critical distress in animals

12(1)

In this section, "critical distress" means distress in an animal of such a nature that

- (a) immediate veterinary treatment cannot prolong the animal's life, or
- (b) prolonging the animal's life would result in the animal suffering unduly.

12(2)

If, in the opinion of

- (a) a registered veterinarian, or
- (b) an authorized agent, if a registered veterinarian is not readily available,

an animal is in critical distress, the authorized agent may destroy the animal or have the animal destroyed.

Authority to enter with a warrant

13(1)

An authorized agent who believes, on reasonable grounds,

- (a) that there is an animal in distress in any premises, vehicle, aircraft or vessel, or
- (b) that an offence under section 24 has been committed and that there is in any premises, vehicle, aircraft or vessel, any thing that will afford evidence of that offence,

may enter the premises, vehicle, aircraft or vessel with a warrant issued under subsection (2) for the purpose of

- (c) determining whether any action authorized by this Act should be taken to relieve the animal's distress, or
- (d) searching for, and seizing, any thing that will afford evidence of an offence under section 24.

13(2)

A justice who is satisfied by information on oath in the prescribed form that there are reasonable grounds

- (a) under paragraph (1) (a), may issue a warrant in the prescribed form authorizing an authorized agent to enter the premises, vehicle, aircraft or vessel for the purpose of taking any action authorized by this Act to relieve the animal's distress, and

(b) under paragraph (1) (b), may issue a warrant in the prescribed form authorizing an authorized agent to enter the premises, vehicle, aircraft or vessel for the purpose of searching for, and seizing, a thing that will afford evidence of an offence under section 24.

13(2.1)

If an authorized agent believes that it would be impracticable to appear personally before a justice to apply for a warrant under this section, the authorized agent may submit an information on oath by telephone or other means of telecommunication and, for this purpose, section 22 of the *Offence Act* applies.

13(3)

A justice may issue a warrant under subsection (2) or (2.1) for either or both of the purposes referred to in subsection (2).

13(4)

A warrant issued under subsection (2) or (2.1) is subject to the conditions specified in the warrant.

Authority to enter without a warrant

14(1)

In this section, "critical distress" means distress in an animal of such a nature that

- (a) immediate veterinary treatment cannot prolong the animal's life,
- (b) prolonging the animal's life would result in the animal suffering unduly, or
- (c) immediate veterinary intervention is necessary to prevent the imminent death of the animal.

14(2)

An authorized agent who believes on reasonable grounds that there is an animal in critical distress in any premises, other than a dwelling house, or in any vehicle, aircraft or vessel, may enter the premises, vehicle, aircraft or vessel without a warrant for the purpose of taking any action authorized by this Act to relieve that critical distress.

Entry to determine distress

15

An authorized agent may, without a warrant, during ordinary business hours enter any premises, other than a dwelling house, where animals are kept for sale, hire or exhibition for the purpose of determining whether any animal is in distress in the premises.

Inspection

15.1(1)

Subject to subsection (3), an authorized agent may enter any premises or a vehicle where an operator is engaging in a regulated activity for the purpose of determining whether this Act and the regulations made under it are being complied with.

15.1(2)

Subject to subsection (3), an authorized agent who believes on reasonable grounds that premises or a vehicle is being used for the purposes of carrying out a regulated activity may enter the premises to determine

- (a) whether the premises or vehicle is being used for the purposes of carrying out a regulated activity, and
- (b) if so, who the operator is in relation to the regulated activity being carried out.

15.1(3)

Entry under subsection (1) or (2) may be without a warrant or the consent of the person responsible for the premises or vehicle only if

- (a) the premises or vehicle is not used as a dwelling house, and
- (b) entry is during ordinary business hours.

Inspection powers

15.2(1)

For the purposes of an inspection under section 15.1, an authorized agent may do one or more of the following:

- (a) be accompanied or assisted by a person who has special, expert or professional knowledge of a matter relevant to the inspection;
- (b) require a person to produce relevant records or things in the person's possession or control;
- (c) inspect, copy or remove relevant records or things;
- (d) require a person to
 - (i) demonstrate a skill, or
 - (ii) operate a thing or carry out a procedure as directed by the authorized agent

in relation to a requirement set out in a regulation made under section 26 (2) (e), (f), (g), (h) or (j);

(e) make records in respect of a person, place or thing;

(f) take samples and perform analyses and tests, including tests in which a sample is destroyed.

15.2(2)

If an authorized agent removes records or things under subsection (1) (c), the authorized agent must

(a) provide a receipt for the records or things to the person from whom they were taken, and

(b) subject to a power under this or any other enactment to order a thing destroyed, promptly return the records or things

(i) when they have served the purposes for which they were taken, or

(ii) if an action or a proceeding is taken under this or any other enactment as a result of an inspection, and the records or things are relevant to the action or proceeding, no later than 3 months after the conclusion of the action or proceeding.

15.2(3) Sections 23 to 24.2 of the *Offence Act* do not apply to the removal of records or things under subsection (1) (c) of this Act.

Identification

16

An authorized agent exercising a power under section 13, 14 or 15 must, on demand, produce his or her certificate of appointment to the owner or occupant of any premises, vehicle, aircraft or vessel entered under those sections.

Disposition of abandoned animals taken into custody

17

If an animal is taken into custody under section 10.1 and

(a) the owner is unknown, the society may destroy, sell or otherwise dispose of the animal after the society has held the animal for a period of at least 4 days, or

(b) the owner is known, the society may destroy, sell or otherwise dispose of the animal 4 days after the society has given notice to the owner in accordance with section 19.

Disposition of animals removed from custody of owner

18

If an animal is removed from the custody of its owner under section 11 and taken into the custody of the society, the society may destroy, sell or otherwise dispose of the animal 14 days after the society has given notice to the owner in accordance with section 19.

Form of notice

19

The notice referred to in sections 17 (b) and 18 must be in writing and

- (a) mailed to or served personally on the owner, or
- (b) if it cannot be mailed to or served personally on the owner,
 - (i) published at least 3 times at 2 day intervals in a newspaper circulating in the area in which the animal was taken into custody, or
 - (ii) posted in a conspicuous place at either the owner's last known address or the location at which the animal was taken into custody.

Animal is property of new owner

19.1

If an animal has been sold or otherwise disposed of under section 17 or 18, all rights and interests in the animal

- (a) vest in the person to whom it has been sold or otherwise disposed of, and
- (b) the former owner ceases to have any of those rights and interests.

Costs of taking action and proceeds of disposition

20(1)

The owner of an animal taken into custody or destroyed under this Act is liable to the society for the costs incurred by the society under this Act with respect to the animal.

20(2)

The society may require the owner to pay the costs for which he or she is liable under subsection (1) before returning the animal.

20(3)

Subject to subsection (4), the society may retain the proceeds of a sale or other disposition of an animal under section 17 or 18.

20(4)

If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within 6 months of the date the animal was taken into custody, claim the balance from the society.

Part 4 -- General

Aid by police

21

A peace officer must assist the authorized agents of the society in enforcing this or any other law relating to the prevention of cruelty to animals.

Police powers

22

In a part of British Columbia in which the society does not function through a branch or authorized agent, a peace officer who has jurisdiction in the part has and may exercise any of the powers of an authorized agent of the society under this Act.

Duty to report distress

22.1

A registered veterinarian who believes on reasonable grounds that a person responsible for an animal is, or is likely, causing or permitting the animal to be in distress in contravention of this Act must promptly report, to the best of the registered veterinarian's knowledge and belief, all of the following information to an authorized agent:

- (a) the reason for believing that an animal is in distress;
- (b) sufficient information to contact the person responsible for the animal, including the person's name and address;
- (c) sufficient information to identify the animal.

Obstruction

23

A person must not wilfully or knowingly

- (a) interfere with or obstruct, or
- (b) provide false or misleading information to

a person in the discharge of duties or the exercise of powers under this Act.

Service animals

23.1(1)

A person must not do, or attempt to do, any of the following without lawful excuse or authority:

- (a) harm a service animal;
- (b) touch, directly or indirectly, a service animal;
- (c) interfere with or obstruct a service animal.

23.1(2)

A person responsible for an animal must take reasonable steps to prevent the animal from doing a thing described in subsection (1).

Harm to animals by persons

23.2(1)

A person must not cause an animal to be in distress.

23.2(2)

A person who kills an animal

- (a) must comply with prescribed requirements, and
- (b) must not, in killing the animal, cause the animal to be in distress or do anything that is prohibited by the regulations.

Harm to animals by animals

23.3(1)

A person responsible for an animal must take reasonable steps to prevent the animal from attacking or otherwise harming another animal.

23.3(2)

A person must not use an animal for, or breed, raise, train or dispose of an animal for the purpose of having the animal used for,

- (a) baiting or fighting another animal, or
- (b) another prescribed activity that involves an animal attacking or harming another animal.

23.3(3)

A person must not possess equipment ordinarily used for the breeding, raising or training of animals for a purpose described in subsection (2).

Offences

24(1)

A person who contravenes section 9.1, 9.2, 9.3, 23, 23.1, 23.2 or 23.3 commits an offence.

24(2)

[Repealed 2011-7-6.]

24(3)

If a person is convicted of an offence under subsection (1), a justice may, in addition to any other penalty that may be imposed for the offence, prohibit the person from owning or having custody or control of an animal for a period of time specified by the justice.

24(4)

A justice may make an order under subsection (3) on any terms the justice considers appropriate.

24(5)

A person who fails to comply with an order made under subsection (3) commits an offence.

24(6)

A proceeding for an offence under this Act may not be commenced in any court more than 3 years after the facts on which the proceeding is based first come to the knowledge of an authorized agent who is a special provincial constable under the *Police Act*.

Offence by corporation or employee

24.01(1)

If a corporation commits an offence under this Act, an employee, an officer, a director or an agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence whether or not the corporation is convicted.

24.01(2)

If an employee commits an offence under this Act, an employer who authorized, permitted or acquiesced in the offence commits the offence whether or not the employee is identified or convicted.

Defence

24.02

A person must not be convicted of an offence under this Act in relation to an animal in distress if

(a) the person is

(i) a registered veterinarian,

(ii) an employee of a registered veterinarian who is acting under the supervision of the registered veterinarian, or

(iii) an enrolled student of veterinary medicine who is an employee of a registered veterinarian and is acting as authorized by the registered veterinarian, and

the person is practising veterinary medicine in accordance with the standards of the profession,

(b) if the person is an operator, the distress results from an activity that is carried out in accordance with the prescribed standards of care that apply to the regulated activity in which the operator is engaged, or

(c) the distress results from an activity that is carried out in accordance with reasonable and generally accepted practices of animal management that apply to the activity in which the person is engaged, unless the person is an operator and those practices are inconsistent with prescribed standards.

Penalties

24.1

A person who commits an offence under this Act is liable on conviction to a fine not exceeding \$75 000 or to imprisonment for a term not exceeding 2 years, or to both.

Animals taken into custody

24.2

Sections 23 to 24.2 of the *Offence Act* do not apply to an animal taken into custody under this Act.

Order of custody

25(1)

An authorized agent may apply to the Supreme Court for an order of custody of an animal in respect of which a charge has been laid under section 24.

25(2)

An applicant under subsection (1) may retain custody of an animal in respect of which the application is made pending the outcome of any proceedings under section 24, despite the fact that the owner of the animal

(a) has paid the costs incurred by the society for which the owner is liable under section 20, and

(b) has requested the authorized agent to return the animal.

25(3)

The Supreme Court may make an order under this section on any terms it considers appropriate.

Immunity

25.1(1)

Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against the society, an authorized agent or a member, officer, agent or employee of the society because of anything done or omitted

(a) in the performance or intended performance, by an authorized agent, of any duty under this Act, or

(b) in the exercise or intended exercise, by an authorized agent, of any power under this Act.

25.1(2)

Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted in bad faith.

Immunity for persons who report

25.2(1)

Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a registered veterinarian because of anything done or omitted in the making of a report as required under section 22.1.

25.2(2)

Subsection (1) does not apply to a registered veterinarian in relation to anything done or omitted in bad faith.

Power to make regulations

26(1)

The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

26(2)

Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) requiring the society to make bylaws with respect to the policies and operational procedures of the society for administering the enforcement provisions of this Act;
- (b) prescribing the form of an information to obtain a warrant and the form of a warrant for the purposes of section 13;
- (c) prescribing activities for the purposes of the definition of "regulated activity" in section 1 (1);
- (d) prescribing purposes and classes of persons for the purposes of the definition of "service animal" in section 1 (1);
- (e) respecting standards that operators must comply with when engaging in a regulated activity;
- (f) respecting standards in relation to design, construction, maintenance and operation of facilities used when engaging in a regulated activity;
- (g) prohibiting operators from engaging in specified practices or carrying out specified procedures when engaging in a regulated activity;
- (h) respecting practices and procedures to be used in the killing of animals, including prohibiting certain practices and procedures;
- (i) prescribing activities for the purposes of section 23.3 (2);
- (j) exempting
 - (i) operators engaging in regulated activities from one or more provisions of a regulation made under this section, or

- (ii) persons from section 23.2 (2) or 23.3, or from one or more provisions of a regulation made under paragraph (h) of this section;
- (k) imposing requirements or conditions on operators or other persons exempted under paragraph (j);
- (l) respecting generally accepted practices of animal management that apply to a regulated activity;
- (m) establishing classes of persons, animals or regulated activities and making different regulations for different classes.

26(3)

A regulation made under this Act may adopt by reference, in whole or in part and with any changes the Lieutenant Governor in Council considers appropriate, a regulation, code, standard or rule

- (a) enacted as or under a law of another jurisdiction, including a foreign jurisdiction,
- (b) set by a provincial, national or international body or any other body that may make codes, standards or rules, or
- (c) set by or in consultation with
 - (i) the society, or
 - (ii) an organization, one purpose of which is to set standards in relation to a regulated activity.

26(4)

Unless otherwise stated, a code, standard or rule referred to in subsection (3) (a) or (b) is adopted as amended from time to time.

ANIMAL PROTECTION LAWS OF CALIFORNIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains California's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

California may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

CALIFORNIA

1. GENERAL PROHIBITIONS*

(1)

Poisoning animals

CAL. PEN. CODE§ 596

(2)

Maliciously and intentionally injure or kill an animal

CAL. PEN. CODE§ 597(a)

(3)

General cruelty and neglect

CAL. PEN. CODE§ 597(b)

(4)

Maliciously and intentionally injure or kill a threatened or endangered animal

CAL. PEN. CODE§ 597(c)

(5)

Cruelty to animals being transported

CAL. PEN. CODE§ 597a

(6)

Abandonment or neglect of animals

CAL. PEN. CODE§ 597f

(7)

Abandonment of domestic animals

CAL. PEN. CODE§ 597s

(8)

Animal confinement

CAL. PEN. CODE§ 597t

(9)

Failure to care for animals

CAL. PEN. CODE§ 597.1

(10)

Animal endangerment

CAL. PEN. CODE§ 597.7

CALIFORNIA*continued*

<p><i>Animals Covered in Definition</i></p>	<p>“[E]very dumb creature” CAL. PEN. CODE§ 599b</p> <p>Endangered or threatened species, protected birds, mammals, reptiles, amphibians, fish CAL. PEN. CODE§ 597(d)</p>
<p><i>Classification of Crimes</i></p>	<p>(2), (3), (4) Misdemeanor <i>or</i> Felony</p> <p>-----</p> <p>(1), (5), (6), (7), (8), (9), (10) Misdemeanor</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(2), (3), (4) [Misdemeanor]: 1 year county jail CAL. PEN. CODE§ 17 <i>and/or</i> \$20,000 fine CAL. PEN. CODE§§ 597(d)</p> <p>[Felony]: 3 years county jail CAL. PEN. CODE§1170(h) <i>and/or</i> \$20,000 fine CAL. PEN. CODE§§ 597(d)</p> <p>-----</p> <p>(1), (5), (6), (7), (8), (9), (10) 6 months county jail <i>and/or</i> \$1,000 fine CAL. PEN. CODE§ 19 CAL. PEN. CODE§ 597.7(b)</p>

CALIFORNIA*continued*

CALIFORNIA <i>continued</i>	
<p>3. EXEMPTIONS ***</p>	<p>2 CAL. PEN. CODE§ 597(g)(2) CAL. PEN. CODE§ 599c</p> <p>3 CAL. PEN. CODE§ 597(e) CAL. PEN. CODE§ 599c CAL. PEN. CODE§ 597s</p> <p>5, 9 CAL. PEN. CODE§ 599c CAL. PEN. CODE§ 597.7(e)</p>
<p>4. COUNSELING / EVALUATIONS †</p>	<p>Court shall order counseling as a condition of probation. CAL. PEN. CODE§ 597(h)</p>
<p>5. PROTECTIVE ORDERS †</p>	<p>CAL. FAM. CODE ANN. § 6320</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS †</p>	<p>Owner is liable for all costs of impoundment. CAL. PEN. CODE§§ 597(g)(1); 597a; 597e; 597f(a),(b); 597.1(a)-(c); 597.1(f)(1)(E),(4); 597.1(g)(1)(E); 597.1(h),(k)</p> <p>A lien for costs of care attaches to impounded animals and vehicle used to cruelly transport them. CAL. PEN. CODE§ 597a</p> <p>Court may order restitution, upon conviction. CAL. PEN. CODE§ 597.1(k)(1)</p> <p>Procedure for satisfying lien CAL. CIV. PROC. CODE§ 1208.5</p>

CALIFORNIA <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION	<p>Mandatory seizure does not apply to research animals. CAL. PEN. CODE§ 597(g)(2)</p> <p>Peace officer, humane society officer, or animal control officer shall take possession of stray, sick, lame, neglected or abandoned animals; and any endangered animal in an unattended vehicle. CAL. PEN. CODE§§597f(a), 597.1, 597.7</p> <p>Search warrants shall be issued for reasonable cause. CAL. PEN. CODE§ 599a</p>
8. FORFEITURE / POSSESSION[†]	<p>All animals seized shall be considered forfeited upon conviction. CAL. PEN. CODE§§ 597(f)(1), 597.1(k)</p> <p>Veterinarians may adopt injured animals that they treat if owner does not redeem animals within a certain period. CAL. PEN. CODE§ 597.1(c)</p> <p>Within certain time limits after a proper seizure, impounding officer has authority to permanently dispose of certain seized animals if costs are not paid, or if the humane society or public agency is not assured owner will provide necessary veterinary care. CAL. PEN. CODE§ 597.1(h),(i)</p> <p>No animal properly seized shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.</p>

	CAL. PEN. CODE § 597.1(j)
CALIFORNIA <i>continued</i>	
8. FORFEITURE / POSSESSION[†] <i>continued</i>	<p>As a condition of probation, offender may be prohibited from owning, possessing, caring for, or residing with, animals. CAL. PEN. CODE § 597.1(k)(2)</p> <p>Upon a misdemeanor conviction for certain offenses, a defendant shall be prohibited from owning, possessing, maintaining, having custody of, residing with, or caring for any animal for five years; and for 10 years on a felony conviction. Livestock exceptions under certain circumstances. Defendant may petition the court to reduce duration of prohibition upon meeting certain requirements. CAL. PEN. CODE § 597.9</p>
9. CROSS ENFORCEMENT / REPORTING	<p>Animal control and humane officers must report suspected or known child abuse. CAL. PEN. CODE § 11166</p> <p>Employees of child or adult protective service agencies may report suspected animal abuse. CAL. PEN. CODE § 11199</p>
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians are immune from civil or criminal liability for treating injured animals brought to them by peace officers or humane agents. CAL. PEN. CODE § 597f(b)</p> <p>Veterinarians are required to report suspected cases of animal fighting and animal cruelty and are immune from any civil liability for so reporting. CAL. BUS. & PROF. CODE §§ 4830.5, 4830.7</p>

CALIFORNIA <i>continued</i>	
11. LAW ENFORCEMENT POLICIES	Authorized humane agents may make arrests, serve search warrants, carry firearms, and use reasonable force necessary to prevent the perpetration of cruelty to animals. CAL.CORP.CODE§ 14502
12. SEXUAL ASSAULT	Sexually assaulting an animal is a misdemeanor. CAL. PEN. CODE§ 286.5
13. FIGHTING	<p>Property used for dogfighting or cockfighting is a public nuisance. CAL. CIV. CODE § 3482.8</p> <p>A minor under age 16 who attends a cockfight or place where one is advertised to occur and any owner or agent or such place is guilty of a misdemeanor. CAL. PEN. CODE § 310</p> <p>Various animal fighting activities (not including dogs fighting dogs) are misdemeanors. CAL. PEN. CODE§§597b, 597c, 597h, 597j</p> <p>Law enforcement and qualified humane agents may enter an exhibit of fighting animals and arrest all present. CAL. PEN. CODE§ 597d</p> <p>Manufacturing, buying, selling, bartering, exchanging, or having in one's possession certain cockfighting implements is a misdemeanor. CAL. PEN. CODE§ 597i</p> <p>Bullfights, except bloodless and contests or exhibits held in connection with religious</p>

	events, are prohibited. CAL. PEN. CODE § 597m
CALIFORNIA <i>continued</i>	
13. FIGHTING <i>continued</i>	<p>Various dogfighting activities are felonies; being a spectator at a dogfight or being present at any place where a dogfight is being prepared is a misdemeanor. CAL. PEN. CODE § 597.5</p> <p>Forfeiture procedures for certain property that was acquired through dogfighting. CAL. PEN. CODE § 598.1</p> <p>Seizure and forfeiture provisions for fighting animals and other property used in violation of the law CAL. PEN. CODE § 599aa</p>
Other Felony Provisions Affecting Animals ^{††}	Slaughtering horses for human consumption CAL. PEN. CODE § 598c
NOTES	Sale or transfer of animals in public areas and carnivals prohibited CAL. PEN. CODE § 597.4

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

†† This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

CAL. PENAL CODE § 596 (2012). Poisoning animals; exceptions; posting warning signs.

Every person who, without the consent of the owner, wilfully administers poison to any animal, the property of another, or exposes any poisonous substance, with the intent that the same shall be taken or swallowed by any such animal, is guilty of a misdemeanor. However, the provisions of this section shall not apply in the case of a person who exposes poisonous substances upon premises or property owned or controlled by him for the purpose of controlling or destroying predatory animals or livestock-killing dogs and if, prior to or during the placing out of such poisonous substances, he shall have posted upon the property conspicuous signs located at intervals of distance not greater than one-third of a mile apart, and in any case not less than three such signs having words with letters at least one inch high reading “Warning--Poisoned bait placed out on these premises,” which signs shall be kept in place until the poisonous substances have been removed. Whenever such signs have been conspicuously located upon the property or premises owned or controlled by him as hereinabove provided, such person shall not be charged with any civil liability to another party in the event that any domestic animal belonging to such party becomes injured or killed by trespassing or partaking of the poisonous substance or substances so placed.

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

CAL. PENAL CODE § 597a(2012). Cruelty to animals; transportation; care of animals by arresting officer; expense.

Whoever carries or causes to be carried in or upon any vehicle or otherwise any domestic animal in a cruel or inhuman manner, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering, or cruelty of any kind, is guilty of a misdemeanor; and whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle and its contents, together with the horse or team attached to such vehicle, and deposit the same in some place of custody; and any necessary expense incurred for taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof, remains unpaid, it may be recovered, by the person incurring the same, of the owner of such domestic animal, in an action therefor.

CAL. PENAL CODE § 597f (2012). Abandoned or neglected animals; Duties of public authorities; Euthanasia.

(a) *Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor.* And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

(b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal. Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.

(c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.

(d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

CAL. PENAL CODE§ 597s (2012). Abandonment of domestic animals.

(a) *Every person who willfully abandons any animal is guilty of a misdemeanor.*

(b) This section shall not apply to the release or rehabilitation and release of native California wildlife pursuant to statute or regulations of the California Department of Fish and Game.

CAL. PENAL CODE§ 597t (2012). Confined animals.

Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal's access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor. This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.

CAL. PENAL CODE § 597.1 (2012).Animals in specified places without proper care or attention.

(a) *Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.*

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.

(c)

(1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

(2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

(3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

(4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.

(d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal, the charges for the seizure and care of the animal shall be a lien on the animal, and the animal shall not be returned to its owner until the charges are paid and the seizing agency or hearing officer has determined that the animal is physically fit or the owner demonstrates to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Furthermore, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the impounding officer.

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding officer. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.

(k)

(1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the release of seized or impounded animals upon a showing of proof of ownership.

(3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish, seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

(1) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

CAL. PENAL CODE §597.7 (2012). Animal endangerment; confinement in unattended motor vehicle; violations and penalties.

(a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(b) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

(c)

(1) Nothing in this section shall prevent a peace officer, humane officer, or an animal control officer from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(2) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

(3) A peace officer, humane officer, or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

(4) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

(5) This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.

(d) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.

(e) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes.

CAL. PENAL CODE § 599b (2012). Words and phrases; imputation of knowledge to corporation.

In this title, the word “animal” includes every dumb creature; the words “torment,” “torture,” and “cruelty” include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted; and the words “owner” and “person” include corporations as well as individuals; and the knowledge and acts of any agent of, or person employed by, a corporation in regard to animals transported, owned, or employed by, or in the custody of, the corporation, must be held to be the act and knowledge of the corporation as well as the agent or employee.

2. PENALTIES

CAL. PENAL CODE § 17 (2012). Felony; misdemeanor; infraction; classification of offenses.

(a) A felony is a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170.

(2) When the court, upon committing the defendant to the Division of Juvenile Justice, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his or her arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(c) When a defendant is committed to the Division of Juvenile Justice for a crime punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail not exceeding one year, the offense shall, upon the discharge of the defendant from the Division of Juvenile Justice, thereafter be deemed a misdemeanor for all purposes.

(d) A violation of any code section listed in Section 19.8 is an infraction subject to the procedures described in Sections 19.6 and 19.7 when:

(1) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor, or;

(2) The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

(e) Nothing in this section authorizes a judge to relieve a defendant of the duty to register as a sex offender pursuant to Section 290 if the defendant is charged with an offense for which registration as a sex offender is required pursuant to Section 290, and for which the trier of fact has found the defendant guilty.

CAL. PENAL CODE § 19 (2012). Punishment for misdemeanor

Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$ 1,000), or by both.

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime *punishable pursuant to subdivision (d)*.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime *punishable pursuant to subdivision (d)*.

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime *punishable pursuant to subdivision (d)*.

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

- (1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.
- (2) Fully protected birds described in Section 3511 of the Fish and Game Code.
- (3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.
- (4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.
- (5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

- (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.
- (2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

CAL. PENAL CODE §597.7 (2012). Animal endangerment; confinement in unattended motor vehicle; violations and penalties.

(a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(b) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

(c)

(1) Nothing in this section shall prevent a peace officer, humane officer, or an animal control officer from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(2) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

(3) A peace officer, humane officer, or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

(4) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

(5) This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.

(d) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.

(e) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes.

CAL. PENAL CODE § 1170 (First of two; Repealed January 1, 2014) Determinate sentencing; Sentence recall; Medical release.

* * * * *

(h)

(1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7, a violent felony described in subdivision (c) of Section 667.5, is required to register as a

sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) A judge, when imposing a sentence pursuant to paragraph (1), may order the defendant to serve a term in a county jail for a period not to exceed the maximum possible term of confinement or may impose a sentence that includes a period of county jail time and a period of mandatory probation not to exceed the maximum possible sentence.

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

3. EXEMPTIONS

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

CAL. PENAL CODE § 597s (2012). Abandonment of domestic animals.

(a) Every person who willfully abandons any animal is guilty of a misdemeanor.

(b) This section shall not apply to the release or rehabilitation and release of native California wildlife pursuant to statute or regulations of the California Department of Fish and Game.

CAL. PENAL CODE § 597.7 (2012). Animal endangerment; confinement in unattended motor vehicle; violations and penalties.

(a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(b) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

(c)

(1) Nothing in this section shall prevent a peace officer, humane officer, or an animal control officer from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(2) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

(3) A peace officer, humane officer, or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

(4) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

(5) This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.

(d) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.

(e) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes.

CAL. PENAL CODE § 599c (2012). Construction of title; game laws; destruction of dangerous animals or reptiles; killing for food; authorized scientific experiments or investigations.

No part of this title shall be construed as interfering with any of the laws of this state known as the "game laws," or any laws for or against the destruction of certain birds, nor must this title be construed as interfering with the right to destroy any venomous reptile, or any animal known as dangerous to life, limb, or property, or to interfere with the right to kill all animals used for food, or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

4. COUNSELING / EVALUATIONS

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

5. PROTECTIVE ORDERS

CAL. FAM. CODE ANN. § 6320 (2012). Ex parte order enjoining contact; companion animals.

(a) The court may issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. *A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.*

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

CAL. PENAL CODE §597a(2012). Cruelty to animals; transportation; care of animals by arresting officer; expense.

Whoever carries or causes to be carried in or upon any vehicle or otherwise any domestic animal in a cruel or inhuman manner, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering, or cruelty of any kind, is guilty of a misdemeanor; and whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle and its contents, together with the horse or team attached to such vehicle, and deposit the same in some place of custody; *and any necessary expense incurred for taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof, remains unpaid, it may be recovered, by the person incurring the same, of the owner of such domestic animal, in an action therefor.*

CAL. PENAL CODE§ 597e (2012). Liability for care of impounded domestic animal.

Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. *Such person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of such food and water.*

CAL. PENAL CODE§ 597f (2012). Abandoned or neglected animals; Duties of public authorities; Euthanasia.

(a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and *any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.*

(b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal. Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.

(c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.

(d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

CAL. PENAL CODE § 597.1 (2012).Animals in specified places without proper care or attention.

(a) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). *The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.*

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). *The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.*

(c)

(1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

(2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

(3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

(4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.

(d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. *The notice shall include all of the following:*

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. *If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal, the charges for the seizure and care of the animal shall be a lien on the animal, and the animal shall not be returned to its owner until the charges are paid and the seizing agency or hearing officer has determined that the animal is physically fit or the owner demonstrates to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.*

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). *The notice shall include all of the following:*

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Furthermore, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the impounding officer.

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding officer. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.

(k)

(1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. *A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.*

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the release of seized or impounded animals upon a showing of proof of ownership.

(3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish, seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

(1) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

CAL. CIV. PROC. CODE § 1208.5 (2012). Lien arising from prevention of cruelty to animals, and proceedings thereon.

Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury.

7. SEIZURE / ON-SITE SUPERVISION

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

CAL. PENAL CODE § 597f (2012). Abandoned or neglected animals; Duties of public authorities; Euthanasia.

(a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. *And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected* and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

(b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.

(c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.

(d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

CAL. PENAL CODE § 597.1 (2012).Animals in specified places without proper care or attention.

(a) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. *Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g).* The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. *The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to*

believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.

(c)

(1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

(2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

(3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

(4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.

(d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal, the charges for the seizure and care of the animal shall be a lien on the animal, and the animal shall not be returned to its owner until the charges are paid and the seizing agency or hearing officer has determined that the animal is physically fit or the owner demonstrates to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Furthermore, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the impounding officer.

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding officer. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.

(k)

(1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. *In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the release of seized or impounded animals upon a showing of proof of ownership.*

(3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. *This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish, seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.*

(1) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

CAL. PENAL CODE §597.7 (2012). Animal endangerment; confinement in unattended motor vehicle; violations and penalties.

(a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(b) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

(c)

(1) Nothing in this section shall prevent a peace officer, humane officer, or an animal control officer from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(2) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

(3) A peace officer, humane officer, or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

(4) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

(5) This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.

(d) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.

(e) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes.

CAL. PENAL CODE§ 599a (2012). Issuance of arrest warrants.

When complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any provision of law relating to, or in any way affecting, dumb animals or birds, is being, or is about to be violated in any particular building or place, the magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer or officer of any incorporated association qualified as provided by law, authorizing him to enter and search that building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring that person before some court or magistrate of competent jurisdiction, within the city, city and county, or judicial district within which the offense has been committed or attempted, to be dealt with according to law, and the attempt must be held to be a violation of Section 597.

8. FORFEITURE / POSSESSION

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of an offense punishable by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a crime punishable as a misdemeanor or by imprisonment pursuant to subdivision (h) of Section 1170, or by that imprisonment and by a fine of not more than twenty thousand dollars (\$20,000).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish as described in subdivision (d), is guilty of an offense punishable by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both the fine and imprisonment, or by imprisonment in the county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(d) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

- (1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.
- (2) Fully protected birds described in Section 3511 of the Fish and Game Code.
- (3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.
- (4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with

Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(e) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (d) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(f)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(g) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 7 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when such a sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

CAL. PENAL CODE § 597.1 (2012).Animals in specified places without proper care or attention.

(a) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.

(c)

(1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

(2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

(3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

(4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.

(d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal, the charges for the seizure and care of the animal shall be a lien on the animal, and the animal shall not be returned to its owner until the charges are paid and the seizing agency or hearing officer has determined that the animal is physically fit or the owner demonstrates to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Furthermore, *if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the impounding officer.*

(i) *If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding officer.* A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) *No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.*

(k)

(1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the release of seized or impounded animals upon a showing of proof of ownership.

(3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish, seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

(1) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

CAL. PENAL CODE § 597.9 (2012). Mandatory ownership prohibition.

(a) Except as provided in subdivision (c) or (d), any person who has been convicted of a misdemeanor violation of subdivision (a) or (b) of Section 597, or Section 597a, 597b, 597h, 597j, 597s, or 597.1, and who, within five years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(b) Except as provided in subdivision (c) or (d), any person who has been convicted of a felony violation of subdivision (a) or (b) of Section 597, or Section 597b or 597.5, and who, within 10 years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(c)

(1) In cases of owners of livestock, as defined in Section 14205 of the Food and Agricultural Code, a court may, in the interest of justice, exempt a defendant from the injunction required under subdivision (a) or (b), as it would apply to livestock, if the defendant files a petition with the court to establish that the imposition of the provisions of this section would result in substantial or undue economic hardship to the defendant's livelihood and that the defendant has the ability to properly care for all livestock in his or her possession.

(2) Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. The court shall grant the petition for exemption from subdivision (a) or (b) unless the prosecuting attorney shows by a preponderance of the evidence that either or both of the criteria for exemption under this subdivision are untrue.

(d)

(1) A defendant may petition the court to reduce the duration of the mandatory ownership prohibition. Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. At the hearing, the petitioner shall have the burden of establishing probable cause to believe all of the following:

(A) He or she does not present a danger to animals.

(B) He or she has the ability to properly care for all animals in his or her possession.

(C) He or she has successfully completed all classes or counseling ordered by the court.

(2) If the petitioner has met his or her burden, the court may reduce the mandatory ownership prohibition and may order that the defendant comply with reasonable and unannounced inspections by animal control agencies or law enforcement.

9. CROSS ENFORCEMENT / REPORTING

CAL. PENAL CODE § 11165.7(2012). Mandated reporter.

(a) As used in this article, “mandated reporter” is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by any public or private school.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.

- (17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage, family, and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- (27) A coroner.
- (28) A medical examiner, or any other person who performs autopsies.
- (29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, “ commercial film and photographic print processor” means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

(30) A child visitation monitor. As used in this article, “child visitation monitor” means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.

(31) *An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:*

(A) “Animal control officer” means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) “Humane society officer” means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court.

(36) A custodial officer as defined in Section 831.5.

(37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an “alcohol and drug counselor” is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

CAL. PENAL CODE § 11166 (2012).Report; duty; time.

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, which ever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d)

(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3)

(A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practicably possible, by telephone and shall prepare and send, fax, or electronically transmit a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i)

(1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

CAL. PENAL CODE § 11199 (2012). Reports of animal abuse, cruelty, or neglect by county employees; time and method of report; definitions; contents of report.

(a) Any employee of a county child or adult protective services agency, while acting in his or her professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, may report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.

(b) The report may be made within two working days of receiving the information concerning the animal by facsimile transmission of a written report presented in the form described in subdivision (e) or by telephone if all of the information that is required to be provided pursuant to subdivision (e) is furnished. In cases where an immediate response may be necessary in order to protect the health and safety of the animal or others, the report may be made by telephone as soon as possible.

(c) Nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.

(d) As used in this section, the terms “animal,” “cruelty,” “abuse,” “neglect,” “reasonable suspicion,” and “owner” are defined as follows:

(1) “Animal” includes every dumb creature.

(2) “Cruelty,” “abuse,” and “neglect” include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) “Reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect animal cruelty, abuse, or neglect.

(4) “Owner” means any person who is the legal owner, keeper, harborer, possessor, or the actual custodian of an animal. “Owner” includes corporations as well as individuals.

(e) Reports made pursuant to this section may be made on a preprinted form prepared by the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county that includes the definitions contained in subdivision (d), and a space for the reporter to include each of the following:

(1) His or her name and title.

(2) His or her business address and telephone number.

(3) The name, if known, of the animal owner or custodian.

(4) The location of the animal and the premises on which the known or reasonably suspected animal cruelty, abuse, or neglect took place.

(5) A description of the location of the animal and the premises.

(6) Type and numbers of animals involved.

(7) A description of the animal and its condition.

(8) The date, time, and a description of the observation or incident which led the reporter to suspect animal cruelty, abuse, or neglect and any other information the reporter believes may be relevant.

(f) When two or more employees of a county child or adult protective services agency are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse, or neglect, and where there is agreement among them, a report may be made by one person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

10. VETERINARIAN REPORTING / IMMUNITY

CAL. PENAL CODE § 597f (2012). Abandoned or neglected animals; Duties of public authorities; Euthanasia.

(a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

(b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. *No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.*

(c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.

(d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

CAL. BUS. & PROF. CODE § 4830.5 (2012). Report of dog injured or killed in staged animal fight; civil liability.

Whenever any licensee under this chapter has reasonable cause to believe that a dog has been injured or killed through participation in a staged animal fight, as prescribed in Section 797b of the Penal Code, it shall be the duty of the licensee to promptly report the same to the appropriate law enforcement authorities of the county, city, or city and county in which the same occurred.

No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of Section 596, subdivision (a) or (b) of Section 597, or Section 597b, 597f, 597g, 597n, or 597.5 of the Penal Code.

CAL. BUS. & PROF. CODE § 4830.7 (2012). Report of animal abuse or cruelty.

Whenever any licensee under this chapter has reasonable cause to believe an animal under its care has been a victim of animal abuse or cruelty, as prescribed in Section 597 of the Penal Code, it shall be the duty of the licensee to promptly report it to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred.

No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of subdivisions (a), (b), and (c) of Section 597 of the Penal Code.

11. LAW ENFORCEMENT POLICIES

CAL. CORP. CODE § 14502 (2012). Humane officers; Appointment; Qualifications; Term of office.

(a)

(1)

(A)

(i) On and after July 1, 1996, no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to petition for confirmation of an appointment of any individual as a humane officer, the duty of which shall be the enforcement of the laws for the prevention of cruelty to animals.

(ii) On and after July 1, 1996, only a person who meets the requirements of this section may be appointed as, or perform the duties of, a humane officer.

(iii) Any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing society maintains records pursuant to subparagraph (B) documenting that both the appointing society and the humane officer meet the requirements of this section.

(B) Each humane society or society for the prevention of cruelty to animals for which an individual is acting as a humane officer shall maintain complete and accurate records documenting that the individual has successfully completed all requirements established in this section and shall make those records available, upon request, to the superior court, the Attorney General, or any entity duly authorized to review that information, including the State Humane Association of California. The records shall include the full name and address of each humane officer.

(2) The humane society or society for the prevention of cruelty to animals shall possess insurance of at least one million dollars (\$1,000,000) for liability for bodily injury or property damage.

(3) Each appointment of a humane officer shall be by separate resolution by the board of directors or trustees of the humane society or society for the prevention of cruelty to animals duly entered in its minutes. The resolution shall state the full name and address of the principal office of the appointing society, the full name of the person so appointed, the fact that he or she is a citizen of the State of California, that he or she has met the training requirements set forth in subdivision (h), and whether he or she is authorized to

carry a weapon pursuant to this section. The resolution shall also designate the number of the badge to be allotted to the officer, and the date on which the term of office shall expire.

(b) A humane society or a society for the prevention of cruelty to animals seeking confirmation of a humane officer's appointment shall comply with each of the following provisions:

(1) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall submit to the Department of Justice fingerprint images and related information of all humane officer applicants for the purposes of obtaining information as to the existence and content of a record of state convictions and state arrests and also information as to the existence and content of a record of state arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(A) The Department of Justice shall provide a state response to the humane society or society for the prevention of cruelty to animals pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(B) The humane society or society for the prevention of cruelty to animals shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons whose appointments are confirmed as described in subdivision (c).

(C) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this paragraph.

(2) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall serve a copy of the petition on each of the following:

(A) The police department having jurisdiction in the city in which the principal office of the appointing society is located.

(B) The sheriff's department having jurisdiction in the county in which the principal office of the appointing society is located.

(C) The Department of the California Highway Patrol.

(D) The State Humane Association of California.

(E) The Department of Justice.

(3) The humane society or society for the prevention of cruelty to animals shall file with

the superior court in and for the county or city and county in which the principal office of the humane society is located a Petition for Order Confirming Appointment of a Humane Officer, and shall attach to the petition all of the following:

(A) A copy of the resolution appointing the person, duly certified to be correct by the president and secretary of the society and attested by its seal.

(B) A copy of the criminal record offender information, if any, obtained regarding the person pursuant to paragraph (1).

(C) Proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2, including the date the articles of incorporation were filed with the Secretary of State.

(D) A copy of the society's liability insurance policy for bodily injury or property damage in the amount of at least one million dollars (\$1,000,000).

(E) Documentation establishing that the appointee has satisfactorily completed the training requirements set forth in this section.

(F) Documentation establishing that the society has a written agreement with another entity, such as a public or private animal shelter or licensed veterinary clinic, that (i) provides for the humane care and treatment of any animals seized by the society, (ii) is capable of preserving evidence that may be used to prosecute an animal cruelty case, and (iii) is compliant with all applicable federal, state, and local laws, including licensing laws. Alternatively, the society may provide documentation that it is operating its own animal shelter that meets the requirements of clauses (i), (ii), and (iii).

(G) If the society has not previously appointed a humane officer:

(i) An affidavit signed under penalty of perjury from the president of the society that demonstrates the society's competence to appoint a humane officer by providing information, including, but not limited to, the following:

(I) Partnerships or collaborations, if any, with other nonprofit or community agencies.

(II) Cash reserve on hand, if any, to pay for veterinary expenses, housing, food, and care of seized animals.

(III) Established donor base, if any.

(IV) Current or prior law enforcement, legal, or other relevant

experience, if any, of persons who will supervise the appointee.

(V) Current or prior experience of managers, if any, in operating a society or other nonprofit organization.

(VI) Statement that each board member is in good standing in the community and has not been convicted of a misdemeanor or felony involving animals.

(VII) Ongoing training beyond the minimum required for appointment of the humane officer, if any.

(VIII) The need for a humane officer in the society's county.

(IX) Any other documentation demonstrating compliance with applicable federal, state, or local laws.

(ii) Affidavits, if any, from personnel of local animal control agencies, law enforcement agencies, or other societies pertaining to the appointee's fitness to act as a humane officer.

(H) As the last page, proof of service of a copy of the petition upon those parties required to be served.

(4) Any party described in paragraph (2) may file an opposition to the petition described in paragraph (3). All papers filed in opposition to the petition and in reply to the opposition shall conform to law and motion pleading requirements, pursuant to Rule 3.1113(d) of the California Rules of Court. An opposition shall not exceed 15 pages and a reply shall not exceed 10 pages, excluding exhibits and declarations. The opposition shall be limited to the competency of the society to appoint and supervise a humane officer and the qualifications, background, and fitness of the appointee that are specific to the work of a humane officer.

(A) Any opposition shall be filed no later than 15 court days after the petition is filed with the court. Any opposition shall be served on all parties indicated on the proof of service attached to the petition.

(B) The petitioner's reply, if any, to the opposition shall be filed within 10 court days after service of the opposition. The reply shall be served on all parties listed in the proof of service attached to the petition and to any other person who has filed an opposition.

(C) The court shall rule on the petition without a hearing unless the court notifies the parties of an intention to hold a hearing.

(D) The petitioner shall serve a certified copy of the court's order ruling on the petition on all parties listed in the proof of service attached to the petition and to any other person or entity who has filed an opposition.

(c)

(1) Upon receipt of the Petition for Order Confirming Appointment of a Humane Officer, the court shall first determine the society's date of incorporation, and the length of time between the date the society filed its articles of incorporation with the Secretary of State and the date it filed the petition described in paragraph (3) of subdivision (b) with the court. If the society was incorporated on or after January 1, 2011, then the following shall apply:

(A) For a petition to confirm appointment of a level 1 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of five years has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.

(B) For a petition to confirm appointment of a level 2 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of one year has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.

(C) For a petition to confirm appointment of either a level 1 or level 2 humane officer, the court shall issue an order denying confirmation of the appointment if the society has not established, through submission of appropriate documentation, that the society is either operating its own animal shelter or has a written agreement with another entity, in compliance with subparagraph (F) of paragraph (3) of subdivision (b).

(2) If the court has not issued an order denying the petition pursuant to paragraph (1), then the court shall review the matter of the appointee's qualifications and fitness to act as a humane officer. The court shall also consider any documentation it has received in support of, or in opposition to, the confirmation of the person's appointment. If the court finds that the appointee is qualified and fit to act as a humane officer, the court shall issue an order confirming the appointment. The society shall thereupon file a certified copy of the court order in the office of the county clerk of the county or city and county in which the court is located. The appointee shall, at the same time, take and subscribe the oath of office prescribed for constables or other peace officers. The society shall also provide a copy of the Order Confirming Appointment to the State Humane Association of California and the Department of Justice. The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of Orders Confirming Appointment. If the court does not find the appointee qualified and fit to act as a humane officer, the court shall issue an order denying confirmation of the appointment.

(d) If the court grants the petition, the county clerk shall immediately enter in a book to be kept in his or her office and designated "Record of Humane Officers" the name of the officer, the name of the society appointing him or her, the number of his or her badge, the date of the filing, and the case number of the court order confirming the appointment. At the time of the filing, the county clerk shall collect from the society a fee of five dollars (\$5), which shall be full payment for all services to be performed by the county clerk under this section.

(e) All appointments of humane officers shall automatically expire if the society disbands or legally dissolves.

(f)

(1) The society appointing an officer may revoke an appointment at any time by filing in the office of the county clerk in which the appointment of the officer is recorded a copy of the revocation in writing under the letterhead of the society and duly certified by its executive officer. Upon the filing the county clerk shall enter the fact of the revocation and the date of the filing thereof opposite the name of the officer in the record of humane officers.

(2) Notwithstanding paragraph (1), any duly authorized sheriff or local police agency or the State Humane Association of California may initiate a revocation hearing by filing a petition to Revoke Appointment of a Humane Officer. The petition shall show cause why an appointment should be revoked and shall be made to the superior court in the jurisdiction of the appointment. Filing, service, and format of the petition and any oppositions and reply papers shall conform to the law and motion requirements under the Code of Civil Procedure, California Rules of Court, and this code. A proceeding pursuant to this paragraph shall be a special proceeding within the meaning of Section 23 of the Code of Civil Procedure.

(A) Notice of the hearing date and a copy of the petition shall be served in the same manner as a summons upon the humane officer subject to the petition, the society that appointed the officer, the agencies and association described in paragraph (2) of subdivision (b); except the party filing the petition shall not be required to serve copies of those documents upon itself.

(B) Upon a finding of good cause, the court shall issue an order granting the petition to revoke the appointment. The county clerk shall immediately enter the revocation and the date of the court order opposite the name of the officer in the record of humane officers. The clerk of the superior court shall give notice of the order to the parties described in subparagraph (A) and to the county clerk-recorder.

(g) The society appointing the humane officer shall pay the training expenses of the humane officer attending the training required pursuant to this section.

(h)

(1)

(A) A level 1 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 1 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 1 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants.

(C) A level 1 humane officer is authorized to carry firearms while exercising the duties of a humane officer, upon satisfactory completion of the training specified in subparagraph (D), if the requirements in subparagraph (F) are met.

(D) A level 1 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed the following requirements:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association the focus of which shall be the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(iii) The basic training for a level 1 reserve officer by the Commission on Peace Officer Standards and Training pursuant to Section 13510.1 of the Penal Code.

(E) A person shall not be appointed as a level 1 humane officer until he or she meets the criteria in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines for all level 1 humane officer appointments.

(F)

(i) Notwithstanding any other provision of this section, a level 1 humane officer may carry a firearm only if authorized by, and only under the terms and conditions specified by, his or her appointing society.

(ii) Notwithstanding any other provision of this section, a level 1 humane officer shall not be authorized to carry a firearm unless and until his or her appointing society has adopted a policy on the use of deadly force by its officers and the officer has been instructed in that policy.

(2)

(A) A level 2 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 2 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 2 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants during the course and within the scope of appointment, upon the successful completion of a course relating to the exercise of the police powers specified in Section 832 of the Penal Code, except the power to carry and use firearms.

(C) A level 2 humane officer is not authorized to carry firearms.

(D) A level 2 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed courses of training in the following subjects:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which is the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(E) A person shall not be appointed as a level 2 humane officer until he or she has satisfied the requirements in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines, for all level 2 humane officer appointments.

(3) During each three-year period following the date on which the certified copy of the court order confirming the appointment of a humane officer was filed with the county clerk, the humane officer shall complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California. A certificate of compliance shall be served no later than 21 days after the expiration of each three-year period on the Department of Justice with copies served on the superior court, agencies, and associations described in paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (2) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

(4) If the humane officer is authorized to carry a firearm, he or she shall complete ongoing weapons training and range qualifications at least every six months pursuant to subdivision (t) of Section 830.3 of the Penal Code. A certificate of compliance pursuant to this section shall be served no later than 21 days after the expiration of a six-month period on the Department of Justice with copies served on the superior court, and on the agencies and associations described in paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (2) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

(i) Every humane officer shall, when making an arrest, exhibit and expose a suitable badge to be adopted by the society under this part of which he or she is an appointee which shall bear its name and a number. Uniforms worn by humane officers shall prominently display the name of

the appointing society. Humane officer uniforms shall not display the words “state” or “California,” except to the extent that one or both of those words are part of the appointing society's incorporated name.

(j) Any person resisting a humane officer in the performance of his or her duty as provided in this section is guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself or herself to be or shall attempt to act as an officer shall be guilty of a misdemeanor.

(k) No humane officer shall serve a search warrant without providing prior notice to local law enforcement agencies operating within that jurisdiction.

(l) Any humane society, society for the prevention of cruelty to animals, or person, who knowingly provides a court with false or forged documentation for the appointment of a humane officer, is guilty of a misdemeanor and shall be punished by a fine of up to ten thousand dollars (\$10,000).

(m) Except as otherwise provided by this section, a humane officer shall serve only in the county in which the court that appointed him or her sits. A humane officer may serve in another county if the humane officer gives notice requesting consent to the sheriff of the county in which he or she intends to serve, and acquires consent from that sheriff of the county in which he or she intends to serve, or from a person authorized by the sheriff to give that consent. A sheriff shall promptly respond to any request by a humane officer to serve in his or her jurisdiction and any request shall not be unreasonably denied.

12. SEXUAL ASSAULT

CAL. PENAL CODE § 286.5(2012). Sexually assaulting animal; misdemeanor.

Any person who sexually assaults any animal protected by Section 597f for the purpose of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.

13. FIGHTING

CAL. CIV. CODE § 3482.8 (2012). Property used for dogfighting or cockfighting is a public nuisance.

Any building or property used for the purpose of willfully conducting dogfighting in violation of Section 597.5 of the Penal Code or cockfighting in violation of subdivision (b) of Section 597b of the Penal Code is a public nuisance.

CAL. PENAL CODE § 310 (2012). Exclusion of minors from prizefights and cockfights.

(a) Any minor under 16 years of age who visits or attends any prizefight or place where any prizefight is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any prizefight is advertised or represented to take place who admits any minor to a place where any prizefight is advertised or represented to take place or who admits, sells, or gives to any minor a ticket or other paper by which that minor may be admitted to a place where a prizefight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine not exceeding one hundred dollars (\$100) or by imprisonment in the county jail for not more than 25 days.

(b) Any minor under 16 years of age who visits or attends any cockfight or place where any cockfight is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any cockfight is advertised or represented to take place who admits any minor to a place where any cockfight is advertised or represented to take place or who admits, sells, or gives to any minor a ticket or other paper by which that minor may be admitted to a place where a cockfight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for not more than 25 days.

CAL. PENAL CODE § 597b (2012). Fighting animals or cockfighting; prohibition; penalties; aiding and abetting.

(a) Except as provided in subdivisions (b) and (c), any person who, for amusement or gain, causes any bull, bear, or other animal, not including any dog, to fight with like kind of animal or creature, or causes any animal, including any dog, to fight with a different kind of animal or creature, or with any human being, or who, for amusement or gain, worries or injures any bull, bear, dog, or other animal, or causes any bull, bear, or other animal, not including any dog, to worry or injure each other, or any person who permits the same to be done on any premises under his or her charge or control, or any person who aids or abets the fighting or worrying of an animal or creature, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(b) Any person who, for amusement or gain, causes any cock to fight with another cock or with a different kind of animal or creature or with any human being; or who, for amusement or gain, worries or injures any cock, or causes any cock to worry or injure another animal; and any person who permits the same to be done on any premises under his or her charge or control, and any person who aids or abets the fighting or worrying of any cock is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(c) A second or subsequent conviction of this section is a misdemeanor or a felony punishable by imprisonment in a county jail for a period not to exceed one year or the state prison for 16 months, two, or three years, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

(d) For the purposes of this section, aiding and abetting a violation of this section shall consist of something more than merely being present or a spectator at a place where a violation is occurring.

CAL. PENAL CODE § 597c (2012). Animal fighting exhibitions; spectators; penalty.

Any person who is knowingly present as a spectator at any place, building, or tenement for an exhibition of animal fighting, or who is knowingly present at that exhibition or is knowingly present where preparations are being made for the acts described in subdivision (a) or (b) of Section 597b, is guilty of a misdemeanor.

CAL. PENAL CODE § 597d (2012). Fighting animals or birds; entries and arrests without warrant.

Any sheriff, police, or peace officer, or officer qualified as provided in Section 14502 of the Corporations Code, may enter any place, building, or tenement, where there is an exhibition of the fighting of birds or animals, or where preparations are being made for such an exhibition, and, without a warrant, arrest all persons present.

CAL. PENAL CODE § 597h (2012). Attaching live animal to device to be pursued by dogs.

(a) It shall be unlawful for any person to tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing that animal to be pursued by a dog or dogs.

(b) Any person violating any of the provisions of this section shall be guilty of a misdemeanor punishable by a fine of two thousand five hundred dollars (\$2,500) or by imprisonment in a county jail not exceeding six months, or by both that imprisonment and fine.

CAL. PENAL CODE § 597i (2012). Cockfighting implements; prohibitions; penalties.

(a) It shall be unlawful for anyone to manufacture, buy, sell, barter, exchange, or have in his or her possession any of the implements commonly known as gaffs or slashers, or any other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.

(b) Any person who violates any of the provisions of this section is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine and upon conviction thereof shall, in addition to any judgment or sentence imposed by the court, forfeit possession or ownership of those implements.

CAL. PENAL CODE § 597j (2012). Persons who own, possess or keep or train any bird or other animal with intent that it be used or engaged in fighting exhibition; penalties.

(a) Any person who owns, possesses, keeps, or trains any bird or other animal with the intent that it be used or engaged by himself or herself, by his or her vendee, or by any other person in an exhibition of fighting as described in Section 597b is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(b) This section shall not apply to an exhibition of fighting of a dog with another dog.

(c) A second or subsequent conviction of this section is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

CAL. PENAL CODE § 597m(2012). Bullfights prohibited; exceptions; penalty.

It shall be unlawful for any person to promote, advertise, stage, hold, manage, conduct, participate in, engage in, or carry on any bullfight exhibition, any bloodless bullfight contest or exhibition, or any similar contest or exhibition, whether for amusement or gain or otherwise; provided, that nothing herein shall be construed to prohibit rodeos or to prohibit measures necessary to the safety of participants at rodeos.

This section shall not, however, be construed as prohibiting bloodless bullfights, contests, or exhibitions held in connection with religious celebrations or religious festivals.

Any person violating the provisions of this section is guilty of a misdemeanor.

CAL. PENAL CODE § 597.5 (2012). Fighting dogs; felony; punishment; spectators; misdemeanor; exceptions.

(a) Any person who does any of the following is guilty of a felony and is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment:

(1) Owns, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.

(3) Permits any act in violation of paragraph (1) or (2) to be done on any premises under his or her charge or control, or aids or abets that act.

(b) Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at those preparations, or is knowingly present at that exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at that exhibition, fighting, or injuring, is guilty of an offense punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(c) Nothing in this section shall prohibit any of the following:

(1) The use of dogs in the management of livestock, as defined by Section 14205 of the Food and Agricultural Code, by the owner of the livestock or his or her employees or agents or other persons in lawful custody thereof.

(2) The use of dogs in hunting as permitted by the Fish and Game Code, including, but not limited to, Sections 4002 and 4756, and by the rules and regulations of the Fish and Game Commission.

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

CAL. PENAL CODE § 598.1 (2012). Forfeiture of certain property obtained by animal fighting.

(a) The prosecuting agency in a criminal proceeding in which the defendant has been charged with the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b may, in conjunction with the criminal proceeding, file a petition for forfeiture as provided in subdivision (c). If the prosecuting agency has filed a petition for forfeiture pursuant to subdivision (c) and the defendant is convicted of any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, the assets listed in subdivision (b) shall be subject to forfeiture upon proof of the elements of subdivision (b) and in accordance with this section.

(b)

(1) Any property interest, whether tangible or intangible, that was acquired through the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b shall be subject to forfeiture, including both personal and real property, profits, proceeds, and the instrumentalities acquired, accumulated, or used by cockfighting or dogfighting participants, organizers, transporters of animals and equipment, breeders and trainers of fighting birds or fighting dogs, and persons who steal or illegally obtain dogs or other animals for fighting, including bait and sparring animals.

(2) Notwithstanding paragraph (1), the following property shall not be subject to forfeiture under this section:

(A) Property solely owned by a bona fide purchaser for value, who was without knowledge that the property was intended to be used for a purpose which would subject it to forfeiture under this section, or is subject to forfeiture under this section.

(B) Property used as a family residence and owned by two or more inhabitants, one of whom had no knowledge of its unlawful use.

(c)

(1) If the prosecuting agency proceeds under subdivision (a), that agency shall, in conjunction with the criminal proceeding, file a petition for forfeiture with the superior court of the county in which the defendant has been charged with the commission of any

of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, that shall allege that the defendant has committed those crimes and the property is forfeitable pursuant to subdivision (a).

(2) The prosecuting agency shall make service of process of a notice regarding that petition upon every individual who may have a property interest in the alleged proceeds, and that notice shall state that any interested party may file a verified claim with the superior court stating the amount of the party's claimed interest and an affirmation or denial of the prosecuting agency's allegation.

(3) If the notices cannot be served by registered mail or personal delivery, the notices shall be published for at least three consecutive weeks in a newspaper of general circulation in the county where the property is located.

(4) If the property alleged to be subject to forfeiture is real property, the prosecuting agency shall, at the time of filing the petition for forfeiture, record a lis pendens in each county in which real property alleged to be subject to forfeiture is located.

(5) The judgment of forfeiture shall not affect the interest of any third party in real property that was acquired prior to the recording of the lis pendens.

(6) All notices shall set forth the time within which a claim of interest in the property seized is required to be filed pursuant to this section.

(d) Any person claiming an interest in the property or proceeds seized may, at any time within 30 days from the date of the first publication of the notice of seizure, or within 30 days after receipt of the actual notice, file with the superior court of the county in which the action is pending a verified claim stating his or her interest in the property or proceeds. A verified copy of the claim shall be given by the claimant to the Attorney General, or the district or city attorney, whichever is the prosecuting agency of the underlying crime.

(e)

(1) If, at the end of the time set forth in subdivision (d), an interested person, other than the defendant, has not filed a claim, the court, upon a motion, shall declare that the person has defaulted upon his or her alleged interest, and that interest shall be subject to forfeiture upon proof of the elements of subdivision (b).

(2) The defendant may admit or deny that the property is subject to forfeiture pursuant to this section. If the defendant fails to admit or deny, or fails to file a claim of interest in the property or proceeds, the court shall enter a response of denial on behalf of the defendant.

(f)

(1) The forfeiture proceeding shall be set for hearing in the superior court in which the underlying criminal offense will be tried.

(2) If the defendant is found guilty of the underlying offense, the issue of forfeiture shall be promptly tried, either before the same jury or before a new jury in the discretion of the court, unless waived by the consent of all parties.

(g) At the forfeiture hearing, the prosecuting agency shall have the burden of establishing beyond a reasonable doubt that the defendant was engaged in any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b and that the property comes within the provisions of subdivision (b).

(h) Concurrent with, or subsequent to, the filing of the petition, the prosecuting agency may move the superior court for the following pendent lite orders to preserve the status quo of the property alleged in the petition of forfeiture:

(1) An injunction to restrain all interested parties and enjoin them from transferring, encumbering, hypothecating, or otherwise disposing of that property.

(2) Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that the property may be maintained and preserved.

(i)

(1) No preliminary injunction may be granted or receiver appointed without notice to the interested parties and a hearing to determine that the order is necessary to preserve the property, pending the outcome of the criminal proceedings, and that there is probable cause to believe that the property alleged in the forfeiture proceedings are proceeds or property interests forfeitable under subdivision (a). However, a temporary restraining order may issue pending that hearing pursuant to the provisions of Section 527 of the Code of Civil Procedure.

(2) Notwithstanding any other provision of law, the court, when granting or issuing these orders may order a surety bond or undertaking to preserve the property interests of the interested parties. The court shall, in making its orders, seek to protect the interest of those who may be involved in the same enterprise as the defendant, but who are not involved in any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b.

(j) If the trier of fact at the forfeiture hearing finds that the alleged property or proceeds are forfeitable pursuant to subdivision (a), and that the defendant was convicted of a crime listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, the court shall declare that property or proceeds forfeited to the state or local governmental entity, subject to distribution as provided in subdivision (l).

(k)

(1) If the trier of fact at the forfeiture hearing finds that the alleged property is forfeitable pursuant to subdivision (a) but does not find that a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract acquired that interest with actual knowledge that the property was to be used for a purpose for which forfeiture is permitted, and the amount due to that person is less than the appraised value of the property, that person may pay to the state or the local governmental entity that initiated the forfeiture proceeding the amount of the registered owner's equity, which shall be deemed to be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon that payment, the state or local governmental entity shall relinquish all claims to the property.

(2) If the holder of the interest elects not to make that payment to the state or local governmental entity, the property shall be deemed forfeited to the state or local governmental entity.

(3) The appraised value shall be determined as of the date judgment is entered either by agreement between the legal owner and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought.

(4) If the amount due to a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract is less than the value of the property and the person elects not to make payment to the governmental entity, the property shall be sold at public auction by the Department of General Services or by the local governmental entity which shall provide notice of that sale by one publication in a newspaper published and circulated in the city, community, or locality where the sale is to take place. Proceeds of the sale shall be distributed pursuant to subdivision (l).

(l) Notwithstanding that no response or claim has been filed pursuant to subdivision (d), in all cases where property is forfeited pursuant to this section and is sold by the Department of General Services or a local governmental entity, the property forfeited or the proceeds of the sale shall be distributed by the state or local governmental entity, as follows:

(1) To the bona fide or innocent purchaser, conditional sales vendor, or holder of a valid lien, mortgage, or security interest, if any, up to the amount of his or her interest in the property or proceeds, when the court declaring the forfeiture orders a distribution to that person. The court shall endeavor to discover all those lienholders and protect their interests and may, at its discretion, order the proceeds placed in escrow for a period not to exceed 60 additional days to ensure that all valid claims are received and processed.

(2) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this section.

(3) To local nonprofit organizations exempt under Section 501(c)(3) of the Internal Revenue Code, the primary activities of which include ongoing rescue, foster, or other care of animals that are the victims of cockfighting or dogfighting, and to law enforcement entities, including multiagency task forces, that actively investigate and prosecute animal fighting crimes.

(4) Any remaining funds not fully distributed to organizations or entities pursuant to paragraph (3) shall be deposited in an escrow account or restricted fund to be distributed as soon as possible in accordance with paragraph (3).

CAL. PENAL CODE § 599aa (2012). Seizure of fighting animals and birds, paraphernalia, etc.; affidavit of officer; custody of seized property; forfeiture and destruction or redelivery.

(a) Any authorized officer making an arrest under Section 597.5 shall, and any authorized officer making an arrest under Section 597b, 597c, 597j, or 599a may, lawfully take possession of all birds or animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of this code relating to the fighting of birds or animals that can be used in animal or bird fighting, in training animals or birds to fight, or to inflict pain or cruelty upon animals or birds with respect to animal or bird fighting.

(b) Upon taking possession, the officer shall inventory the items seized and question the persons present as to the identity of the owner or owners of the items. The inventory list shall identify the location where the items were seized, the names of the persons from whom the property was seized, and the names of any known owners of the property.

Any person claiming ownership or possession of any item shall be provided with a signed copy of the inventory list, which shall identify the seizing officer and his or her employing agency. If no person claims ownership or possession of the items, a copy of the inventory list shall be left at the location from which the items were seized.

(c) The officer shall file with the magistrate before whom the complaint against the arrested person is made, a copy of the inventory list and an affidavit stating the affiant's basis for his or her belief that the property and items taken were in violation of this code. On receipt of the affidavit, the magistrate shall order the items seized to be held until the final disposition of any charges filed in the case subject to subdivision (e).

(d) All animals and birds seized shall, at the discretion of the seizing officer, be taken promptly to an appropriate animal storage facility. For purposes of this subdivision, an appropriate animal storage facility is one in which the animals or birds may be stored humanely. However, if an appropriate animal storage facility is not available, the officer may cause the animals or birds used in committing or possessed for the purpose of the alleged offenses to remain at the location at which they were found. In determining whether it is more humane to leave the animals or birds at the location at which they were found than to take the animals or birds to an animal storage facility, the officer shall, at a minimum, consider the difficulty of transporting the animals or birds and the adequacy of the available animal storage facility. When the officer does not seize and transport all animals or birds to a storage facility, he or she shall do both of the following:

(1) Seize a representative sample of animals or birds for evidentiary purposes from the animals or birds found at the site of the alleged offenses. The animals or birds seized as a representative sample shall be transported to an appropriate animal storage facility.

(2) Cause all animals or birds used in committing or possessed for the purpose of the alleged offenses to be banded, tagged, or marked by microchip, and photographed or video recorded for evidentiary purposes.

(e)

(1) If ownership of the seized animals or birds cannot be determined after reasonable efforts, the officer or other person named and designated in the order as custodian of the animals or birds may, after holding the animals and birds for a period of not less than 10 days, petition the magistrate for permission to humanely destroy or otherwise dispose of the animals or birds. The petition shall be published for three successive days in a newspaper of general circulation. The magistrate shall hold a hearing on the petition not less than 10 days after seizure of the animals or birds, after which he or she may order the animals or birds to be humanely destroyed or otherwise disposed of, or to be retained by the officer or person with custody until the conviction or final discharge of the arrested person. No animal or bird may be destroyed or otherwise disposed of until four days after the order.

(2) Paragraph (1) shall apply only to those animals and birds seized under any of the following circumstances:

(A) After having been used in violation of any of the provisions of this code relating to the fighting of birds or animals.

(B) At the scene or site of a violation of any of the provisions of this code relating to the fighting of birds or animals.

(f) Upon the conviction of the arrested person, all property seized shall be adjudged by the court to be forfeited and shall then be destroyed or otherwise disposed of as the court may order. Upon the conviction of the arrested person, the court may order the person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the animals or birds. Each person convicted in connection with a particular animal or bird, excluding any person convicted as a spectator pursuant to Section 597b or 597c, or subdivision (b) of Section 597.5, may be held jointly and severally liable for restitution pursuant to this subdivision. This payment shall be in addition to any other fine or other sentence ordered by the court. The court shall specify in the order that the public entity shall not enforce the order until the defendant satisfies all other outstanding fines, penalties, assessments, restitution fines, and restitution orders. The court may relieve any convicted person of the obligation to make payment pursuant to this subdivision for good cause but shall state the reasons for that decision in the record. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the delivery of the property held in custody to the owner. If the owner is unknown, the court shall order the animals or birds to be humanely destroyed or otherwise disposed of.

14. REFERENCED STATUTES

CAL. BUS. & PROF. CODE § 4830.5 (2012). Report of injury or death of dog participating in staged animal fight.

Whenever any licensee under this chapter has reasonable cause to believe that a dog has been injured or killed through participation in a staged animal fight, as prescribed in Section 597b of the Penal Code, it shall be the duty of the licensee to promptly report the same to the appropriate law enforcement authorities of the county, city, or city and county in which the same occurred.

No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of Section 596, subdivision (a) or (b) of Section 597, or Section 597b, 597f, 597g 597n, or 597.5 of the Penal Code.

CAL. BUS. & PROF. CODE § 4830.7 (2012). Report of animal abuse or cruelty.

Whenever any licensee under this chapter has reasonable cause to believe an animal under its care has been a victim of animal abuse or cruelty, as prescribed in Section 597 of the Penal Code, it shall be the duty of the licensee to promptly report it to the appropriate law enforcement authorities of the county, city, or city and county in which it occurred.

No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of subdivisions (a), (b), and (c) of Section 597 of the Penal Code.

CAL. CIV. CODE § 3482.8 (2012). Property used for dogfighting or cockfighting is a public nuisance.

Any building or property used for the purpose of willfully conducting dogfighting in violation of Section 597.5 of the Penal Code or cockfighting in violation of subdivision (b) of Section 597b of the Penal Code is a public nuisance.

CAL. CIV. PROC. CODE § 1208.5 (2012). Lien arising from prevention of cruelty to animals, and proceedings thereon.

Any person having a lien upon any animal or animals under the provisions of Section 597a or 597f of the Penal Code may satisfy the lien as follows: If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, then the person holding the lien may resort to the proper court to satisfy the claim; or may, three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property; or, if there is no newspaper published in the county, then by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which must be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, wherein the sale takes place; if no humane society exists in the county, then the remainder shall be paid into the county treasury.

CAL. CORP. CODE § 14502 (2012). Humane officers; Appointment; Qualifications; Term of office.

- (a)
 - (1)
 - (A)
 - (i) On and after July 1, 1996, no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to petition for confirmation of an appointment of any individual as a humane officer, the duty of which shall be the enforcement of the laws for the prevention of cruelty to animals.
 - (ii) On and after July 1, 1996, only a person who meets the requirements of this section may be appointed as, or perform the duties of, a humane officer.
 - (iii) Any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing society maintains records pursuant to subparagraph (B) documenting that both the appointing society and the humane officer meet the requirements of this section.
 - (B) Each humane society or society for the prevention of cruelty to animals for which an individual is acting as a humane officer shall maintain complete and

accurate records documenting that the individual has successfully completed all requirements established in this section and shall make those records available, upon request, to the superior court, the Attorney General, or any entity duly authorized to review that information, including the State Humane Association of California. The records shall include the full name and address of each humane officer.

(2) The humane society or society for the prevention of cruelty to animals shall possess insurance of at least one million dollars (\$1,000,000) for liability for bodily injury or property damage.

(3) Each appointment of a humane officer shall be by separate resolution by the board of directors or trustees of the humane society or society for the prevention of cruelty to animals duly entered in its minutes. The resolution shall state the full name and address of the principal office of the appointing society, the full name of the person so appointed, the fact that he or she is a citizen of the State of California, that he or she has met the training requirements set forth in subdivision (h), and whether he or she is authorized to carry a weapon pursuant to this section. The resolution shall also designate the number of the badge to be allotted to the officer, and the date on which the term of office shall expire.

(b) A humane society or a society for the prevention of cruelty to animals seeking confirmation of a humane officer's appointment shall comply with each of the following provisions:

(1) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall submit to the Department of Justice fingerprint images and related information of all humane officer applicants for the purposes of obtaining information as to the existence and content of a record of state convictions and state arrests and also information as to the existence and content of a record of state arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(A) The Department of Justice shall provide a state response to the humane society or society for the prevention of cruelty to animals pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(B) The humane society or society for the prevention of cruelty to animals shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons whose appointments are confirmed as described in subdivision (c).

(C) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this paragraph.

(2) Prior to filing a Petition for Order Confirming Appointment of a Humane Officer under paragraph (3), the humane society or society for the prevention of cruelty to animals shall serve a copy of the petition on each of the following:

(A) The police department having jurisdiction in the city in which the principal office of the appointing society is located.

(B) The sheriff's department having jurisdiction in the county in which the principal office of the appointing society is located.

(C) The Department of the California Highway Patrol.

(D) The State Humane Association of California.

(E) The Department of Justice.

(3) The humane society or society for the prevention of cruelty to animals shall file with the superior court in and for the county or city and county in which the principal office of the humane society is located a Petition for Order Confirming Appointment of a Humane Officer, and shall attach to the petition all of the following:

(A) A copy of the resolution appointing the person, duly certified to be correct by the president and secretary of the society and attested by its seal.

(B) A copy of the criminal record offender information, if any, obtained regarding the person pursuant to paragraph (1).

(C) Proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2, including the date the articles of incorporation were filed with the Secretary of State.

(D) A copy of the society's liability insurance policy for bodily injury or property damage in the amount of at least one million dollars (\$1,000,000).

(E) Documentation establishing that the appointee has satisfactorily completed the training requirements set forth in this section.

(F) Documentation establishing that the society has a written agreement with another entity, such as a public or private animal shelter or licensed veterinary clinic, that (i) provides for the humane care and treatment of any animals seized by the society, (ii) is capable of preserving evidence that may be used to prosecute an animal cruelty case, and (iii) is compliant with all applicable federal, state, and local laws, including licensing laws. Alternatively, the society may provide documentation that it is operating its own animal shelter that meets the requirements of clauses (i), (ii), and (iii).

(G) If the society has not previously appointed a humane officer:

(i) An affidavit signed under penalty of perjury from the president of the society that demonstrates the society's competence to appoint a humane officer by providing information, including, but not limited to, the following:

(I) Partnerships or collaborations, if any, with other nonprofit or community agencies.

(II) Cash reserve on hand, if any, to pay for veterinary expenses, housing, food, and care of seized animals.

(III) Established donor base, if any.

(IV) Current or prior law enforcement, legal, or other relevant experience, if any, of persons who will supervise the appointee.

(V) Current or prior experience of managers, if any, in operating a society or other nonprofit organization.

(VI) Statement that each board member is in good standing in the community and has not been convicted of a misdemeanor or felony involving animals.

(VII) Ongoing training beyond the minimum required for appointment of the humane officer, if any.

(VIII) The need for a humane officer in the society's county.

(IX) Any other documentation demonstrating compliance with applicable federal, state, or local laws.

(ii) Affidavits, if any, from personnel of local animal control agencies, law enforcement agencies, or other societies pertaining to the appointee's fitness to act as a humane officer.

(H) As the last page, proof of service of a copy of the petition upon those parties required to be served.

(4) Any party described in paragraph (2) may file an opposition to the petition described in paragraph (3). All papers filed in opposition to the petition and in reply to the opposition shall conform to law and motion pleading requirements, pursuant to Rule 3.1113(d) of the California Rules of Court. An opposition shall not exceed 15 pages and a reply shall not exceed 10 pages, excluding exhibits and declarations. The opposition shall be limited to the competency of the society to appoint and supervise a humane officer and the qualifications, background, and fitness of the appointee that are specific to the work of a humane officer.

(A) Any opposition shall be filed no later than 15 court days after the petition is filed with the court. Any opposition shall be served on all parties indicated on the proof of service attached to the petition.

(B) The petitioner's reply, if any, to the opposition shall be filed within 10 court days after service of the opposition. The reply shall be served on all parties listed in the proof of service attached to the petition and to any other person who has filed an opposition.

(C) The court shall rule on the petition without a hearing unless the court notifies the parties of an intention to hold a hearing.

(D) The petitioner shall serve a certified copy of the court's order ruling on the petition on all parties listed in the proof of service attached to the petition and to any other person or entity who has filed an opposition.

(c)

(1) Upon receipt of the Petition for Order Confirming Appointment of a Humane Officer, the court shall first determine the society's date of incorporation, and the length of time between the date the society filed its articles of incorporation with the Secretary of State and the date it filed the petition described in paragraph (3) of subdivision (b) with the court. If the society was incorporated on or after January 1, 2011, then the following shall apply:

(A) For a petition to confirm appointment of a level 1 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of five years has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.

(B) For a petition to confirm appointment of a level 2 humane officer, the court shall issue an order denying confirmation of the appointment if a minimum of one year has not elapsed from the date the society filed its articles of incorporation with the Secretary of State to the date it filed the petition.

(C) For a petition to confirm appointment of either a level 1 or level 2 humane officer, the court shall issue an order denying confirmation of the appointment if the society has not established, through submission of appropriate documentation, that the society is either operating its own animal shelter or has a written agreement with another entity, in compliance with subparagraph (F) of paragraph (3) of subdivision (b).

(2) If the court has not issued an order denying the petition pursuant to paragraph (1), then the court shall review the matter of the appointee's qualifications and fitness to act as a humane officer. The court shall also consider any documentation it has received in support of, or in opposition to, the confirmation of the person's appointment. If the court finds that the appointee is qualified and fit to act as a humane officer, the court shall issue an order confirming the appointment. The society shall thereupon file a certified copy of the court order in the office of the county clerk of the county or city and county in which the court is located. The appointee shall, at the same time, take and subscribe the oath of office prescribed for constables or other peace officers. The society shall also provide a copy of the Order Confirming Appointment to the State Humane Association of California and the Department of Justice. The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of Orders Confirming Appointment. If the court does not find the appointee qualified and fit to act as a humane officer, the court shall issue an order denying confirmation of the appointment.

(d) If the court grants the petition, the county clerk shall immediately enter in a book to be kept in his or her office and designated "Record of Humane Officers" the name of the officer, the name of the society appointing him or her, the number of his or her badge, the date of the filing, and the case number of the court order confirming the appointment. At the time of the filing, the county clerk shall collect from the society a fee of five dollars (\$5), which shall be full payment for all services to be performed by the county clerk under this section.

(e) All appointments of humane officers shall automatically expire if the society disbands or legally dissolves.

(f)

(1) The society appointing an officer may revoke an appointment at any time by filing in the office of the county clerk in which the appointment of the officer is recorded a copy of the revocation in writing under the letterhead of the society and duly certified by its executive officer. Upon the filing the county clerk shall enter the fact of the revocation and the date of the filing thereof opposite the name of the officer in the record of humane officers.

(2) Notwithstanding paragraph (1), any duly authorized sheriff or local police agency or the State Humane Association of California may initiate a revocation hearing by filing a petition to Revoke Appointment of a Humane Officer. The petition shall show cause why an appointment should be revoked and shall be made to the superior court in the

jurisdiction of the appointment. Filing, service, and format of the petition and any oppositions and reply papers shall conform to the law and motion requirements under the Code of Civil Procedure, California Rules of Court, and this code. A proceeding pursuant to this paragraph shall be a special proceeding within the meaning of Section 23 of the Code of Civil Procedure.

(A) Notice of the hearing date and a copy of the petition shall be served in the same manner as a summons upon the humane officer subject to the petition, the society that appointed the officer, the agencies and association described in paragraph (2) of subdivision (b); except the party filing the petition shall not be required to serve copies of those documents upon itself.

(B) Upon a finding of good cause, the court shall issue an order granting the petition to revoke the appointment. The county clerk shall immediately enter the revocation and the date of the court order opposite the name of the officer in the record of humane officers. The clerk of the superior court shall give notice of the order to the parties described in subparagraph (A) and to the county clerk-recorder.

(g) The society appointing the humane officer shall pay the training expenses of the humane officer attending the training required pursuant to this section.

(h)

(1)

(A) A level 1 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 1 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 1 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants.

(C) A level 1 humane officer is authorized to carry firearms while exercising the duties of a humane officer, upon satisfactory completion of the training specified in subparagraph (D), if the requirements in subparagraph (F) are met.

(D) A level 1 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed the following requirements:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association the focus of which shall be the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(iii) The basic training for a level 1 reserve officer by the Commission on Peace Officer Standards and Training pursuant to Section 13510.1 of the Penal Code.

(E) A person shall not be appointed as a level 1 humane officer until he or she meets the criteria in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines for all level 1 humane officer appointments.

(F)

(i) Notwithstanding any other provision of this section, a level 1 humane officer may carry a firearm only if authorized by, and only under the terms and conditions specified by, his or her appointing society.

(ii) Notwithstanding any other provision of this section, a level 1 humane officer shall not be authorized to carry a firearm unless and until his or her appointing society has adopted a policy on the use of deadly force by its officers and the officer has been instructed in that policy.

(2)

(A) A level 2 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 2 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 2 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants during the course and within the scope of appointment, upon the successful completion of a course relating to the exercise

of the police powers specified in Section 832 of the Penal Code, except the power to carry and use firearms.

(C) A level 2 humane officer is not authorized to carry firearms.

(D) A level 2 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing society that he or she has successfully completed courses of training in the following subjects:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which is the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(E) A person shall not be appointed as a level 2 humane officer until he or she has satisfied the requirements in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines, for all level 2 humane officer appointments.

(3) During each three-year period following the date on which the certified copy of the court order confirming the appointment of a humane officer was filed with the county clerk, the humane officer shall complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California. A certificate of compliance shall be served no later than 21 days after the expiration of each three-year period on the Department of Justice with copies served on the superior court, agencies, and associations described in paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (2) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

(4) If the humane officer is authorized to carry a firearm, he or she shall complete ongoing weapons training and range qualifications at least every six months pursuant to subdivision (t) of Section 830.3 of the Penal Code. A certificate of compliance pursuant to this section shall be served no later than 21 days after the expiration of a six-month period on the Department of Justice with copies served on the superior court, and on the agencies and associations described in paragraph (2) of subdivision (b). The Department of Justice may charge a reasonable fee sufficient to cover the costs of maintaining records of certificates of compliance. The certificate of compliance shall also include documentation that the humane society or society for the prevention of cruelty to animals is in compliance with subparagraph (F) of paragraph (2) of subdivision (b). Service on the Department of Justice shall be in compliance with procedures set forth by the Department of Justice. The Department of Justice shall post the filing procedures, as they may be updated from time to time, on its Internet Web site. Failure to file the certificate of compliance with the Department of Justice no later than 21 days after the expiration of a six-month period shall result in immediate revocation of the appointment.

(i) Every humane officer shall, when making an arrest, exhibit and expose a suitable badge to be adopted by the society under this part of which he or she is an appointee which shall bear its name and a number. Uniforms worn by humane officers shall prominently display the name of the appointing society. Humane officer uniforms shall not display the words "state" or "California," except to the extent that one or both of those words are part of the appointing society's incorporated name.

(j) Any person resisting a humane officer in the performance of his or her duty as provided in this section is guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself or herself to be or shall attempt to act as an officer shall be guilty of a misdemeanor.

(k) No humane officer shall serve a search warrant without providing prior notice to local law enforcement agencies operating within that jurisdiction.

(l) Any humane society, society for the prevention of cruelty to animals, or person, who knowingly provides a court with false or forged documentation for the appointment of a humane officer, is guilty of a misdemeanor and shall be punished by a fine of up to ten thousand dollars (\$10,000).

(m) Except as otherwise provided by this section, a humane officer shall serve only in the county in which the court that appointed him or her sits. A humane officer may serve in another county if the humane officer gives notice requesting consent to the sheriff of the county in which he or she intends to serve, and acquires consent from that sheriff of the county in which he or she intends to serve, or from a person authorized by the sheriff to give that consent. A sheriff shall

promptly respond to any request by a humane officer to serve in his or her jurisdiction and any request shall not be unreasonably denied.

CAL. FAM. CODE ANN. § 6320 (2012). Ex parte order enjoining contact; companion animals.

(a) The court may issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

CAL. PENAL CODE § 17 (2012). Felony; misdemeanor; infraction; classification of offenses.

(a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison.

(2) When the court, upon committing the defendant to the Youth Authority, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his or her arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(c) When a defendant is committed to the Youth Authority for a crime punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, the offense shall, upon the discharge of the defendant from the Youth Authority, thereafter be deemed a misdemeanor for all purposes.

(d) A violation of any code section listed in Section 19.8 is an infraction subject to the procedures described in Sections 19.6 and 19.7 when:

(1) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor, or;

(2) The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

(e) Nothing in this section authorizes a judge to relieve a defendant of the duty to register as a sex offender pursuant to Section 290 if the defendant is charged with an offense for which registration as a sex offender is required pursuant to Section 290, and for which the trier of fact has found the defendant guilty.

CAL. PENAL CODE § 17 (2012). Felony; misdemeanor; infraction; classification of offenses.

(a) A felony is a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170.

(2) When the court, upon committing the defendant to the Division of Juvenile Justice, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his or her arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(c) When a defendant is committed to the Division of Juvenile Justice for a crime punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail not exceeding one year, the offense shall, upon the discharge of the defendant from the Division of Juvenile Justice, thereafter be deemed a misdemeanor for all purposes.

(d) A violation of any code section listed in Section 19.8 is an infraction subject to the procedures described in Sections 19.6 and 19.7 when:

(1) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor, or;

(2) The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

(e) Nothing in this section authorizes a judge to relieve a defendant of the duty to register as a sex offender pursuant to Section 290 if the defendant is charged with an offense for which registration as a sex offender is required pursuant to Section 290, and for which the trier of fact has found the defendant guilty.

CAL. PENAL CODE § 19 (2012). Punishment for misdemeanor.

Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$ 1,000), or by both.

CAL. PENAL CODE § 286.5 (2012). Sexually assaulting animal; misdemeanor.

Any person who sexually assaults any animal protected by Section 597f for the purpose of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.

CAL. PENAL CODE § 310 (2012). Exclusion of minors from prizefights and cockfights.

(a) Any minor under 16 years of age who visits or attends any prizefight or place where any prizefight is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any prizefight is advertised or represented to take place who admits any minor to a place where any prizefight is advertised or represented to take place or who admits, sells, or gives to any minor a ticket or other paper by which that minor may be admitted to a place where a prizefight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine not exceeding one hundred dollars (\$100) or by imprisonment in the county jail for not more than 25 days.

(b) Any minor under 16 years of age who visits or attends any cockfight or place where any cockfight is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any cockfight is advertised or represented to take place who admits any minor to a place where any cockfight is advertised or represented to take place or who admits, sells, or gives to any minor a ticket or other paper by which that minor may be admitted to a place where a cockfight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for not more than 25 days.

CAL. PENAL CODE § 596 (2012). Poisoning animals; exceptions; posting warning signs.

Every person who, without the consent of the owner, wilfully administers poison to any animal, the property of another, or exposes any poisonous substance, with the intent that the same shall be taken or swallowed by any such animal, is guilty of a misdemeanor. However, the provisions of this section shall not apply in the case of a person who exposes poisonous substances upon premises or property owned or controlled by him for the purpose of controlling or destroying predatory animals or livestock-killing dogs and if, prior to or during the placing out of such poisonous substances, he shall have posted upon the property conspicuous signs located at intervals of distance not greater than one-third of a mile apart, and in any case not less than three such signs having words with letters at least one inch high reading "Warning--Poisoned bait placed out on these premises," which signs shall be kept in place until the poisonous substances have been removed. Whenever such signs have been conspicuously located upon the property or premises owned or controlled by him as hereinabove provided, such person shall not be charged with any civil liability to another party in the event that any domestic animal belonging to such party becomes injured or killed by trespassing or partaking of the poisonous substance or substances so placed.

CAL. PENAL CODE § 597 (2012). Cruelty to animals.

(a) Except as provided in subdivision (c) of this section or Section 599c, every person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) Every person who maliciously and intentionally maims, mutilates, or tortures any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

(1) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(2) Fully protected birds described in Section 3511 of the Fish and Game Code.

(3) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(4) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(5) Fully protected fish as described in Section 5515 of the Fish and Game Code.

This subdivision does not supersede or affect any provisions of law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If any person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g)

(1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction under this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subdivision shall not apply to cases involving police dogs or horses as described in Section 600.

CAL. PENAL CODE § 597a(2012). Cruelty to animals; transportation; care of animals by arresting officer; expense.

Whoever carries or causes to be carried in or upon any vehicle or otherwise any domestic animal in a cruel or inhuman manner, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering, or cruelty of any kind, is guilty of a misdemeanor; and whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle and its contents, together with the horse or team attached to such vehicle, and deposit the same in some place of custody; and any necessary expense incurred for taking care of and keeping the same, is a lien thereon, to be paid before the same can be lawfully recovered; and if such expense, or any part thereof, remains unpaid, it may be recovered, by the person incurring the same, of the owner of such domestic animal, in an action therefor.

CAL. PENAL CODE § 597b (2012). Fighting animals or cockfighting; prohibition; penalties; aiding and abetting.

(a) Except as provided in subdivisions (b) and (c), any person who, for amusement or gain, causes any bull, bear, or other animal, not including any dog, to fight with like kind of animal or creature, or causes any animal, including any dog, to fight with a different kind of animal or creature, or with any human being, or who, for amusement or gain, worries or injures any bull, bear, dog, or other animal, or causes any bull, bear, or other animal, not including any dog, to worry or injure each other, or any person who permits the same to be done on any premises under his or her charge or control, or any person who aids or abets the fighting or worrying of an animal or creature, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(b) Any person who, for amusement or gain, causes any cock to fight with another cock or with a different kind of animal or creature or with any human being; or who, for amusement or gain, worries or injures any cock, or causes any cock to worry or injure another animal; and any person who permits the same to be done on any premises under his or her charge or control, and any person who aids or abets the fighting or worrying of any cock is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(c) A second or subsequent conviction of this section is a misdemeanor or a felony punishable by imprisonment in a county jail for a period not to exceed one year or the state prison for 16 months, two, or three years, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

(d) For the purposes of this section, aiding and abetting a violation of this section shall consist of something more than merely being present or a spectator at a place where a violation is occurring.

CAL. PENAL CODE § 597c (2012). Animal fighting exhibitions; spectators; penalty.

Any person who is knowingly present as a spectator at any place, building, or tenement for an exhibition of animal fighting, or who is knowingly present at that exhibition or is knowingly present where preparations are being made for the acts described in subdivision (a) or (b) of Section 597b, is guilty of a misdemeanor.

CAL. PENAL CODE§597d(2012). Fighting animals or birds; entries and arrests without warrant.

Any sheriff, police, or peace officer, or officer qualified as provided in Section 14502 of the Corporations Code, may enter any place, building, or tenement, where there is an exhibition of the fighting of birds or animals, or where preparations are being made for such an exhibition, and, without a warrant, arrest all persons present.

CAL. PENAL CODE§ 597e (2012). Liability for care of impounded domestic animal.

Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of such food and water.

CAL. PENAL CODE§ 597f (2012). Abandoned or neglected animals; Duties of public authorities; Euthanasia.

(a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefor, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

(b) It shall be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal; or, if the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

Whenever any animal is transferred pursuant to this subdivision to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or if the animal is unlicensed the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or services which he or she provides pursuant to this section.

(c) An animal control agency which takes possession of an animal pursuant to subdivision (b), shall keep records of the whereabouts of the animal for a 72- hour period from the time of possession and those records shall be available to inspection by the public upon request.

(d) Notwithstanding any other provisions of this section, any officer of a pound or animal regulation department or humane society, or any officer of a police or sheriff's department may, with the approval of his or her immediate superior, humanely destroy any abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

CAL. PENAL CODE§597i(2012). Cockfighting implements; prohibitions; penalties.

(a) It shall be unlawful for anyone to manufacture, buy, sell, barter, exchange, or have in his or her possession any of the implements commonly known as gaffs or slashers, or any other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.

(b) Any person who violates any of the provisions of this section is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine and upon conviction thereof shall, in addition to any judgment or sentence imposed by the court, forfeit possession or ownership of those implements.

CAL. PENAL CODE§ 597j (2012). Persons who own, possess or keep or train any bird or other animal with intent that it be used or engaged in fighting exhibition; penalties.

(a) Any person who owns, possesses, keeps, or trains any bird or other animal with the intent that it be used or engaged by himself or herself, by his or her vendee, or by any other person in an exhibition of fighting as described in Section 597b is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(b) This section shall not apply to an exhibition of fighting of a dog with another dog.

(c) A second or subsequent conviction of this section is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year or by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances in which the interests of justice would be better served by the imposition of a lesser sentence.

CAL. PENAL CODE§597m(2012). Bullfights prohibited; exceptions; penalty.

It shall be unlawful for any person to promote, advertise, stage, hold, manage, conduct, participate in, engage in, or carry on any bullfight exhibition, any bloodless bullfight contest or exhibition, or any similar contest or exhibition, whether for amusement or gain or otherwise; provided, that nothing herein shall be construed to prohibit rodeos or to prohibit measures necessary to the safety of participants at rodeos.

This section shall not, however, be construed as prohibiting bloodless bullfights, contests, or exhibitions held in connection with religious celebrations or religious festivals.

Any person violating the provisions of this section is guilty of a misdemeanor.

CAL. PENAL CODE§ 597s (2012). Abandonment of domestic animals.

(a) Every person who willfully abandons any animal is guilty of a misdemeanor.

(b) This section shall not apply to the release or rehabilitation and release of native California wildlife pursuant to statute or regulations of the California Department of Fish and Game.

CAL. PENAL CODE§ 597t (2012). Confined animals.

Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal's access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor. This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.

CAL. PENAL CODE§ 597.1 (2012).Animals in specified places without proper care or attention.

(a) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.

(c)

(1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

(2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

(3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

(4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.

(d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal, the charges for the seizure and care of the animal shall be a lien on the animal, and the animal shall not be returned to its owner until the charges are paid and the seizing agency or hearing officer has determined that the animal is physically fit or the owner demonstrates to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Furthermore, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the impounding officer.

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding officer. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.

(k)

(1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the release of seized or impounded animals upon a showing of proof of ownership.

(3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish, seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

(l) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

CAL. PENAL CODE § 597.4 (2012). Sale or transfer of animals in public areas and carnivals prohibited.

(a) It shall be unlawful for any person to willfully do either of the following:

(1) Sell or give away as part of a commercial transaction, a live animal on any street, highway, public right-of-way, parking lot, carnival, or boardwalk.

(2) Display or offer for sale, or display or offer to give away as part of a commercial transaction, a live animal, if the act of selling or giving away the live animal is to occur on any street, highway, public right-of-way, parking lot, carnival, or boardwalk.

(b)

(1) A person who violates this section for the first time shall be guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250).

(2) A person who violates this section for the first time and by that violation either causes or permits any animal to suffer or be injured, or causes or permits any animal to be placed in a situation in which its life or health may be endangered, shall be guilty of a misdemeanor.

(3) A person who violates this section for a second or subsequent time shall be guilty of a misdemeanor.

(c) A person who is guilty of a misdemeanor violation of this section shall be punishable by a fine not to exceed one thousand dollars (\$1,000) per violation. The court shall weigh the gravity of the violation in setting the fine.

(d) A notice describing the charge and the penalty for a violation of this section may be issued by any peace officer, animal control officer, as defined in Section 830.9, or humane officer qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(e) This section shall not apply to the following:

(1) Events held by 4-H Clubs, Junior Farmers Clubs, or Future Farmers Clubs.

(2) The California Exposition and State Fair, district agricultural association fairs, or county fairs.

(3) Stockyards with respect to which the Secretary of the United States Department of Agriculture has posted notice that the stockyards are regulated by the federal Packers and Stockyards Act (7 U.S.C. Sec. 181 et seq.).

(4) The sale of cattle on consignment at any public cattle sales market, the sale of sheep on consignment at any public sheep sales market, the sale of swine on consignment at any public swine sales market, the sale of goats on consignment at any public goat sales market, and the sale of equines on consignment at any public equine sales market.

(5) Live animal markets regulated under Section 597.3.

(6) A public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group regulated under Division 14 (commencing with Section 30501) of the Food and Agricultural Code. For purposes of this section, "rescue group" is a not-for-profit entity whose primary purpose is the placement of dogs, cats, or other animals that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter, or that have been surrendered or relinquished to the entity by the previous owner.

(7) The sale of fish or shellfish, live or dead, from a fishing vessel or registered aquaculture facility, at a pier or wharf, or at a farmer's market by any licensed commercial fisherman or an owner or employee of a registered aquaculture facility to the public for human consumption.

(8) A cat show, dog show, or bird show, provided that all of the following circumstances exist:

(A) The show is validly permitted by the city or county in which the show is held.

(B) The show's sponsor or permittee ensures compliance with all federal, state, and local animal welfare and animal control laws.

(C) The participant has written documentation of the payment of a fee for the entry of his or her cat, dog, or bird in the show.

(D) The sale of a cat, dog, or bird occurs only on the premises and within the confines of the show.

(E) The show is a competitive event where the cats, dogs, or birds are exhibited and judged by an established standard or set of ideals established for each breed or species.

(9) A pet store as defined in subdivision (i) of Section 122350 of the Health and Safety Code.

(f) Nothing in this section shall be construed to in any way limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, including, but not limited to, the Lockyer-Polanco-Farr Pet Protection Act contained in Article 2 (commencing with Section 122125) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code, or Sections 597 and 5971 of this code.

(g) Nothing in this section limits or authorizes any act or omission that violates Section 597 or 5971 of this code, or any other local, state, or federal law. The procedures set forth in this section shall not apply to any civil violation of any other local, state, or federal law that protects animals or the rights of consumers, or to a violation of Section 597 or 5971 of this code, which is cited or prosecuted pursuant to one or both of those sections, or to a violation of any other local, state, or federal law that is cited or prosecuted pursuant to that law.

CAL. PENAL CODE § 597.5 (2012). Fighting dogs; felony; punishment; spectators; misdemeanor; exceptions.

(a) Any person who does any of the following is guilty of a felony and is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment:

(1) Owns, possesses, keeps, or trains any dog, with the intent that the dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.

(3) Permits any act in violation of paragraph (1) or (2) to be done on any premises under his or her charge or control, or aids or abets that act.

(b) Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at those preparations, or is knowingly present at that exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at that exhibition, fighting, or injuring, is guilty of an offense punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(c) Nothing in this section shall prohibit any of the following:

(1) The use of dogs in the management of livestock, as defined by Section 14205 of the Food and Agricultural Code, by the owner of the livestock or his or her employees or agents or other persons in lawful custody thereof.

(2) The use of dogs in hunting as permitted by the Fish and Game Code, including, but not limited to, Sections 4002 and 4756, and by the rules and regulations of the Fish and Game Commission.

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

CAL. PENAL CODE §597.7 (2012). Animal endangerment; confinement in unattended motor vehicle; violations and penalties.

(a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(b) Unless the animal suffers great bodily injury, a first conviction for violation of this section is punishable by a fine not exceeding one hundred dollars (\$100) per animal. If the animal suffers great bodily injury, a violation of this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment. Any subsequent violation of this section, regardless of injury to the animal, is also punishable by a fine not exceeding five hundred dollars (\$500), imprisonment in a county jail not exceeding six months, or by both a fine and imprisonment.

(c)

(1) Nothing in this section shall prevent a peace officer, humane officer, or an animal control officer from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(2) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

(3) A peace officer, humane officer, or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort to locate the owner or other person responsible.

(4) A peace officer, humane officer, or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

(5) This section does not affect in any way existing liabilities or immunities in current law, or create any new immunities or liabilities.

(d) Nothing in this section shall preclude prosecution under both this section and Section 597 or any other provision of law, including city or county ordinances.

(e) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, pigs, sheep, poultry or other agricultural animals in motor vehicles designed to transport such animals for agricultural purposes.

CAL. PENAL CODE § 597.9 (2012). Mandatory ownership prohibition.

(a) Except as provided in subdivision (c) or (d), any person who has been convicted of a misdemeanor violation of subdivision (a) or (b) of Section 597, or Section 597a, 597b, 597h, 597j, 597s, or 597.1, and who, within five years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(b) Except as provided in subdivision (c) or (d), any person who has been convicted of a felony violation of subdivision (a) or (b) of Section 597, or Section 597b or 597.5, and who, within 10 years after the conviction, owns, possesses, maintains, has custody of, resides with, or cares for any animal is guilty of a public offense, punishable by a fine of one thousand dollars (\$1,000).

(c)

(1) In cases of owners of livestock, as defined in Section 14205 of the Food and Agricultural Code, a court may, in the interest of justice, exempt a defendant from the injunction required under subdivision (a) or (b), as it would apply to livestock, if the defendant files a petition with the court to establish that the imposition of the provisions of this section would result in substantial or undue economic hardship to the defendant's livelihood and that the defendant has the ability to properly care for all livestock in his or her possession.

(2) Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. The court shall grant the petition for exemption from subdivision (a) or (b)

unless the prosecuting attorney shows by a preponderance of the evidence that either or both of the criteria for exemption under this subdivision are untrue.

(d)

(1) A defendant may petition the court to reduce the duration of the mandatory ownership prohibition. Upon receipt of a petition from the defendant, the court shall set a hearing to be conducted within 30 days after the filing of the petition. The petitioner shall serve a copy of the petition upon the prosecuting attorney 10 calendar days prior to the requested hearing. At the hearing, the petitioner shall have the burden of establishing probable cause to believe all of the following:

(A) He or she does not present a danger to animals.

(B) He or she has the ability to properly care for all animals in his or her possession.

(C) He or she has successfully completed all classes or counseling ordered by the court.

(2) If the petitioner has met his or her burden, the court may reduce the mandatory ownership prohibition and may order that the defendant comply with reasonable and unannounced inspections by animal control agencies or law enforcement.

CAL. PENAL CODE § 598.1 (2012). Forfeiture of certain property obtained by animal fighting.

(a) The prosecuting agency in a criminal proceeding in which the defendant has been charged with the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b may, in conjunction with the criminal proceeding, file a petition for forfeiture as provided in subdivision (c). If the prosecuting agency has filed a petition for forfeiture pursuant to subdivision (c) and the defendant is convicted of any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, the assets listed in subdivision (b) shall be subject to forfeiture upon proof of the elements of subdivision (b) and in accordance with this section.

(b)

(1) Any property interest, whether tangible or intangible, that was acquired through the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b shall be subject to forfeiture, including both personal and real property, profits, proceeds, and the instrumentalities acquired, accumulated, or used by cockfighting or dogfighting participants, organizers, transporters of animals and equipment, breeders and trainers of fighting birds or fighting dogs, and persons who steal or illegally obtain dogs or other animals for fighting, including bait and sparring animals.

(2) Notwithstanding paragraph (1), the following property shall not be subject to forfeiture under this section:

(A) Property solely owned by a bona fide purchaser for value, who was without knowledge that the property was intended to be used for a purpose which would subject it to forfeiture under this section, or is subject to forfeiture under this section.

(B) Property used as a family residence and owned by two or more inhabitants, one of whom had no knowledge of its unlawful use.

(c)

(1) If the prosecuting agency proceeds under subdivision (a), that agency shall, in conjunction with the criminal proceeding, file a petition for forfeiture with the superior court of the county in which the defendant has been charged with the commission of any of the crimes listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, that shall allege that the defendant has committed those crimes and the property is forfeitable pursuant to subdivision (a).

(2) The prosecuting agency shall make service of process of a notice regarding that petition upon every individual who may have a property interest in the alleged proceeds, and that notice shall state that any interested party may file a verified claim with the superior court stating the amount of the party's claimed interest and an affirmation or denial of the prosecuting agency's allegation.

(3) If the notices cannot be served by registered mail or personal delivery, the notices shall be published for at least three consecutive weeks in a newspaper of general circulation in the county where the property is located.

(4) If the property alleged to be subject to forfeiture is real property, the prosecuting agency shall, at the time of filing the petition for forfeiture, record a lis pendens in each county in which real property alleged to be subject to forfeiture is located.

(5) The judgment of forfeiture shall not affect the interest of any third party in real property that was acquired prior to the recording of the lis pendens.

(6) All notices shall set forth the time within which a claim of interest in the property seized is required to be filed pursuant to this section.

(d) Any person claiming an interest in the property or proceeds seized may, at any time within 30 days from the date of the first publication of the notice of seizure, or within 30 days after receipt of the actual notice, file with the superior court of the county in which the action is pending a verified claim stating his or her interest in the property or proceeds. A verified copy of the claim shall be given by the claimant to the Attorney General, or the district or city attorney, whichever is the prosecuting agency of the underlying crime.

- (e)
 - (1) If, at the end of the time set forth in subdivision (d), an interested person, other than the defendant, has not filed a claim, the court, upon a motion, shall declare that the person has defaulted upon his or her alleged interest, and that interest shall be subject to forfeiture upon proof of the elements of subdivision (b).
 - (2) The defendant may admit or deny that the property is subject to forfeiture pursuant to this section. If the defendant fails to admit or deny, or fails to file a claim of interest in the property or proceeds, the court shall enter a response of denial on behalf of the defendant.
- (f)
 - (1) The forfeiture proceeding shall be set for hearing in the superior court in which the underlying criminal offense will be tried.
 - (2) If the defendant is found guilty of the underlying offense, the issue of forfeiture shall be promptly tried, either before the same jury or before a new jury in the discretion of the court, unless waived by the consent of all parties.
- (g) At the forfeiture hearing, the prosecuting agency shall have the burden of establishing beyond a reasonable doubt that the defendant was engaged in any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b and that the property comes within the provisions of subdivision (b).
- (h) Concurrent with, or subsequent to, the filing of the petition, the prosecuting agency may move the superior court for the following pendent lite orders to preserve the status quo of the property alleged in the petition of forfeiture:
 - (1) An injunction to restrain all interested parties and enjoin them from transferring, encumbering, hypothecating, or otherwise disposing of that property.
 - (2) Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that the property may be maintained and preserved.
- (i)
 - (1) No preliminary injunction may be granted or receiver appointed without notice to the interested parties and a hearing to determine that the order is necessary to preserve the property, pending the outcome of the criminal proceedings, and that there is probable cause to believe that the property alleged in the forfeiture proceedings are proceeds or property interests forfeitable under subdivision (a). However, a temporary restraining order may issue pending that hearing pursuant to the provisions of Section 527 of the Code of Civil Procedure.

(2) Notwithstanding any other provision of law, the court, when granting or issuing these orders may order a surety bond or undertaking to preserve the property interests of the interested parties. The court shall, in making its orders, seek to protect the interest of those who may be involved in the same enterprise as the defendant, but who are not involved in any of the crimes described in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b.

(j) If the trier of fact at the forfeiture hearing finds that the alleged property or proceeds are forfeitable pursuant to subdivision (a), and that the defendant was convicted of a crime listed in subdivision (a) of Section 597.5 or subdivision (b) of Section 597b, the court shall declare that property or proceeds forfeited to the state or local governmental entity, subject to distribution as provided in subdivision (l).

(k)

(1) If the trier of fact at the forfeiture hearing finds that the alleged property is forfeitable pursuant to subdivision (a) but does not find that a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract acquired that interest with actual knowledge that the property was to be used for a purpose for which forfeiture is permitted, and the amount due to that person is less than the appraised value of the property, that person may pay to the state or the local governmental entity that initiated the forfeiture proceeding the amount of the registered owner's equity, which shall be deemed to be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon that payment, the state or local governmental entity shall relinquish all claims to the property.

(2) If the holder of the interest elects not to make that payment to the state or local governmental entity, the property shall be deemed forfeited to the state or local governmental entity.

(3) The appraised value shall be determined as of the date judgment is entered either by agreement between the legal owner and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought.

(4) If the amount due to a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract is less than the value of the property and the person elects not to make payment to the governmental entity, the property shall be sold at public auction by the Department of General Services or by the local governmental entity which shall provide notice of that sale by one publication in a newspaper published and circulated in the city, community, or locality where the sale is to take place. Proceeds of the sale shall be distributed pursuant to subdivision (l).

(1) Notwithstanding that no response or claim has been filed pursuant to subdivision (d), in all cases where property is forfeited pursuant to this section and is sold by the Department of General Services or a local governmental entity, the property forfeited or the proceeds of the sale shall be distributed by the state or local governmental entity, as follows:

(1) To the bona fide or innocent purchaser, conditional sales vendor, or holder of a valid lien, mortgage, or security interest, if any, up to the amount of his or her interest in the property or proceeds, when the court declaring the forfeiture orders a distribution to that person. The court shall endeavor to discover all those lienholders and protect their interests and may, at its discretion, order the proceeds placed in escrow for a period not to exceed 60 additional days to ensure that all valid claims are received and processed.

(2) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this section.

(3) To local nonprofit organizations exempt under Section 501(c)(3) of the Internal Revenue Code, the primary activities of which include ongoing rescue, foster, or other care of animals that are the victims of cockfighting or dogfighting, and to law enforcement entities, including multiagency task forces, that actively investigate and prosecute animal fighting crimes.

(4) Any remaining funds not fully distributed to organizations or entities pursuant to paragraph (3) shall be deposited in an escrow account or restricted fund to be distributed as soon as possible in accordance with paragraph (3).

CAL. PENAL CODE § 599a (2012). Issuance of arrest warrants.

When complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any provision of law relating to, or in any way affecting, dumb animals or birds, is being, or is about to be violated in any particular building or place, the magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer or officer of any incorporated association qualified as provided by law, authorizing him to enter and search that building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring that person before some court or magistrate of competent jurisdiction, within the city, city and county, or judicial district within which the offense has been committed or attempted, to be dealt with according to law, and the attempt must be held to be a violation of Section 597.

CAL. PENAL CODE § 599aa (2012). Seizure of fighting animals and birds, paraphernalia, etc.; affidavit of officer; custody of seized property; forfeiture and destruction or redelivery.

(a) Any authorized officer making an arrest under Section 597.5 shall, and any authorized officer making an arrest under Section 597b, 597c, 597j, or 599a may, lawfully take possession of all birds or animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of this code relating to the fighting of birds or animals that can be used in animal or bird fighting, in training animals or birds to fight, or to inflict pain or cruelty upon animals or birds with respect to animal or bird fighting.

(b) Upon taking possession, the officer shall inventory the items seized and question the persons present as to the identity of the owner or owners of the items. The inventory list shall identify the location where the items were seized, the names of the persons from whom the property was seized, and the names of any known owners of the property.

Any person claiming ownership or possession of any item shall be provided with a signed copy of the inventory list, which shall identify the seizing officer and his or her employing agency. If no person claims ownership or possession of the items, a copy of the inventory list shall be left at the location from which the items were seized.

(c) The officer shall file with the magistrate before whom the complaint against the arrested person is made, a copy of the inventory list and an affidavit stating the affiant's basis for his or her belief that the property and items taken were in violation of this code. On receipt of the affidavit, the magistrate shall order the items seized to be held until the final disposition of any charges filed in the case subject to subdivision (e).

(d) All animals and birds seized shall, at the discretion of the seizing officer, be taken promptly to an appropriate animal storage facility. For purposes of this subdivision, an appropriate animal storage facility is one in which the animals or birds may be stored humanely. However, if an appropriate animal storage facility is not available, the officer may cause the animals or birds used in committing or possessed for the purpose of the alleged offenses to remain at the location at which they were found. In determining whether it is more humane to leave the animals or birds at the location at which they were found than to take the animals or birds to an animal storage facility, the officer shall, at a minimum, consider the difficulty of transporting the animals or birds and the adequacy of the available animal storage facility. When the officer does not seize and transport all animals or birds to a storage facility, he or she shall do both of the following:

(1) Seize a representative sample of animals or birds for evidentiary purposes from the animals or birds found at the site of the alleged offenses. The animals or birds seized as a representative sample shall be transported to an appropriate animal storage facility.

(2) Cause all animals or birds used in committing or possessed for the purpose of the alleged offenses to be banded, tagged, or marked by microchip, and photographed or video recorded for evidentiary purposes.

(e)

(1) If ownership of the seized animals or birds cannot be determined after reasonable efforts, the officer or other person named and designated in the order as custodian of the animals or birds may, after holding the animals and birds for a period of not less than 10 days, petition the magistrate for permission to humanely destroy or otherwise dispose of the animals or birds. The petition shall be published for three successive days in a newspaper of general circulation. The magistrate shall hold a hearing on the petition not less than 10 days after seizure of the animals or birds, after which he or she may order the animals or birds to be humanely destroyed or otherwise disposed of, or to be retained by the officer or person with custody until the conviction or final discharge of the arrested person. No animal or bird may be destroyed or otherwise disposed of until four days after the order.

(2) Paragraph (1) shall apply only to those animals and birds seized under any of the following circumstances:

(A) After having been used in violation of any of the provisions of this code relating to the fighting of birds or animals.

(B) At the scene or site of a violation of any of the provisions of this code relating to the fighting of birds or animals.

(f) Upon the conviction of the arrested person, all property seized shall be adjudged by the court to be forfeited and shall then be destroyed or otherwise disposed of as the court may order. Upon the conviction of the arrested person, the court may order the person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the animals or birds. Each person convicted in connection with a particular animal or bird, excluding any person convicted as a spectator pursuant to Section 597b or 597c, or subdivision (b) of Section 597.5, may be held jointly and severally liable for restitution pursuant to this subdivision. This payment shall be in addition to any other fine or other sentence ordered by the court. The court shall specify in the order that the public entity shall not enforce the order until the defendant satisfies all other outstanding fines, penalties, assessments, restitution fines, and restitution orders. The court may relieve any convicted person of the obligation to make payment pursuant to this subdivision for good cause but shall state the reasons for that decision in the record. In the event of the acquittal or final discharge without conviction of the arrested person, the court shall, on demand, direct the delivery of the property held in custody to the owner. If the owner is unknown, the court shall order the animals or birds to be humanely destroyed or otherwise disposed of.

CAL. PENAL CODE § 599b (2012). Words and phrases; imputation of knowledge to corporation.

In this title, the word “animal” includes every dumb creature; the words “torment,” “torture,” and “cruelty” include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted; and the words “owner” and “person” include corporations as well as individuals; and the knowledge and acts of any agent of, or person employed by, a corporation in regard to animals transported, owned, or employed by, or in the custody of, the corporation, must be held to be the act and knowledge of the corporation as well as the agent or employee.

CAL. PENAL CODE § 599c (2012). Construction of title; game laws; destruction of dangerous animals or reptiles; killing for food; authorized scientific experiments or investigations.

No part of this title shall be construed as interfering with any of the laws of this state known as the “game laws,” or any laws for or against the destruction of certain birds, nor must this title be construed as interfering with the right to destroy any venomous reptile, or any animal known as dangerous to life, limb, or property, or to interfere with the right to kill all animals used for food, or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

CAL. PENAL CODE § 1170 (First of two; Repealed January 1, 2014). Determinate sentencing; Sentence recall; Medical release.

* * * * *

(h)

(1) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision where the term is not specified in the underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7, a violent felony described in subdivision (c) of Section 667.5, is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) A judge, when imposing a sentence pursuant to paragraph (1), may order the defendant to serve a term in a county jail for a period not to exceed the maximum possible term of confinement or may impose a sentence that includes a period of county jail time and a period of mandatory probation not to exceed the maximum possible sentence.

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.

CAL. PENAL CODE § 11165.7(2012). Mandated reporter.

(a) As used in this article, "mandated reporter" is defined as any of the following:

(1) A teacher.

(2) An instructional aide.

(3) A teacher's aide or teacher's assistant employed by any public or private school.

(4) A classified employee of any public school.

(5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.

(6) An administrator of a public or private day camp.

(7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.

(9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.

(10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.

(11) A Head Start program teacher.

- (12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage, family, and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.

- (27) A coroner.
- (28) A medical examiner, or any other person who performs autopsies.
- (29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, “commercial film and photographic print processor” means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.
- (30) A child visitation monitor. As used in this article, “child visitation monitor” means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.
- (31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:
- (A) “Animal control officer” means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.
 - (B) “Humane society officer” means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.
- (32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.
- (33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.
- (34) Any employee of any police department, county sheriff’s department, county probation department, or county welfare department.
- (35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court.
- (36) A custodial officer as defined in Section 831.5.
- (37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an “alcohol and drug counselor” is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect.

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

CAL. PENAL CODE § 11166 (2012).Report; duty; time.

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

(2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d)

(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3)

(A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practicably possible, by telephone and shall prepare and send, fax, or electronically transmit a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

- (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
- (2) Penetration of the vagina or rectum by any object.
- (3) Masturbation for the purpose of sexual stimulation of the viewer.
- (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
- (5) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, "any other person" includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i)

(1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

CAL. PENAL CODE § 11199 (2012). Reports of animal abuse, cruelty, or neglect by county employees; time and method of report; definitions; contents of report.

(a) Any employee of a county child or adult protective services agency, while acting in his or her professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he or she knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, may report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.

(b) The report may be made within two working days of receiving the information concerning the animal by facsimile transmission of a written report presented in the form described in subdivision (e) or by telephone if all of the information that is required to be provided pursuant to subdivision (e) is furnished. In cases where an immediate response may be necessary in order to protect the health and safety of the animal or others, the report may be made by telephone as soon as possible.

(c) Nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.

(d) As used in this section, the terms “animal,” “cruelty,” “abuse,” “neglect,” “reasonable suspicion,” and “owner” are defined as follows:

(1) “Animal” includes every dumb creature.

(2) “Cruelty,” “abuse,” and “neglect” include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) “Reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect animal cruelty, abuse, or neglect.

(4) “Owner” means any person who is the legal owner, keeper, harbinger, possessor, or the actual custodian of an animal. “Owner” includes corporations as well as individuals.

(e) Reports made pursuant to this section may be made on a preprinted form prepared by the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county that includes the definitions contained in subdivision (d), and a space for the reporter to include each of the following:

(1) His or her name and title.

(2) His or her business address and telephone number.

- (3) The name, if known, of the animal owner or custodian.
- (4) The location of the animal and the premises on which the known or reasonably suspected animal cruelty, abuse, or neglect took place.
- (5) A description of the location of the animal and the premises.
- (6) Type and numbers of animals involved.
- (7) A description of the animal and its condition.
- (8) The date, time, and a description of the observation or incident which led the reporter to suspect animal cruelty, abuse, or neglect and any other information the reporter believes may be relevant.

(f) When two or more employees of a county child or adult protective services agency are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse, or neglect, and where there is agreement among them, a report may be made by one person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

ANIMAL PROTECTION LAWS OF CANADA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Canada's federal animal protection and related statutes enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Canada may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and does have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

CANADA

1. GENERAL PROHIBITIONS*	(1) Injuring or endangering cattle CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 444 (2) Injuring or endangering other animals CRIMINAL CODE, R.S.C. 1985, c.C-46,s.445 (3) Causing unnecessary suffering CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 445.1 (4) Causing damage or injury CRIMINAL CODE, R.S.C. 1985, c. C-46,s. 446
<i>Animals Covered in Definition</i>	-----
<i>Classification of Crimes</i>	(1), (2), (3), (4) Indictable offence <i>or</i> Summary conviction offence

CANADA*continued*

2. MAXIMUM PENALTIES**

(1), (2), (3)
[Indictable offence]:
5 years imprisonment
CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 444
CRIMINAL CODE, R.S.C. 1985, c.C-46,s.445
CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 445.1
and/or
Fine (as determined by court)
CRIMINAL CODE, R.S.C. 1985, c.C-46,s.734

[Summary conviction offence]:
18 months imprisonment
and/or
\$10,000 fine
CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 444
CRIMINAL CODE, R.S.C. 1985, c.C-46,s.445
CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 445.1

(4)
[Indictable offence]:
2 years imprisonment
CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 446
and/or
Fine (as determined by court)
CRIMINAL CODE, R.S.C. 1985, c.C-46,s.734

[Summary conviction offence]:
6 months imprisonment
and/or
\$5,000 fine
CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 446

CANADA*continued*

3. EXEMPTIONS ***	-----
4. COUNSELING / EVALUATIONS ^H	-----
5. PROTECTIVE ORDERS ^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS ^H	<p>Court may order offender to reimburse costs of care for impounded animal CRIMINAL CODE, R.S.C. 1985, c.C-46,s.447.1</p> <p>Upon conviction or discharge, the court may order offender to pay restitution CRIMINAL CODE, R.S.C. 1985, c.C-46,s.738</p>
7. SEIZURE / ON-SITE SUPERVISION	-----
8. FORFEITURE / POSSESSION ^H	<p>Upon conviction, the court may prohibit the owning or custody of an animal or bird for any period that the court considers appropriate but, in the case of a second or subsequent offence, for a minimum of five years CRIMINAL CODE, R.S.C. 1985, c.C-46,s.447.1</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	-----

CANADA*continued*

<p>12. SEXUAL ASSAULT</p>	<p>Bestiality is an indictable offence and punishable by up to a term of ten years or, alternatively, is a summary conviction offence. CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 160(1-2)</p> <p>Committing bestiality in the presence of a person under the age of sixteen years or inciting a person under the age of sixteen years to commit bestiality is an indictable offence and punishable by up to a term of ten years or, alternatively, is a summary conviction offence. CRIMINAL CODE, R.S.C. 1985, c. C-46,s. 160(3)</p>
<p>13. FIGHTING</p>	<p>Encouraging, aiding or assisting at the fighting or baiting of animals or birds is punishable as an indictable offence or a summary conviction offence CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 445.1(2)</p> <p>Presence at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof in the aiding or assisting of fighting or baiting CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 445.1(4)</p> <p>Building, making, maintaining or keeping a cockpit on premises is punishable as an indictable offence or summary conviction offence CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 447</p>

CANADA*continued*

<p>13. FIGHTING<i>continued</i></p>	<p>A peace officer shall seize cocks in a cockpit or cocks on the premises where a cockpit is located. CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 447(3)</p>
<p>NOTES</p>	<p>Killing, poisoning or injuring an animal or bird that is the property of any person is an indictable offence or summary conviction offence CRIMINAL CODE, R.S.C. 1985, c.C-46, s. 264.1</p>

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 H This table generally references only those provisions that are within each jurisdiction’s animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 444 (2012). Injuring or endangering cattle

(1) Injuring or endangering cattle

Every one commits an offence who wilfully

(a) kills, maims, wounds, poisons or injures cattle; or

(b) places poison in such a position that it may easily be consumed by cattle.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.445(2012).Injuring or endangering other animals

(1) Injuring or endangering other animals

Every one commits an offence who, wilfully and without lawful excuse,

(a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose; or

(b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

CRIMINAL CODE, R.S.C. 1985, C.C-46,s. 445.1(2012). Causing unnecessary suffering

(1) Causing unnecessary suffering

Every one commits an offence who

(a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird;

(b) in any manner encourages, aids or assists at the fighting or baiting of animals or birds;

(c) wilfully, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animal or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, wilfully permits a poisonous or an injurious drug or substance to be administered to it;

(d) promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated; or

(e) being the owner, occupier or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (d).

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

(3) Failure to exercise reasonable care as evidence

For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it pain, suffering or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering or injury was caused or was permitted to be caused wilfully, as the case may be.

(4) Presence at baiting as evidence

For the purpose of proceedings under paragraph (1)(b), evidence that an accused was present at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof that he or she encouraged, aided or assisted at the fighting or baiting.

CRIMINAL CODE, R.S.C. 1985, C.C-46, s. 446 (2012). Causing damage or injury

(1) Causing damage or injury

Every one commits an offence who

(a) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed; or

(b) being the owner or the person having the custody or control of a domestic animal or a bird or an animal or a bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than two years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding five thousand dollars or to imprisonment for a term of not more than six months or to both.

(3) Failure to exercise reasonable care as evidence

For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it damage or injury is, in the absence of any evidence to the contrary, proof that the damage or injury was caused by wilful neglect.

2. PENALTIES

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 444 (2012). Injuring or endangering cattle

(1) Injuring or endangering cattle

Every one commits an offence who wilfully

- (a) kills, maims, wounds, poisons or injures cattle; or
- (b) places poison in such a position that it may easily be consumed by cattle.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or*
- (b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.*

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.445(2012).Injuring or endangering other animals

(1) Injuring or endangering other animals

Every one commits an offence who, wilfully and without lawful excuse,

- (a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose; or
- (b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or*

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

CRIMINAL CODE, R.S.C. 1985, C.C-46,s. 445.1(2012). Causing unnecessary suffering

(1) Causing unnecessary suffering

Every one commits an offence who

(a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird;

(b) in any manner encourages, aids or assists at the fighting or baiting of animals or birds;

(c) wilfully, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animal or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, wilfully permits a poisonous or an injurious drug or substance to be administered to it;

(d) promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated; or

(e) being the owner, occupier or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (d).

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

(3) Failure to exercise reasonable care as evidence

For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it pain, suffering or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering or injury was caused or was permitted to be caused wilfully, as the case may be.

(4) Presence at baiting as evidence

For the purpose of proceedings under paragraph (1)(b), evidence that an accused was present at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof that he or she encouraged, aided or assisted at the fighting or baiting.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 446(2012). Causing damage or injury

(1) Causing damage or injury

Every one commits an offence who

(a) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed; or

(b) being the owner or the person having the custody or control of a domestic animal or a bird or an animal or a bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it.

(2) *Punishment*

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than two years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding five thousand dollars or to imprisonment for a term of not more than six months or to both.

(3) Failure to exercise reasonable care as evidence

For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it damage or injury is, in the absence of any evidence to the contrary, proof that the damage or injury was caused by wilful neglect.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.734(2012). Power of court to impose fine

(1) Power of court to impose fine

Subject to subsection (2), a court that convicts a person, other than an organization, of an offence may fine the offender by making an order under section 734.1

(a) if the punishment for the offence does not include a minimum term of imprisonment, in addition to or in lieu of any other sanction that the court is authorized to impose; or

(b) if the punishment for the offence includes a minimum term of imprisonment, in addition to any other sanction that the court is required or authorized to impose.

(2) Offender's ability to pay

Except when the punishment for an offence includes a minimum fine or a fine is imposed in lieu of a forfeiture order, a court may fine an offender under this section only if the court is satisfied that the offender is able to pay the fine or discharge it under section 736.

(3) Meaning of default of payment

For the purposes of this section and sections 734.1 to 737, a person is in default of payment of a fine if the fine has not been paid in full by the time set out in the order made under section 734.1.

(4) Imprisonment in default of payment

Where an offender is fined under this section, a term of imprisonment, determined in accordance with subsection (5), shall be deemed to be imposed in default of payment of the fine.

(5) Determination of term

The term of imprisonment referred to in subsection (4) is the lesser of

(a) the number of days that corresponds to a fraction, rounded down to the nearest whole number, of which

(i) the numerator is the unpaid amount of the fine plus the costs and charges of committing and conveying the defaulter to prison, calculated in accordance with regulations made under subsection (7), and

(ii) the denominator is equal to eight times the provincial minimum hourly wage, at the time of default, in the province in which the fine was imposed, and

(b) the maximum term of imprisonment that the court could itself impose on conviction or, if the punishment for the offence does not include a term of imprisonment, five years in the case of an indictable offence or six months in the case of a summary conviction offence.

(6) Moneys found on offender

All or any part of a fine imposed under this section may be taken out of moneys found in the possession of the offender at the time of the arrest of the offender if the court making the order, on being satisfied that ownership of or right to possession of those moneys is not disputed by claimants other than the offender, so directs.

(7) Provincial regulations

The lieutenant governor in council of a province may make regulations respecting the calculation of the costs and charges referred to in subparagraph (5)(a)(i) and in paragraph 734.8(1)(b).

(8) Application to other law

This section and sections 734.1 to 734.8 and 736 apply to a fine imposed under any Act of Parliament, except that subsections (4) and (5) do not apply if the term of imprisonment in default of payment of the fine provided for in that Act or regulation is

(a) calculated by a different method; or

(b) specified, either as a minimum or a maximum.

3. EXEMPTIONS

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.447.1(2012). Order of prohibition or restitution

(1) Order of prohibition or restitution

The court may, in addition to any other sentence that it may impose under subsection 444(2), 445(2), 445.1(2), 446(2) or 447(2),

(a) make an order prohibiting the accused from owning, having the custody or control of or residing in the same premises as an animal or a bird during any period that the court considers appropriate but, in the case of a second or subsequent offence, for a minimum of five years; and

(b) on application of the Attorney General or on its own motion, order that the accused pay to a person or an organization that has taken care of an animal or a bird as a result of the commission of the offence the reasonable costs that the person or organization incurred in respect of the animal or bird, if the costs are readily ascertainable.

(2) Breach of order

Every one who contravenes an order made under paragraph (1)(a) is guilty of an offence punishable on summary conviction.

(3) Application

Sections 740 to 741.2 apply, with any modifications that the circumstances require, to orders made under paragraph (1)(b).

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.738(2012).Restitution to victims of offences

(1) Restitution to victims of offences

Where an offender is convicted or discharged under section 730 of an offence, the court imposing sentence on or discharging the offender may, on application of the Attorney General or on its own motion, in addition to any other measure imposed on the offender, order that that offender make restitution to another person as follows:

(a) in the case of damage to, or the loss or destruction of, the property of any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding the replacement value of the property as of the date the order is imposed, less the value of any part of the property that is returned to that person as of the date it is returned, where the amount is readily ascertainable;

(b) in the case of bodily or psychological harm to any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding all pecuniary damages incurred as a result of the harm, including loss of income or support, if the amount is readily ascertainable; and

(c) in the case of bodily harm or threat of bodily harm to the offender's spouse or common-law partner or child, or any other person, as a result of the commission of the offence or the arrest or attempted arrest of the offender, where the spouse or common-law partner, child or other person was a member of the offender's household at the relevant time, by paying to the person in question, independently of any amount ordered to be paid under paragraphs (a) and (b), an amount not exceeding actual and reasonable expenses incurred by that person, as a result of moving out of the offender's household, for temporary housing, food, child care and transportation, where the amount is readily ascertainable.

(2) Regulations

The Lieutenant Governor in Council of a province may make regulations precluding the inclusion of provisions on enforcement of restitution orders as an optional condition of a probation order or of a conditional sentence order.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.738(2012).Restitution to victims of offences

(1) Restitution to victims of offences

Where an offender is convicted or discharged under section 730 of an offence, the court imposing sentence on or discharging the offender may, on application of the Attorney General or on its own motion, in addition to any other measure imposed on the offender, order that that offender make restitution to another person as follows:

(a) in the case of damage to, or the loss or destruction of, the property of any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding the replacement value of the property as of the date the order is imposed, less the value of any part of the property that is returned to that person as of the date it is returned, where the amount is readily ascertainable;

(b) in the case of bodily or psychological harm to any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding all pecuniary damages incurred as a result of the harm, including loss of income or support, if the amount is readily ascertainable; and

(c) in the case of bodily harm or threat of bodily harm to the offender's spouse or common-law partner or child, or any other person, as a result of the commission of the offence or the arrest or attempted arrest of the offender, where the spouse or common-law partner, child or other person was a member of the offender's household at the relevant time, by paying to the person in question, independently of any amount ordered to be paid under paragraphs (a) and (b), an amount not exceeding actual and reasonable expenses incurred by that person, as a result of moving out of the offender's household, for temporary housing, food, child care and transportation, where the amount is readily ascertainable; and

(d) in the case of an offence under section 402.2 or 403, by paying to a person who, as a result of the offence, incurs expenses to re- establish their identity, including expenses to replace their identity documents and to correct their credit history and credit rating, an amount that is not more than the amount of those expenses, to the extent that they are reasonable, if the amount is readily ascertainable.

(2) Regulations

The lieutenant governor in council of a province may make regulations precluding the inclusion of provisions on enforcement of restitution orders as an optional condition of a probation order or of a conditional sentence order.

7. SEIZURE / ON-SITE SUPERVISION

8. FORFEITURE / POSSESSION

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.447.1(2012). Order of prohibition or restitution

(1) Order of prohibition or restitution

The court may, in addition to any other sentence that it may impose under subsection 444(2), 445(2), 445.1(2), 446(2) or 447(2),

(a) make an order prohibiting the accused from owning, having the custody or control of or residing in the same premises as an animal or a bird during any period that the court considers appropriate but, in the case of a second or subsequent offence, for a minimum of five years; and

(b) on application of the Attorney General or on its own motion, order that the accused pay to a person or an organization that has taken care of an animal or a bird as a result of the commission of the offence the reasonable costs that the person or organization incurred in respect of the animal or bird, if the costs are readily ascertainable.

(2) Breach of order

Every one who contravenes an order made under paragraph (1)(a) is guilty of an offence punishable on summary conviction.

(3) Application

Sections 740 to 741.2 apply, with any modifications that the circumstances require, to orders made under paragraph (1)(b).

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 160(2012). Bestiality

(1) Bestiality

Every person who commits bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(2) Compelling the commission of bestiality

Every person who compels another to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(3) Bestiality in presence of or by child

Notwithstanding subsection (1), every person who, in the presence of a person under the age of 16 years, commits bestiality or who incites a person under the age of 16 years to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

13. FIGHTING

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 445.1(2012). Causing unnecessary suffering

(1) Causing unnecessary suffering

Every one commits an offence who

(a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird;

(b) in any manner encourages, aids or assists at the fighting or baiting of animals or birds;

(c) wilfully, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animal or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, wilfully permits a poisonous or an injurious drug or substance to be administered to it;

(d) promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated; or

(e) being the owner, occupier or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (d).

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

(3) Failure to exercise reasonable care as evidence

For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it pain, suffering or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering or injury was caused or was permitted to be caused wilfully, as the case may be.

(4) Presence at baiting as evidence

For the purpose of proceedings under paragraph (1)(b), evidence that an accused was present at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof that he or she encouraged, aided or assisted at the fighting or baiting.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 447(2012). Keeping a cockpit

(1) Keeping cockpit

Every one commits an offence who builds, makes, maintains or keeps a cockpit on premises that he or she owns or occupies, or allows a cockpit to be built, made, maintained or kept on such premises.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

(3) Confiscation

A peace officer who finds cocks in a cockpit or on premises where a cockpit is located shall seize them and take them before a justice who shall order them to be destroyed.

14. REFERENCED STATUTES

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 160 (2012) (Can.). Bestiality

(1) Bestiality

Every person who commits bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(2) Compelling the commission of bestiality

Every person who compels another to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

(3) Bestiality in presence of or by child

Notwithstanding subsection (1), every person who, in the presence of a person under the age of 16 years, commits bestiality or who incites a person under the age of 16 years to commit bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 444(2012). Injuring or endangering cattle

(1) Injuring or endangering cattle

Every one commits an offence who wilfully

- (a) kills, maims, wounds, poisons or injures cattle; or
- (b) places poison in such a position that it may easily be consumed by cattle.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

CRIMINAL CODE, R.S.C. 1985, C.C-46,s.445(2012).Injuring or endangering other animals

(1) Injuring or endangering other animals

Every one commits an offence who, wilfully and without lawful excuse,

(a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose; or

(b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

CRIMINAL CODE, R.S.C. 1985, C.C-46,s. 445.1(2012). Causing unnecessary suffering

(1) Causing unnecessary suffering

Every one commits an offence who

(a) wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird;

(b) in any manner encourages, aids or assists at the fighting or baiting of animals or birds;

(c) wilfully, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animal or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, wilfully permits a poisonous or an injurious drug or substance to be administered to it;

(d) promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated; or

(e) being the owner, occupier or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (d).

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

(3) Failure to exercise reasonable care as evidence

For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it pain, suffering or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering or injury was caused or was permitted to be caused wilfully, as the case may be.

(4) Presence at baiting as evidence

For the purpose of proceedings under paragraph (1)(b), evidence that an accused was present at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof that he or she encouraged, aided or assisted at the fighting or baiting.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 446(2012). Causing damage or injury

(1) Causing damage or injury

Every one commits an offence who

(a) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed; or

(b) being the owner or the person having the custody or control of a domestic animal or a bird or an animal or a bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than two years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding five thousand dollars or to imprisonment for a term of not more than six months or to both.

(3) Failure to exercise reasonable care as evidence

For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it damage or injury is, in the absence of any evidence to the contrary, proof that the damage or injury was caused by wilful neglect.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s. 447(2012). Keeping a cockpit

(1) Keeping cockpit

Every one commits an offence who builds, makes, maintains or keeps a cockpit on premises that he or she owns or occupies, or allows a cockpit to be built, made, maintained or kept on such premises.

(2) Punishment

Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

(3) Confiscation

A peace officer who finds cocks in a cockpit or on premises where a cockpit is located shall seize them and take them before a justice who shall order them to be destroyed.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.447.1(2012). Order of prohibition or restitution

(1) Order of prohibition or restitution

The court may, in addition to any other sentence that it may impose under subsection 444(2), 445(2), 445.1(2), 446(2) or 447(2),

(a) make an order prohibiting the accused from owning, having the custody or control of or residing in the same premises as an animal or a bird during any period that the court considers appropriate but, in the case of a second or subsequent offence, for a minimum of five years; and

(b) on application of the Attorney General or on its own motion, order that the accused pay to a person or an organization that has taken care of an animal or a bird as a result of the commission of the offence the reasonable costs that the person or organization incurred in respect of the animal or bird, if the costs are readily ascertainable.

(2) Breach of order

Every one who contravenes an order made under paragraph (1)(a) is guilty of an offence punishable on summary conviction.

(3) Application

Sections 740 to 741.2 apply, with any modifications that the circumstances require, to orders made under paragraph (1)(b).

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.734(2012). Power of court to impose fine

(1) Power of court to impose fine

Subject to subsection (2), a court that convicts a person, other than an organization, of an offence may fine the offender by making an order under section 734.1

(a) if the punishment for the offence does not include a minimum term of imprisonment, in addition to or in lieu of any other sanction that the court is authorized to impose; or

(b) if the punishment for the offence includes a minimum term of imprisonment, in addition to any other sanction that the court is required or authorized to impose.

(2) Offender's ability to pay

Except when the punishment for an offence includes a minimum fine or a fine is imposed in lieu of a forfeiture order, a court may fine an offender under this section only if the court is satisfied that the offender is able to pay the fine or discharge it under section 736.

(3) Meaning of default of payment

For the purposes of this section and sections 734.1 to 737, a person is in default of payment of a fine if the fine has not been paid in full by the time set out in the order made under section 734.1.

(4) Imprisonment in default of payment

Where an offender is fined under this section, a term of imprisonment, determined in accordance with subsection (5), shall be deemed to be imposed in default of payment of the fine.

(5) Determination of term

The term of imprisonment referred to in subsection (4) is the lesser of

(a) the number of days that corresponds to a fraction, rounded down to the nearest whole number, of which

(i) the numerator is the unpaid amount of the fine plus the costs and charges of committing and conveying the defaulter to prison, calculated in accordance with regulations made under subsection (7), and

(ii) the denominator is equal to eight times the provincial minimum hourly wage, at the time of default, in the province in which the fine was imposed, and

(b) the maximum term of imprisonment that the court could itself impose on conviction or, if the punishment for the offence does not include a term of imprisonment, five years in the case of an indictable offence or six months in the case of a summary conviction offence.

(6) Moneys found on offender

All or any part of a fine imposed under this section may be taken out of moneys found in the possession of the offender at the time of the arrest of the offender if the court making the order, on being satisfied that ownership of or right to possession of those moneys is not disputed by claimants other than the offender, so directs.

(7) Provincial regulations

The lieutenant governor in council of a province may make regulations respecting the calculation of the costs and charges referred to in subparagraph (5)(a)(i) and in paragraph 734.8(1)(b).

(8) Application to other law

This section and sections 734.1 to 734.8 and 736 apply to a fine imposed under any Act of Parliament, except that subsections (4) and (5) do not apply if the term of imprisonment in default of payment of the fine provided for in that Act or regulation is

- (a) calculated by a different method; or
- (b) specified, either as a minimum or a maximum.

CRIMINAL CODE, R.S.C. 1985, c.C-46,s.738(2012).Restitution to victims of offences

(1) Restitution to victims of offences

Where an offender is convicted or discharged under section 730 of an offence, the court imposing sentence on or discharging the offender may, on application of the Attorney General or on its own motion, in addition to any other measure imposed on the offender, order that that offender make restitution to another person as follows:

- (a) in the case of damage to, or the loss or destruction of, the property of any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding the replacement value of the property as of the date the order is imposed, less the value of any part of the property that is returned to that person as of the date it is returned, where the amount is readily ascertainable;
- (b) in the case of bodily or psychological harm to any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding all pecuniary damages incurred as a result of the harm, including loss of income or support, if the amount is readily ascertainable; and
- (c) in the case of bodily harm or threat of bodily harm to the offender's spouse or common-law partner or child, or any other person, as a result of the commission of the

offence or the arrest or attempted arrest of the offender, where the spouse or common-law partner, child or other person was a member of the offender's household at the relevant time, by paying to the person in question, independently of any amount ordered to be paid under paragraphs (a) and (b), an amount not exceeding actual and reasonable expenses incurred by that person, as a result of moving out of the offender's household, for temporary housing, food, child care and transportation, where the amount is readily ascertainable; and

(d) in the case of an offence under section 402.2 or 403, by paying to a person who, as a result of the offence, incurs expenses to re-establish their identity, including expenses to replace their identity documents and to correct their credit history and credit rating, an amount that is not more than the amount of those expenses, to the extent that they are reasonable, if the amount is readily ascertainable.

(2) Regulations

The lieutenant governor in council of a province may make regulations precluding the inclusion of provisions on enforcement of restitution orders as an optional condition of a probation order or of a conditional sentence order.

ANIMAL PROTECTION LAWS OF COLORADO

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Colorado's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Colorado may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

COLORADO

1. GENERAL PROHIBITIONS*	<p>(1) General cruelty to animals COLO. REV. STAT. § 18-9-202</p> <p>(2) Intentional abandonment of a dog or cat COLO. REV. STAT. § 18-9-202</p> <p>(3) Aggravated cruelty to animals COLO. REV. STAT. § 18-9-202</p> <p>(4) Care of confined animal COLO. REV. STAT. § 35-42-108(1)</p> <p>(5) Mistreatment or neglect of an animal COLO. REV. STAT. § 35-42-109(1)</p>
<i>Animals Covered in Definition</i>	<p>“[A]ny living dumb creature, including a service animal” COLO. REV. STAT. § 18-9-201</p> <p>“[A]ny living dumb creature” COLO. REV. STAT. § 35-42-103(3)</p> <p>“Companion animal” means domestic dogs, domestic cats, small pet birds, and other nonlivestock species. COLO. REV. STAT. § 35-42-103(5)</p> <p>“Livestock” means cattle, swine, sheep, goats, and such horses, mules, asses, and other animals used in the farm or ranch production of food, fiber, or other products defined by the commissioner as agricultural products. COLO. REV. STAT. § 35-42-103(8)</p>

COLORADO*continued*

Classification of Crimes

(1)
[1st offense]
Class 1 misdemeanor

[Subsequent offenses]
Class 6 felony

(2)
Class 1 misdemeanor

(3)
[1st offense]
Class 6 felony

[Subsequent offenses]
Class 5 felony

(4), (5)
Civil

2. MAXIMUM PENALTIES**

(1), (2)
[1st offense]:
18 months prison
and/or
\$5,000 fine
COLO. REV. STAT. § 18-1.3-501

[Subsequent offenses]:
mandatory jail or home detention
COLO. REV. STAT. § 18-9-202(2)(b)
mandatory minimum \$1,000 fine and
mandatory counseling
COLO. REV. STAT. § 18-9-202(2)(a.5)(V)

COLORADO <i>continued</i>	
2. MAXIMUM PENALTIES ** <i>continued</i>	<p>(3) [1st offense]: 18 months prison <i>and</i> \$1000 fine COLO. REV. STAT. § 18-1.3-401</p> <p>[Subsequent offenses]: 3 years prison <i>and</i> \$1000 fine COLO. REV. STAT. § 18-1.3-401</p> <p>(4), (5) Injunctions, forfeiture, liability for costs of care COLO. REV. STAT. §§ 35-42-108, -109, -112</p>
3. EXEMPTIONS ***	<p>1, 2, 3, 4, 6, 7, 9 COLO. REV. STAT. §§ 18-9-201.5, 18-9-202(2)(a.5)(VII),(2.5),(3)</p> <p>2, 3, 4, 8, 9 COLO. REV. STAT. § 35-42-104</p>
4. COUNSELING / EVALUATIONS †	<p>Court shall order a pre-sentencing evaluation and may order a treatment program in addition to other penalties. COLO. REV. STAT. §§ 18-9-202(2)(a.5)(II), (III),(IV)</p> <p>Mandatory treatment for 2nd offense COLO. REV. STAT. § 18-9-202(2)(a.5)(V)</p> <p>Juveniles adjudicated as delinquent for committing animal cruelty may be required to complete anger management training or other treatment programs as determined by the court. COLO. REV. STAT. § 19-2-918.5(1)</p>

COLORADO <i>continued</i>	
5. PROTECTIVE ORDERS[†]	<p>“Abuse of the elderly or of an at-risk adult” includes abuse or threats of violence against an animal of the elderly or at-risk adult. COLO REV. STAT. § 13-14-101(1)</p> <p>Civil and emergency protective orders may include animals of a protected person. COLO REV. STAT. §§ 13-14-102(15), 13-14-103(1)(b)</p> <p>Domestic abuse/violence includes crimes against a person’s animal. COLO REV. STAT. §§ 13-14-101(2), 18-6-800.3</p> <p>Protective orders may include the animals of a protected person. COLO REV. STAT. §§ 13-14-101(2.4), 18-6-803.5</p>
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>Owner or custodian liable for costs of care and disposal of animal must file a payment for impound, care, and provision expenses as determined by the impounding agency, within 10 days of animal’s seizure. COLO. REV. STAT. § 18-9-202.5</p> <p>Upon sale of an impounded animal, proceeds shall be used for costs of the sale and care and provision of the animal. COLO. REV. STAT. § 18-9-202.5</p> <p>Upon a judgment by the court that a person is able to adequately provide for an animal, the animal shall be returned after all reasonable expenses for care provided by the commissioner have been paid. COLO. REV. STAT. § 35-42-109(5)(c)</p>

COLORADO <i>continued</i>	
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†] <i>continued</i></p>	<p>If an animal in the custody or protection of the commissioner is ordered sold by the court, expenses for the care of the animal shall be recovered from the proceeds. COLO. REV. STAT. §§ 35-42-109(5)(d), (6)(c)</p> <p>State animal protection fund may collect donations, proceeds from sales of animals pursuant to court order, restitutions, and general fund appropriations. Proceeds shall be used by the department of agriculture in carrying out Article 42 – Animal Protection. COLO. REV. STAT. § 35-42-113</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>A peace officer may impound an animal that the peace officer has probable cause to believe is a victim of animal cruelty, neglect or animal fighting. COLO. REV. STAT. § 18-9-202(1.8)</p> <p>Officers and agents of the bureau of animal protection, peace officers, and licensed veterinarians may enter areas or non-residence buildings to care for animals confined without adequate food or water. No liability for any such action. COLO. REV. STAT. § 35-42-108</p> <p>The commissioner may take charge of, provide for, or remove from the area or building any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal’s life or health is endangered; livestock may similarly be treated pursuant to a court order. COLO. REV. STAT. § 35-42-109(2)</p>

COLORADO <i>continued</i>	
<p>7. SEIZURE / ON-SITE SUPERVISION<i>continued</i></p>	<p>Any officer or agent of the bureau of animal protection may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty. COLO. REV. STAT. § 35-42-109(8)</p> <p>During regular business hours, the commissioner shall have free and unimpeded access, upon consent or upon obtaining an administrative search warrant, to all buildings, yards, pens, pastures, and other areas in which any animals are kept, handled, or transported for the purpose of carrying out any provision of Article 42 – Animal Protection – or any rule made pursuant to the article. COLO. REV. STAT. § 35-42-111(2)(a)</p>
<p>8. FORFEITURE / POSSESSION[†]</p>	<p>Animal shelter may dispose of animal if owner fails to post a bond for costs of impound and care, or if animal is experiencing extreme pain or suffering. COLO. REV. STAT. § 18-9-202.5</p> <p>Court may order a mistreated animal forfeited if ownership is unknown; or if owner should have known of the mistreatment of the animal and failed to take reasonable steps to prevent it; or as an element of sentencing for a violation of the animal protection laws. COLO. REV. STAT. § 18-9-208</p> <p>If a companion animal is not cared for by a person other than an agent or officer of the bureau of animal protection or a peace officer or veterinarian within 72 hours of posting notice of entry to care for the animal, the animal is presumed abandoned.</p>

	COLO. REV. STAT.§ 35-42-108(4)
COLORADO <i>continued</i>	
8. FORFEITURE / POSSESSION[†] <i>continued</i>	<p>If, upon petition, a court determines that an owner of an animal seized is not able to adequately provide for the animal, or is not fit to own the animal, the court shall order the animal sold, placed for adoption, given to a shelter, humanely destroyed or otherwise disposed.</p> <p>COLO. REV. STAT.§ 35-42-109(6)</p> <p>Failure to pay court-ordered expenses may result in disposition of a seized animal.</p> <p>COLO. REV. STAT.§ 35-42-109(5)</p> <p>Injured animals may be euthanized.</p> <p>COLO. REV. STAT.§ 35-42-110</p>
9. CROSS ENFORCEMENT / REPORTING	<p>Good faith reporting of animal cruelty results in immunity from civil liability.</p> <p>COLO. REV. STAT. § 18-9-209</p> <p>Officers and agents of the state bureau of animal protection, and animal control officers shall report suspected child abuse and neglect.</p> <p>COLO. REV. STAT. § 19-3-304</p>
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians shall report suspected animal cruelty and are immune from liability in any civil or criminal action.</p> <p>COLO. REV. STAT. § 12-64-121</p> <p>The veterinary-patient-client privilege may not be asserted for the purpose of excluding</p>

	<p>or refusing evidence or testimony in a prosecution for animal cruelty or fighting. COLO. REV. STAT. § 24-72-204(3)(a)(XIV)</p>
<p>COLORADO<i>continued</i></p>	
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Animal control officers may issue citations, summonses and complaints. COLO. REV. STAT. § 30-15-105</p> <p>State bureau of animal protection COLO. REV. STAT. § 35-42-105</p> <p>The commissioner of the department of agriculture shall appoint such animal protection agents as are necessary to carry out the provisions of Article 42 – Animal Protection. The commissioner may appoint agents who are employees of the state, nonprofit corporations, municipal corporations, counties, cities, cities and counties, or any other local governmental entity or political subdivision of the state. COLO. REV. STAT. §§ 35-42-106, -107</p> <p>Any officer or agent of the bureau of animal protection may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty. COLO. REV. STAT. § 35-42-109(8)</p> <p>The commissioner shall make any investigations necessary to ensure compliance with Article 42 – Animal Protection. COLO. REV. STAT. § 35-42-111</p> <p>The commissioner or his designee shall enforce the provisions of this article; may issue cease-and-desist orders; and ask the court to restrain or enjoin actions that contravene Article 42 – Animal Protection. In any such action, the commissioner shall not be required to plead or prove irreparable</p>

	<p>injury or the inadequacy of the remedy at law. COLO. REV. STAT. § 35-42-112</p> <p><i>Also see annotation</i></p>
<p>COLORADO<i>continued</i></p>	
<p>12. SEXUAL ASSAULT</p>	<p>Sexual assault of an animal is a misdemeanor on the first offense, and a Class 6 felony for subsequent offenses. COLO. REV. STAT. § 18-9-202(1)(a)</p>
<p>13. FIGHTING</p>	<p>Various animal fighting activities are Class 5 felonies on first offense, Class 4 for subsequent offenses. Fines collected for these offenses shall be transmitted to the county in which they occurred. COLO. REV. STAT. §§ 18-9-204, -205</p>
<p><i>Other Felony Provisions Affecting Animals</i>^{††}</p>	<p>Ownership of a dangerous dog who inflicts serious bodily injury to or causes the death of a person COLO. REV. STAT. § 18-9-204.5</p>
<p>NOTES</p>	<p>Abandonment of an animal at veterinarian, boarding, or other care COLO. REV. STAT. §12-64-115</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

†† This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

COLO REV. STAT. § 18-9-201(2012). Definitions.

As used in this section and sections 18-9-201.5, 18-9-202, 18-9-202.5, and 18-9-204.5, unless the context otherwise requires:

(1) “Abandon” means the leaving of an animal without adequate provisions for the animal’s proper care by its owner, the person responsible for the animal’s care or custody, or any other person having possession of such animal.

(2) “Animal” means any living dumb creature, including a service animal as defined in section 18-1.3-602(3.5).

(2.5) “Disposal” or “disposition” means adoption of an animal; return of an animal to the owner; sale of an animal under section 18-9-202.5(4); release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.; release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S., or release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service; or euthanasia.

(2.7) “Euthanasia” means to produce a humane death by techniques accepted by the American veterinary medical association.

(2.9) “Livestock” means bovine, camelids, caprine, equine, ovine, porcine, and poultry.

(3) “Mistreatment” means every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

(4) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal.

(5) “Sexual act with an animal” means an act between a person and an animal involving direct physical contact between the genitals of one and the mouth, anus, or genitals of the other. A sexual act with an animal may be proven without allegation or proof of penetration. Nothing in this subsection (5) shall be construed to prohibit accepted animal husbandry practices.

COLO. REV. STAT. § 18-9-202 (2012).Cruelty to animals--aggravated cruelty to animals--neglect of animals—offenses.

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)

(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal if he or she violates the provisions of subsection (1) of this section with respect to a service animal as defined in section 18-1.3-602(3.5), whether the service animal is on duty or not on duty.

(1.6) *As used in this section, unless the context otherwise requires:*

(a) “Serious physical harm” means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing

extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(a.5)

(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules set

forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty to animals incident.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

COLO. REV. STAT. § 35-42-102 (2012). Legislative declaration.

The general assembly hereby finds and declares that the protection of companion animals and livestock is a matter of statewide concern; and that it is the policy of this state that persons responsible for the care or custody of such animals be persons fit to adequately provide for the health and well-being of such animals.

COLO. REV. STAT. § 35-42-103 (2012). Definitions.

As used in this article, unless the context otherwise requires:

- (1) “Abandon” means the leaving of an animal without adequate provisions for the animal’s proper care by its owner, the person responsible for the animal’s care or custody, or any other person having possession of such animal.*
- (2) “Accepted animal husbandry” means practices generally recognized as appropriate in the care of animals consistent with the species, breed, and type of animal.*
- (3) “Animal” means any living dumb creature.*
- (4) “Commissioner” means the Colorado commissioner of agriculture or his designee.*
- (5) “Companion animal” means domestic dogs, domestic cats, small pet birds, and other nonlivestock species.*
- (6) “Department” means the Colorado department of agriculture.*
- (7) “Division” means the division of animal industry of the department of agriculture.*
- (8) “Livestock” means cattle, swine, sheep, goats, and such horses, mules, asses, and other animals used in the farm or ranch production of food, fiber, or other products defined by the commissioner as agricultural products.*
- (9) “Mistreat” means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.*
- (10) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal.*

COLO. REV. STAT. § 35-42-108 (2012). Care of confined animal.

(1) *Except as authorized by law, no animal shall be confined without an adequate supply of food and water.* If any animal is found to be confined without adequate food or water, it shall be lawful for any officer or agent of the bureau, a peace officer within his jurisdiction, or a licensed veterinarian to, from time to time as may be necessary, enter into any and upon any area or building where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.

(2) Such officer, agent, peace officer, or veterinarian shall not be liable in any action for such entry.

(3) Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

(4) In the case of companion animals, if such animal is not cared for by a person other than an agent or officer of the bureau or a peace officer or veterinarian within seventy-two hours of the posting of said notification, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

COLO. REV. STAT. § 35-42-109 (2012). Protection of animals mistreated, neglected, or abandoned.

(1) *No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered.*

(2)

(a) The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)

(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)

(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)

(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

(II) Placed for adoption in a suitable home;

(III) Given to a suitable animal shelter;

(IV) Humanely destroyed as deemed proper by the court; or

(V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the stray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his presence.

2. PENALTIES

COLO. REV. STAT. § 18-9-202 (2012). Cruelty to animals—aggravated cruelty to animals—neglect of animals—offenses.

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)

(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal if he or she violates the provisions of subsection (1) of this section with respect to a service animal as defined in section 18-1.3-602(3.5), whether the service animal is on duty or not on duty.

(1.6) As used in this section, unless the context otherwise requires:

(a) “Serious physical harm” means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(a.5)

(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty to animals incident.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

Editor's note: *The sentence for a class 1 misdemeanor is a minimum 6 months in prison, or a \$500 fine, or both; and a maximum 18 months in prison, or a \$5,000 fine, or both. See COLO. REV. STAT. ANN. § 18-1.3-501 (2012). The sentence for a Class 6 felony is a minimum one year in prison and/or a \$1000 fine, and a maximum 18 months in prison and a \$1000 fine. The sentence for a Class 5 felony is a minimum one year in prison and/or a \$1000 fine, and a maximum three years in prison and a \$1000 fine. See COLO. REV. STAT. ANN. § 18-1.3-401 (2012).*

COLO. REV. STAT. § 35-42-108 (2012). Care of confined animal.

(1) *Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any officer or agent of the bureau, a peace officer within his jurisdiction, or a licensed veterinarian to, from time to time as may be necessary, enter into any and upon any area or building where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.*

(2) *Such officer, agent, peace officer, or veterinarian shall not be liable in any action for such entry.*

(3) *Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.*

(4) *In the case of companion animals, if such animal is not cared for by a person other than an agent or officer of the bureau or a peace officer or veterinarian within seventy-two hours of the posting of said notification, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.*

COLO. REV. STAT. § 35-42-109 (2012). Protection of animals mistreated, neglected, or abandoned.

(1) *No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered.*

(2)

(a) *The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such*

degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)

(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)

(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such

animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)

(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

(II) Placed for adoption in a suitable home;

(III) Given to a suitable animal shelter;

(IV) Humanely destroyed as deemed proper by the court; or

(V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18,

C.R.S., which act occurs in his presence.

COLO. REV. STAT. § 35-42-112 (2012). Enforcement.

(1) The commissioner or his designee shall enforce the provisions of this article.

(2)

(a) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any rule made pursuant to this article has occurred and immediate enforcement is deemed necessary, he may issue a cease-and-desist order, which may require any person to cease violating any provision of this article or any rule made pursuant to this article. Such cease-and-desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and shall require that all actions causing the violation be ceased.

(b) In the event that any person fails to comply with a cease-and-desist order within twenty-four hours, the commissioner may bring a suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of this article.

(c) No stay of a cease-and-desist order shall be issued before a hearing thereon involving both parties.

(d) Matters brought before a court pursuant to this section shall have preference over other matters on the court's calendar.

(3) Whenever it appears to the commissioner upon sufficient evidence satisfactory to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this article or of any rule adopted pursuant to this article, he may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any rule adopted pursuant to this article. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.

3. EXEMPTIONS

COLO. REV. STAT. § 18-9-201.5 (2012).Scope of part 2.

(1) *Nothing in this part 2 shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals or in the extermination of undesirable pests as defined in articles 7, 10, and 43 of title 35, COLO. REV. STAT. ANN.*

(2) *In case of any conflict between this part 2 or section 35-43-126, COLO. REV. STAT. ANN., and the wildlife statutes of the state, said wildlife statutes shall control.*

(3) *Nothing in this part 2 shall affect animal care otherwise authorized by law.*

(4) *Nothing in this part 2 shall affect facilities licensed under the provisions of the federal “Animal Welfare Act of 1970”, 7 U.S.C. sec. 2131 et seq., as amended.*

COLO. REV. STAT. § 18-9-202 (2012).Cruelty to animals—aggravated cruelty to animals—neglect of animals—offenses.

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)

(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal if he or she violates the provisions of subsection (1) of this section with respect to a service animal as defined in section 18-1.3-602(3.5), whether the service animal is on duty or not on duty.

(1.6) As used in this section, unless the context otherwise requires:

(a) “Serious physical harm” means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(a.5)

(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty to animals incident.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

COLO. REV. STAT. § 35-42-104 (2012). Scope of article.

(1) Nothing in this article shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals, or in the extermination of undesirable pests as defined in articles 7, 10, and 43 of this title.

(2) In case of any conflict between this article or regulations adopted pursuant to this article or section 35-43-126 and the wildlife statutes of the state, said wildlife statutes shall control.

(3) Nothing in this article shall affect animal care otherwise authorized by law.

(4) Nothing in this article shall affect facilities licensed under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended.

4. COUNSELING / EVALUATIONS

COLO. REV. STAT. § 18-9-202 (2012). Cruelty to animals—aggravated cruelty to animals—neglect of animals—offenses.

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)

(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal if he or she violates the provisions of subsection (1) of this section with respect to a service animal as defined in section 18-1.3-602(3.5), whether the service animal is on duty or not on duty.

(1.6) As used in this section, unless the context otherwise requires:

(a) “Serious physical harm” means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(a.5)

(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty to animals incident.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

COLO. REV. STAT. § 19-2-918.5(2012).Sentencing—animal cruelty—anger management treatment.

(1) In addition to any sentence imposed pursuant to this section, any juvenile who has been adjudicated a juvenile delinquent for the commission of cruelty to animals, as described in section 18-9-202 (1) (a), C.R.S., in which the underlining factual basis of which has been found by the court to include the knowing or intentional torture or torment of an animal which needlessly injures, mutilates, or kills an animal, may be ordered to complete an anger management treatment program or any other treatment program deemed appropriate by the court.

(2) The court may order an evaluation to be conducted prior to disposition if an evaluation would assist the court in determining an appropriate disposition. The parents or legal guardian of the juvenile ordered to undergo an evaluation shall be required to pay the cost of the evaluation. If the evaluation results in a recommendation of treatment and if the court so finds, the juvenile shall be ordered to complete an anger management treatment program or any other treatment program deemed appropriate by the court.

(3) The disposition for any juvenile who has been adjudicated a juvenile delinquent a second or subsequent time, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, as described in section 18-9-202 (1) (a), C.R.S., shall include the completion of an anger management treatment program or any other treatment program deemed appropriate by the court.

(4) Nothing in this section shall preclude the court from ordering treatment in any appropriate case.

(5) This section does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules and regulations set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

5. PROTECTIVE ORDERS

COLO. REV. STAT. § 13-14-101 (2012). Definitions.

For purposes of this article, unless the context otherwise requires:

(1) *“Abuse of the elderly or of an at-risk adult” means mistreatment of a person who is sixty years of age or older or who is an at-risk adult as defined in section 26-3.1-101 (1), C.R.S., including but not limited to repeated acts that:*

- (a) Constitute verbal threats or assaults;
- (b) Constitute verbal harassment;
- (c) Result in the inappropriate use or the threat of inappropriate use of medications;
- (d) Result in the inappropriate use of physical or chemical restraints;
- (e) Result in the misuse of power or authority granted to a person through a power of attorney or by a court in a guardianship or conservatorship proceeding that results in unreasonable confinement or restriction of liberty; or

(f) Constitute threats or acts of violence against, or the taking, transferring, concealing, harming, or disposing of, an animal owned, possessed, leased, kept, or held by the elderly or at-risk adult, which threats or acts are intended to coerce, control, punish, intimidate, or exact revenge upon the elderly or at-risk adult.

(1.5) “Adult” means a person eighteen years of age or older.

(2) “Domestic abuse” means any act or threatened act of violence that is committed by any person against another person to whom the actor is currently or was formerly related, or with whom the actor is living or has lived in the same domicile, or with whom the actor is involved or has been involved in an intimate relationship. *“Domestic abuse” may also include any act or threatened act of violence against:*

- (a) The minor children of either of the parties; or
- (b) An animal owned, possessed, leased, kept, or held by either of the parties or by a minor child of either of the parties, which threat or act is intended to coerce, control, punish, intimidate, or exact revenge upon either of the parties or a minor child of either of the parties.*

(2.2) “Minor child” means a person under eighteen years of age.

(2.3) “Protected person” means the person or persons identified in a protection order as the person or persons for whose benefit the protection order was issued.

(2.4)

(a) *“Protection order” means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person, or from threatening, taking, transferring, concealing, harming, or disposing of an animal owned, possessed, leased, kept, or held by a protected person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises or any other provision to protect the protected person from imminent danger to life or health that is issued by a court of this state or a municipal court and that is issued pursuant to:*

(I) This article, section 18-1-1001, C.R.S., section 19-2-707, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;

(II) Sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., or section 19-3-316, C.R.S., as those sections existed prior to July 1, 2004;

(III) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(IV) *Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching a person, or from threatening, taking, transferring, concealing, harming, or disposing of an animal owned, possessed, leased, kept, or held by a person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.*

(b) For purposes of this article only, “protection order” includes any order that amends, modifies, supplements, or supersedes the initial protection order. “Protection order” also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-104.

(2.8) “Restrained person” means a person identified in a protection order as a person prohibited from doing a specified act or acts.

(3) “Stalking” means the crime of stalking as described in section 18-3-602, C.R.S.

COLO. REV. STAT. § 13-14-102 (2012). Civil protection orders—legislative declaration.

(1)

(a) The general assembly hereby finds that the issuance and enforcement of protection orders are of paramount importance in the state of Colorado because protection orders promote safety, reduce violence, and prevent serious harm and death. In order to improve the public's access to protection orders and to assure careful judicial consideration of requests and effective law enforcement, there shall be two processes for obtaining protection orders within the state of Colorado, a simplified civil process and a mandatory criminal process.

(b) The general assembly further finds and declares that:

(I) Domestic violence is not limited to physical threats of violence and harm but includes financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser due to fear of retaliation or inability to meet basic needs;

(II) Victims of domestic violence in many cases are unable to access resources to seek lasting safety options;

(III) These victims need the assistance of additional court orders to meet their immediate needs for food, shelter, transportation, medical care, and child care at the time they go to court for a civil protection order; and

(IV) These additional court orders are needed not only in cases that end in dissolution of marriage but also in cases in which reconciliation is appropriate, as well as in other cases.

(1.5) Any municipal court of record, if authorized by the municipal governing body; any county court; and any district, probate, or juvenile court shall have original concurrent jurisdiction to issue a temporary or permanent civil protection order against an adult or against a juvenile who is ten years of age or older for any of the following purposes:

(a) To prevent assaults and threatened bodily harm;

(b) To prevent domestic abuse;

(c) To prevent emotional abuse of the elderly or of an at-risk adult;

(d) To prevent stalking.

(2) Any civil protection order issued pursuant to this section shall be issued using the standardized set of forms developed by the state court administrator pursuant to section 13-1-136.

(2.5) Venue for filing a motion or complaint pursuant to this section is proper in any county where the acts that are the subject of the motion or complaint occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(3) A motion for a temporary civil protection order shall be set for hearing, which hearing may be ex parte, at the earliest possible time and shall take precedence over all matters, except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

(3.3) Any district court, in an action commenced under the “Uniform Dissolution of Marriage Act”, article 10 of title 14, C.R.S., shall have authority to issue temporary and permanent protection orders pursuant to the provisions of subsection (1.5) of this section. Such protection order may be as a part of a motion for a protection order accompanied by an affidavit filed in an action brought under article 10 of title 14, C.R.S. Either party may request the court to issue a protection order consistent with any other provision of this article.

(3.7) At the time a protection order is requested pursuant to this section, the court shall inquire about, and the requesting party and such party’s attorney shall have an independent duty to disclose, knowledge such party and such party’s attorney may have concerning the existence of any prior protection or restraining order of any court addressing in whole or in part the subject matter of the requested protection order. In the event there are conflicting restraining or protection orders, the court shall consider, as its first priority, issues of public safety. An order that prevents assaults, threats of assault, or other bodily harm shall be given precedence over an order that deals with the disposition of property or other tangible assets. Every effort shall be made by judicial officers to clarify conflicting orders.

(4)

(a) A temporary civil protection order may be issued if the issuing judge or magistrate finds that an imminent danger exists to the person or persons seeking protection under the civil protection order. In determining whether an imminent danger exists to the life or health of one or more persons, the court shall consider when the most recent incident of abuse or threat of harm occurred as well as all other relevant evidence concerning the safety and protection of the persons seeking the protection order. However, the court shall not deny a petitioner the relief requested solely because of a lapse of time between an act of abuse or threat of harm and filing of the petition for a protection order.

(b) If the judge or magistrate finds that an imminent danger exists to the employees of a business entity, he or she may issue a civil protection order in the name of the business for the protection of the employees. An employer shall not be liable for failing to obtain a civil protection order in the name of the business for the protection of the employees and patrons.

(5) Upon the filing of a complaint duly verified, alleging that the defendant has committed acts that would constitute grounds for a civil protection order, any judge or magistrate, after hearing the evidence and being fully satisfied therein that sufficient cause exists, may issue a temporary civil protection order to prevent the actions complained of and a citation directed to the defendant commanding the defendant to appear before the court at a specific time and date and to show cause, if any, why said temporary civil protection order should not be made permanent. In addition, the court may order any other relief that the court deems appropriate. Complaints maybe filed by persons seeking protection for themselves or for others as provided in section 26-3.1-102 (1) (b) and (1) (c), C.R.S.

(6) A copy of the complaint together with a copy of the temporary civil protection order and a copy of the citation shall be served upon the defendant and upon the person to be protected, if the complaint was filed by another person, in accordance with the rules for service of process as provided in rule 304 of the rules of county court civil procedure or rule 4 of the Colorado rules of civil procedure. The citation shall inform the defendant that, if the defendant fails to appear in court in accordance with the terms of the citation, a bench warrant may be issued for the arrest of the defendant and the temporary protection order previously entered by the court shall be made permanent without further notice or service upon the defendant.

(7) The return date of the citation shall be set not more than fourteen days after the issuance of the temporary civil protection order and citation. If the petitioner is unable to serve the defendant in that period, the court shall extend the temporary protection order previously issued, continue the show of cause hearing, and issue an alias citation stating the date and time to which the hearing is continued. The petitioner may thereafter request, and the court may grant, additional continuances as needed if the petitioner has still been unable to serve the defendant.

(8)

(a) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes such person from a shared residence, shall be permitted to return to such shared residence one time to obtain sufficient undisputed personal effects as are necessary for such person to maintain a normal standard of living during any period prior to a hearing concerning such order. Such person against whom a temporary protection order is issued shall be permitted to return to such shared residence only if such person is accompanied at all times while the person is at or in such shared residence by a peace officer.

(b) When any person is served with a temporary protection order issued against such person excluding such person from a shared residence, such temporary protection order shall contain a notification in writing to such person of such person's ability to return to such shared residence pursuant to paragraph (a) of this subsection (8). Such written notification shall be in bold print and conspicuously placed in such temporary protection order. No judge, magistrate, or other judicial officer shall issue a temporary protection order that does not comply with this subsection (8).

(c) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes such person from a shared residence, shall be entitled to avail himself or herself of the forcible entry and detainer remedies available pursuant to article 40 of this title. However, such person shall not be entitled to return to the residence until such time as a valid writ of restitution is executed, filed with the court issuing the protection order, and, if necessary, the protection order is modified accordingly. A landlord whose lessee has been excluded from a residence pursuant to the terms of a protection order is also entitled to avail himself or herself of the remedies available pursuant to article 40 of this title.

(9)

(a) On the return date of the citation, or on the day to which the hearing has been continued, the judge or magistrate shall examine the record and the evidence. If upon such examination the judge or magistrate is of the opinion that the defendant has committed acts constituting grounds for issuance of a civil protection order and that unless restrained will continue to commit such acts, the judge or magistrate shall order the temporary civil protection order to be made permanent or order a permanent civil protection order with different provisions from the temporary civil protection order. The judge or magistrate shall inform said defendant that a violation of the civil protection order shall constitute a criminal offense pursuant to section 18-6-803.5, C.R.S., or shall constitute contempt of court and subject the defendant to such punishment as may be provided by law. If the defendant fails to appear before the court for the show cause hearing at the time and on the date identified in the citation issued by the court and the court finds that the defendant was properly served with the temporary protection order and such citation, it shall not be necessary to re-serve the defendant to make the protection order permanent. However, if the court modifies the protection order on the motion of the protected party, the modified protection order shall be served upon the defendant.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (9), the judge or magistrate, after examining the record and the evidence, for good cause shown, may continue the temporary protection order and the show cause hearing to a date certain not to exceed one hundred twenty days after the date of the hearing if he or she determines such continuance would be in the best interests of the parties and if both parties are present at the hearing and agree to the continuance. In addition, each party may request one continuance for a period not to exceed fourteen days which the judge or magistrate, after examining the record and the evidence, may grant upon a finding of good cause. The judge or magistrate shall inform the defendant that a violation of the temporary civil protection order shall constitute a criminal offense pursuant to section 18-6-803.5, C.R.S., or shall constitute contempt of court and subject the defendant to such punishment as may be provided by law.

(c) Notwithstanding the provisions of paragraph (b) of this subsection (9), for a protection order filed in a proceeding commenced under the “Uniform Dissolution of Marriage Act”, article 10 of title 14, C.R.S., the court may, on the motion of either party if both parties agree to the continuance, continue the temporary protection order until the time of the final decree or final disposition of the action.

(10) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, C.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party.

(11) If the order has not been personally served, the peace officer responding to a call for assistance shall serve a copy of said order on the person named defendant therein and shall write the time, date, and manner of service on the protected person’s copy of such order and shall sign such statement.

(12) The duties of peace officers enforcing the civil protection order shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

(13) A person failing to comply with any order of the court issued pursuant to this section shall be found in contempt of court or may be prosecuted for violation of a civil protection order pursuant to section 18-6-803.5, C.R.S.

(14) At the time a civil protection order is requested, the court shall inquire about, and the requesting party and such party’s attorney shall have an independent duty to disclose, any knowledge such party and such party’s attorney may have concerning the existence of any prior protection orders of any court addressing in whole or in part the subject matter of the requested civil protection order.

(15) A municipal court of record that is authorized by its municipal governing body to issue protection or restraining orders and any county court, in connection with issuing a civil protection order, shall have original concurrent jurisdiction with the district court to issue such additional orders as the municipal or county court deems necessary for the protection of persons. Such additional orders may include, but are not limited to:

(a) Restraining a party from threatening, molesting, or injuring any other party or the minor child of either of the parties;

(b) Restraining a party from contacting any other party or the minor child of either of the parties;

(c) Excluding a party from the family home upon a showing that physical or emotional harm would otherwise result;

(d) Excluding a party from the home of another party upon a showing that physical or emotional harm would otherwise result;

(e)

(I) Awarding temporary care and control of any minor children of either party involved for a period of not more than one hundred twenty days.

(II) If temporary care and control is awarded, the order may include parenting time rights for the other party involved and any conditions of such parenting time, including the supervision of such parenting time by a third party who agrees on the record to the terms of the supervised parenting time and any costs associated with supervised parenting time, if necessary. If the restrained party is unable to pay the ordered costs, the court shall not place such responsibility with publicly funded agencies. If the court finds that the safety of any child or the protected party cannot be ensured with any form of parenting time reasonably available, the court may deny parenting time.

(II.5) The court may award interim decision-making responsibility of a child to a person entitled to bring an action for the allocation of parental responsibilities under section 14-10-123, C.R.S., when such award is reasonably related to preventing domestic abuse as defined in section 13-14-101 (2), or preventing the child from witnessing domestic abuse.

(III) The standard for the award of temporary care and control or interim decision-making responsibility shall be in accordance with section 14-10-124, C.R.S.

(f) Such other relief as the court deems appropriate;

(f.2) Restraining a party from threatening, molesting, injuring, killing, taking, transferring, encumbering, concealing, or disposing of an animal owned, possessed, leased, kept, or held by any other party, a minor child of any other party, or an elderly or at-risk adult;

(f.4) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party, a minor child of any other party, or an elderly or at-risk adult.

(g)

(I) A temporary injunction that may be issued by the court that, upon personal service or upon waiver and acceptance of service by the defendant, is to be in effect against the defendant for a period determined to be appropriate by the court and restrains the defendant from ceasing to make payments for mortgage or rent, insurance, utilities or related services, transportation, medical care, or child care

when the defendant has a prior existing duty or legal obligation or from transferring, encumbering, concealing, or in any way disposing of personal effects or real property, except in the usual course of business or for the necessities of life. The restrained party shall be required to account to the court for all extraordinary expenditures made after the injunction is in effect. Any injunction issued shall not exceed one hundred twenty days after the issuance of the permanent civil protection order.

(II) The provisions of the injunction shall be printed on the summons, and the petition and the injunction shall become an order of the court upon fulfillment of the requirements of subparagraph (I) of this paragraph (g).

(III) Nothing in this paragraph (g) shall preclude either party from applying to the district court for further temporary orders, an expanded temporary injunction, or modification or revocation. Any subsequent order issued by the district court as part of a domestic matter involving the parties shall supersede an injunction made pursuant to this paragraph (g).

(16) Any order for temporary care and control issued pursuant to subsection (15) of this section shall be governed by the “Uniform Child-custody Jurisdiction and Enforcement Act”, article 13 of title 14, C.R.S.

(17) Any order granted pursuant to paragraph (c) or (e) of subsection (15) of this section shall terminate whenever a subsequent order regarding the same subject matter is granted pursuant to the “Uniform Dissolution of Marriage Act”, article 10 of title 14, C.R.S., or the “Uniform Child-custody Jurisdiction and Enforcement Act”, article 13 of title 14, C.R.S., or the “Colorado Children’s Code”, title 19, C.R.S.

(17.5)

(a) Nothing in this section shall preclude the protected party from applying to the court at any time for modification, including but not limited to a modification of the duration of a protection order, or dismissal of a temporary or permanent protection order issued pursuant to this section. The restrained party may apply to the court for modification, including but not limited to a modification of the duration of the protection order, or dismissal of a permanent protection order pursuant to this section. However, if a permanent protection order has been issued or if a motion for modification or dismissal of a permanent protection order has been filed by the restrained party, whether or not it was granted, no motion to modify or dismiss may be filed by the restrained party within four years after issuance of the permanent order or after disposition of the prior motion.

(b)

(I)

(A) Notwithstanding any provision of paragraph (a) of this subsection (17.5) to the contrary, after issuance of the permanent protection order, if the restrained party is convicted of any misdemeanor other than the original misdemeanor that formed the basis for the issuance of the protection order, the underlying factual basis of which has been found by a court on the record to include an act of domestic violence, as that term is defined in section 18-6-800.3 (1), C.R.S., or of any felony, then the protection order shall remain permanent and shall not be modified or dismissed by the court.

(B) Notwithstanding the prohibition in sub-subparagraph (A) of this subparagraph (I), a protection order may be modified or dismissed on the motion of the protected person, or the person's attorney, parent or legal guardian if a minor, or conservator of legal guardian if one has been appointed; except that this sub-subparagraph (B) shall not apply if the parent, legal guardian, or conservator is the restrained person.

(II) A court shall not consider a motion to modify a protection order filed by a restrained party pursuant to paragraph (a) of this subsection (17.5) unless the court receives the results of a fingerprint-based criminal history record check of the restrained party that is conducted within ninety days prior to the filing of the motion. The fingerprint-based criminal history record check shall include a review of the state and federal criminal history records maintained by the Colorado bureau of investigation and federal bureau of investigation. The restrained party shall be responsible for supplying fingerprints to the Colorado bureau of investigation and to the federal bureau of investigation and paying the costs of the record checks. The restrained party may be required by the court to provide certified copies of any criminal dispositions that are not reflected in the state or federal records and any other dispositions that are unknown.

(c) Except as otherwise provided in this section, the issuing court shall retain jurisdiction to enforce, modify, or dismiss a temporary or permanent protection order.

(d) Any motion filed pursuant to paragraph (a) of this subsection (17.5) shall be heard by the court. The party moving for a modification or dismissal of a temporary or permanent protection order pursuant to paragraph (a) of this subsection (17.5) shall affect personal service on the other party with a copy of the motion and notice of the hearing on the motion, as provided by rule 4 (e) of the Colorado rules of civil procedure. The moving party shall bear the burden of proof to show, by a preponderance of the evidence, that the modification is appropriate or that a dismissal is appropriate because the protection order is no longer necessary. If the protected party has requested that his or her

address be kept confidential, the court shall not disclose such information to the restrained party or any other person, except as otherwise authorized by law.

(e) In considering whether to modify or dismiss a protection order issued pursuant to this section, the court shall consider all relevant factors, including but not limited to:

(I) Whether the restrained party has complied with the terms of the protection order;

(II) Whether the restrained party has met the conditions associated with the protection order, if any;

(III) Whether the restrained party has been ordered to participate in and complete a domestic violence treatment program provided by an entity approved pursuant to section 16-11.8-103 (4)(a)(III)(C), C.R.S., and whether the restrained party has completed the program;

(IV) Whether the restrained party has voluntarily participated in any domestic violence treatment program or other counseling addressing domestic violence or anger management issues;

(V) The time that has lapsed since the protection order was issued;

(VI) When the last incident of abuse or threat of harm occurred or other relevant information concerning the safety and protection of the protected person;

(VII) Whether, since the issuance of the protection order, the restrained person has been convicted of or pled guilty to a crime, the underlying factual basis of which has been found by a court on the record to include an act of domestic violence, as that term is defined in section 18-6-800.3 (1), C.R.S., other than the original offense, if any, that formed the basis for the issuance of the protection order;

(VIII) Whether any other restraining orders or protective orders or protection orders have been subsequently issued against the restrained person pursuant to this section or any other law of this state or any other state; and

(IX) The circumstances of the parties, including the relative proximity of the parties' residences and work places and whether the parties have minor children together.

(18) A court shall not grant a mutual protection order to prevent domestic abuse for the protection of opposing parties unless each party has met his or her burden of proof as described in subsection (4) of this section and the court makes separate and sufficient findings of fact to support the issuance of the mutual protection order to prevent domestic abuse for the protection of opposing parties. No party may waive the requirements set forth in this subsection (18).

(19) Repealed.

(20) Enactment of this section shall not affect the effectiveness of any civil protection or restraining order issued prior to July 1, 1999.

(21)

(a) The court may assess a filing fee against a petitioner seeking relief under this section; except that the court may not assess a filing fee against a petitioner if the court determines the petitioner is seeking the protection order as a victim of domestic abuse as defined by section 13-14-101(2); domestic violence as defined by section 18-6-800.3(1), C.R.S.; stalking as described in section 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S. Petitioners shall be provided the necessary number of certified copies at no cost.

(b) Fees for service of process may not be assessed by a state agency or public agency against petitioners seeking relief under this section as a victim of conduct consistent with the following: Domestic abuse as defined by section 13-14-101(2); domestic violence as defined by section 18-6-800.3(1), C.R.S.; stalking as described in section 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S.

(c) At the permanent protection order hearing, the court may require the respondent to pay the filing fee and service-of-process fees, as established by the state agency, political subdivision, or public agency pursuant to a fee schedule, and to reimburse the petitioner for costs incurred in bringing the action.

COLO. REV. STAT. § 13-14-103 (2012).Emergency protection orders.

(1)

(a) Any county or district court shall have the authority to enter an emergency protection order pursuant to the provisions of this subsection (1).

(b) An emergency protection order issued pursuant to this subsection (1) may include:

(I) Restraining a party from threatening, molesting, injuring, or contacting any other party, a minor child of either of the parties, or a minor child who is in danger in the reasonably foreseeable future of being a victim of an unlawful sexual offense or domestic abuse;

(II) Excluding a party from the family home or from the home of another party upon a showing that physical or emotional harm would otherwise result;

(III) Awarding temporary care and control of any minor child of a party involved;

(IV) Enjoining an individual from contacting a minor child at school, at work, or wherever he or she may be found.

(V) Restraining a party from threatening, molesting, injuring, killing, taking, transferring, encumbering, concealing, or disposing of an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult; or

(VI) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult.

(c) In cases involving a minor child, the juvenile court and the district court shall have the authority to issue emergency protection orders to prevent an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or to prevent domestic abuse, as defined in section 13-14-101 (2), when requested by the local law enforcement agency, the county department of social services, or a responsible person who asserts, in a verified petition supported by affidavit, that there are reasonable grounds to believe that a minor child is in danger in the reasonably foreseeable future of being the victim of an unlawful sexual offense or domestic abuse, based upon an allegation of a recent actual unlawful sexual offense or domestic abuse or threat of the same. Any emergency protection order issued pursuant to this subsection (1) shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected person.

(d) The chief judge in each judicial district shall be responsible for making available in each judicial district a judge to issue, by telephone, emergency protection orders at all times when the county and district courts are otherwise closed for judicial business. Such judge may be a district court or county court judge or a special associate, an associate, an assistant county judge, or a magistrate.

(e) When the county, district, and juvenile courts are unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week and a peace officer asserts reasonable grounds to believe that an adult is in immediate and present danger of domestic abuse, based upon an allegation of a recent incident of actual domestic abuse or threat of domestic abuse, or that a minor child is in immediate and present danger of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or of domestic abuse, as defined in section 13-14-101 (2), a judge made available pursuant to paragraph (d) of this subsection (1) may issue a written or verbal ex parte emergency protection order. Any written emergency protection order issued pursuant to this subsection (1) shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected person.

(f) An emergency protection order issued pursuant to this subsection (1) shall expire not later than the close of judicial business on the next day of judicial business following the day of issue, unless otherwise continued by the court. The court may continue an emergency protection order filed to prevent domestic abuse pursuant to this subsection

(1) only if the judge is unable to set a hearing on plaintiff's request for a temporary protection order on the day the complaint was filed pursuant to section 13-14-102; except that this limitation on a court's power to continue an emergency protection order shall not apply to an emergency protection order filed to protect a minor child from an unlawful sexual offense or domestic abuse. For any emergency protection order continued pursuant to the provisions of this paragraph (f), following two days' notice to the party who obtained the emergency protection order or on such shorter notice to said party as the court may prescribe, the adverse party may appear and move its dissolution or modification. The motion to dissolve or modify the emergency protection order shall be set down for hearing at the earliest possible time and shall take precedence over all matters except older matters of the same character, and the court shall determine such motions as expeditiously as the ends of justice require.

(2)

(a) A verbal emergency protection order may be issued pursuant to subsection (1) of this section only if the issuing judge finds that an imminent danger in close proximity exists to the life or health of one or more persons or that a danger exists to the life or health of the minor child in the reasonably foreseeable future.

(b) Any verbal emergency protection order shall be reduced to writing and signed by the officer or other person asserting the grounds for the order and shall include a statement of the grounds for the order asserted by the officer or person. The officer or person shall not be subject to civil liability for any statement made or act performed in good faith. The emergency protection order shall be served upon the respondent with a copy given to the protected party and filed with the county or district court as soon as practicable after issuance. Any written emergency protection order issued pursuant to this subsection (2) shall be on a standardized form prescribed by the judicial department, and a copy shall be provided to the protected person.

(3) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, C.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party or his or her parent or an individual acting in the place of a parent who is not the respondent.

(4) If any person named in an order issued pursuant to this section has not been served personally with such order but has received actual notice of the existence and substance of such order from any person, any act in violation of such order may be deemed sufficient to subject the person named in such order to any penalty for such violation.

(5) Venue for filing a complaint pursuant to this section is proper in any county where the acts constituting unlawful sexual assault or domestic abuse that are the subject of the complaint occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(6) A person failing to comply with any order of the court issued pursuant to this section shall be found in contempt of court and, in addition, may be punished as provided in section 18-6-803.5, C.R.S.

(7) At any time that the law enforcement agency having jurisdiction to enforce the emergency protection order has cause to believe that a violation of the order has occurred, it shall enforce the order. If the order is written and has not been personally served, a member of the law enforcement agency shall serve a copy of said order on the person named respondent therein. If the order is verbal, a member of the law enforcement agency shall notify the respondent of the existence and substance thereof.

(8) The availability of an emergency protection order shall not be affected by the subject of domestic abuse leaving his or her residence to avoid such abuse.

(9) The issuance of an emergency protection order shall not be considered evidence of any wrongdoing.

(10) If three emergency protection orders are issued within a one-year period involving the same parties within the same jurisdiction, the court shall summon the parties to appear before the court at a hearing to review the circumstances giving rise to such emergency protection orders.

(11) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

COLO REV. STAT. § 18-6-800.3 (2012). Definitions.

As used in this part 8, unless the context otherwise requires:

(1) “Domestic violence” means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. *“Domestic violence” also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.*

(2) “Intimate relationship” means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

COLO REV. STAT. § 18-6-803.5(2012). Crime of violation of a protection order—penalty—peace officers’ duties.

(1) A person commits the crime of violation of a protection order if, after the person has been personally served with a protection order that identifies the person as a restrained person or otherwise has acquired from the court or law enforcement personnel actual knowledge of the contents of a protection order that identifies the person as a restrained person, the person:

(a) Contacts, harasses, injures, intimidates, molests, threatens, or touches the protected person or protected property, including an animal, identified in the protection order or enters or remains on premises or comes within a specified distance of the protected person, protected property, including an animal, or premises or violates any other provision of the protection order to protect the protected person from imminent danger to life or health, and such conduct is prohibited by the protection order; or

(b) Except as permitted pursuant to section 18-13-126(1)(b), hires, employs, or otherwise contracts with another person to locate or assist in the location of the protected person.

(1.5) As used in this section:

(a) “Protected person” means the person or persons identified in the protection order as the person or persons for whose benefit the protection order was issued.

(a.5)

(1) “Protection order” means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person or protected animal, or from entering or remaining on premises, or from coming within a specified distance of a protected person or protected animal or premises or any other provision to protect the protected person or protected animal from imminent danger to life or health, that is issued by a court of this state or a municipal court, and that is issued pursuant to:

(A) Article 14 of title 13, C.R.S., section 18-1-1001, section 19-2-707, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;

(B) Sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., or section 19-3-316, C.R.S., as those sections existed prior to July 1, 2004;

(C) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(D) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(II) For purposes of this section only, "protection order" includes any order that amends, modifies, supplements, or supersedes the initial protection order. "Protection order" also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-104, C.R.S.

(b) "Registry" means the computerized information system created in section 18-6-803.7 or the national crime information center created pursuant to 28 U.S.C. sec. 534.

(c) "Restrained person" means the person identified in the order as the person prohibited from doing the specified act or acts.

(d) Deleted by Laws 2003, Ch. 139, § 6, eff. July 1, 2003.

(2)

(a) Violation of a protection order is a class 2 misdemeanor; except that, if the restrained person has previously been convicted of violating this section or a former version of this section or an analogous municipal ordinance, or if the protection order is issued pursuant to section 18-1-1001, the violation is a class 1 misdemeanor.

(a.5) A second or subsequent violation of a protection order is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501(3).

(b) Deleted by Laws 1995, H.B.95-1179, § 3, eff. July 1, 1995.

(c) Nothing in this section shall preclude the ability of a municipality to enact concurrent ordinances. Any sentence imposed for a violation of this section shall run consecutively and not concurrently with any sentence imposed for any crime which gave rise to the issuing of the protection order.

(3)

(a) Whenever a protection order is issued, the protected person shall be provided with a copy of such order. A peace officer shall use every reasonable means to enforce a protection order.

(b) A peace officer shall arrest, or, if an arrest would be impractical under the circumstances, seek a warrant for the arrest of a restrained person when the peace officer has information amounting to probable cause that:

(I) The restrained person has violated or attempted to violate any provision of a protection order; and

(II) The restrained person has been properly served with a copy of the protection order or the restrained person has received actual notice of the existence and substance of such order.

(c) In making the probable cause determination described in paragraph (b) of this subsection (3), a peace officer shall assume that the information received from the registry is accurate. A peace officer shall enforce a valid protection order whether or not there is a record of the protection order in the registry.

(d) The arrest and detention of a restrained person is governed by applicable constitutional and applicable state rules of criminal procedure. The arrested person shall be removed from the scene of the arrest and shall be taken to the peace officer's station for booking, whereupon the arrested person may be held or released in accordance with the adopted bonding schedules for the jurisdiction in which the arrest is made, or the arrested person may be taken to the jail in the county where the protection order was issued. The law enforcement agency or any other locally designated agency shall make all reasonable efforts to contact the protected party upon the arrest of the restrained person. The prosecuting attorney shall present any available arrest affidavits and the criminal history of the restrained person to the court at the time of the first appearance of the restrained person before the court.

(e) The arresting agency arresting the restrained person shall forward to the issuing court a copy of such agency's report, a list of witnesses to the violation, and, if applicable, a list of any charges filed or requested against the restrained person. The agency shall give a copy of the agency's report, witness list, and charging list to the protected party. The agency shall delete the address and telephone number of a witness from the list sent to the court upon request of such witness, and such address and telephone number shall not thereafter be made available to any person, except law enforcement officials and the prosecuting agency, without order of the court.

(4) If a restrained person is on bond in connection with a violation or attempted violation of a protection order in this or any other state and is subsequently arrested for violating or attempting to violate a protection order, the arresting agency shall notify the prosecuting attorney who shall file a motion with the court which issued the prior bond for the revocation of the bond and for the issuance of a warrant for the arrest of the restrained person if such court is satisfied that probable cause exists to believe that a violation of the protection order issued by the court has occurred.

(5) A peace officer arresting a person for violating a protection order or otherwise enforcing a protection order shall not be held criminally or civilly liable for such arrest or enforcement unless the peace officer acts in bad faith and with malice or does not act in compliance with rules adopted by the Colorado supreme court.

(6)

(a) A peace officer is authorized to use every reasonable means to protect the alleged victim or the alleged victim's children to prevent further violence. Such peace officer may transport, or obtain transportation for, the alleged victim to shelter. Upon the request of the protected person, the peace officer may also transport the minor child of the protected person, who is not an emancipated minor, to the same shelter if such shelter is willing to accept the child, whether or not there is a custody order or an order allocating parental responsibilities with respect to such child or an order for the care and control of the child and whether or not the other parent objects. A peace officer who transports a minor child over the objection of the other parent shall not be held liable for any damages that may result from interference with the custody, parental responsibilities, care, and control of or access to a minor child in complying with this subsection (6).

(b) For purposes of this subsection (6), "shelter" means a battered women's shelter, a friend's or family member's home, or such other safe haven as may be designated by the protected person and which is within a reasonable distance from the location at which the peace officer found the victim.

(7) The protection order shall contain in capital letters and bold print a notice informing the protected person that such protected person may either initiate contempt proceedings against the restrained person if the order is issued in a civil action or request the prosecuting attorney to initiate contempt proceedings if the order is issued in a criminal action.

(8) A protection order issued in the state of Colorado shall contain a statement that:

(a) The order or injunction shall be accorded full faith and credit and be enforced in every civil or criminal court of the United States, another state, an Indian tribe, or a United States territory pursuant to 18 U.S.C. sec. 2265;

(b) The issuing court had jurisdiction over the parties and subject matter; and

(c) The defendant was given reasonable notice and opportunity to be heard.

(9) A criminal action charged pursuant to this section may be tried either in the county where the offense is committed or in the county in which the court that issued the protection order is located, if such court is within this state.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

COLO. REV. STAT. § 18-9-202.5 (2012). Impounded animals—costs of impoundment, provision, and care—disposition—procedures—application—definition.

(1)

(a)

(I) The owner or custodian of an animal that has been impounded by an impound agency because of alleged neglect or abuse or because of investigation of charges of cruelty to animals pursuant to section 18-9-202; animal fighting pursuant to section 18-9-204; mistreatment, neglect, or abandonment under article 42 of title 35, C.R.S.; or unlawful ownership of a dangerous dog as described in section 18-9-204.5, may prevent disposition of the animal by an impound agency by filing a payment for impoundment, care, and provision costs with the court in an amount determined by the impound agency to be sufficient to provide for the animal's care and provision at the impound agency for at least thirty days, including the day on which the animal was taken into custody .

(II) To the extent practicable, within seventy-two hours after an impoundment described under subparagraph (I) of this paragraph (a), upon request from the owner or custodian of the impounded animal, the impound agency shall allow a licensed veterinarian of the owner's or custodian's choosing and at his or her expense to examine the animal at a time and place selected by the impound agency, which examination may include taking photographs of the animal and taking biological samples for the purpose of diagnostic testing.

(b) The owner or custodian must file the payment:

(I) Within ten days after the animal is impounded; or

(II) If the owner or custodian requests a hearing pursuant to subparagraph (I) of paragraph (c) of this subsection (1), in accordance with subparagraph (IV) of paragraph (c) of this subsection (1).

(c)

(I) Within ten days after the date of impoundment, the owner or custodian may request a hearing in a criminal court of competent jurisdiction. the owner or custodian must provide notice to the district attorney of his or her request for a hearing. If the owner or custodian requests a hearing, the court shall hold the hearing within ten days after the request is made.

(II) At the hearing, the court shall determine, as appropriate:

(A) whether costs associated with the impoundment, care, and provision, as determined by the impound agency, are fair and reasonable and necessary, which costs shall be specifically itemized by the impound agency prior to the date of the hearing and shall include, at a minimum, an accounting of the costs of upkeep and veterinary services

(B) whether there was sufficient probable cause for the impoundment; and

(C) if the court finds probable cause for impoundment existed and the owner or custodian elects not to pay the reasonable impoundment, care, or provision costs to prevent disposition, release of the animal to the impound agency for disposition.

(III) A warrant issued in accordance with C.R.C.P. 41 (b) authorizing seizure of the impounded animal constitutes prima facie evidence of sufficient cause for impoundment.

(IV) If probable cause is found at a hearing conducted under this paragraph (c), the owner or custodian shall file payment for costs at the hearing.

(d) At the end of the time for which expenses are covered by an initial or any subsequent impoundment, care, and provision payment:

(I) If the owner or custodian desires to prevent disposition of the animal, the owner or custodian must file a new payment with the court within ten days prior to the previous payment's expiration.

(II) If the owner or custodian has not timely filed an additional payment for impoundment, care, and provision costs, the impound agency may determine disposition of the animal unless there is a court order prohibiting disposition. unless subsection (4) of this section applies, the owner or custodian is liable for any additional costs for the care of, provision for, or disposal of the animal.

(2)

(a) Failure to pay the impoundment, care, and provision costs pursuant to subsection (1) of this section results in the forfeiture of the right to contest those costs and any ownership rights to the animal in question.

(b) A dog that is not claimed by its owner within five days after being eligible for release from impoundment for investigation of a charge of unlawful ownership of a dangerous dog as described in section 18-9-204.5 IS deemed abandoned and may be disposed of as the impound agency deems proper.

(c) If, in the opinion of a licensed veterinarian, an impounded animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past

recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(3) The court shall order an impound agency to refund to the owner or custodian all impoundment, care, and provision payments made for the animal if, after trial, a judge or jury enters or returns in favor of the owner or custodian a verdict of not guilty for all charges related to the original impoundment of the animal.

(4)

(a) With respect to the sale of an animal, the proceeds are first applied to the costs of the sale and then to the expenses for the care of and provision for the animal during impoundment and the pendency of the sale, including expenses incurred by the impound agency that have not been paid by the owner or custodian. If the owner of the animal is convicted of cruelty to animals under section 18-9-202, animal fighting under section 18-9-204, or unlawful ownership of a dangerous dog under section 18-9-204.5 or is found by court order to have mistreated, neglected, or abandoned the animal under article 42 of title 35, C.R.S., the remaining proceeds, if any, are paid to the impound agency. If the owner of the animal is not convicted of such charges or is not found by court order to have mistreated, neglected, or abandoned the animal, the impound agency shall pay over the remaining proceeds, if any, to the owner of the animal.

(b) If the impound agency is the department of agriculture, the department shall transmit the moneys credited for expenses to the state treasurer, who shall credit them to the animal protection fund created in section 35-42-113, C.R.S.

(c) If the owner of the animal cannot be found, the court shall pay any remaining proceeds after all other expenses have been paid to the impound agency into the animal protection fund or, if the impound agency is not the department of agriculture, to such other impound agency as the court orders. An owner claiming the remaining proceeds must make the claim within one year after the payment of the proceeds to the impound agency. A claim not so presented to the court is forever barred unless the court, by proper order made in any case, otherwise decrees. An impound agency shall pay to the claimant any refund ordered by court decree.

(d) At least six days prior to sale of the animal, the impound agency shall provide written notice to the owner, at the owner's last-known address, of the time and place of the sale of the animal.

(e) If the owner of the animal is unknown, the impound agency shall publish for one week, in a newspaper of general circulation in the jurisdiction in which the animal was found, notice of sale of the animal, and shall further post notice of the sale of the animal at a place provided for public notices in the jurisdiction in which the sale will take place, at least five days prior to the sale.

(f) This subsection (4) does not apply to the disposition of an animal for a fee by:

(I) Adoption of an animal;

(II) Release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.;

(III) Release of an animal to another pet animal facility pursuant to article 80 of title 35, C.R.S.; or

(IV) Release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service.

(5) For purposes of this section, “impound agency” means an animal shelter as defined in section 35-80-102 (1), C.R.S., the department of agriculture, created in section 24-1-123, C.R.S., or any other agency that impounds an animal pursuant to paragraph (a) of subsection (1) of this section or section 18-9-202 (1.8).

(6) This section does not apply to animals impounded solely under Article 42 of Title 35, C.R.S.

COLO. REV. STAT. § 35-42-109 (2012). Protection of animals mistreated, neglected, or abandoned.

(1) No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal’s life or health is endangered.

(2)

(a) The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal’s life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal’s life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)

(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)

(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner *after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.*

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)

(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

(II) Placed for adoption in a suitable home;

(III) Given to a suitable animal shelter;

(IV) Humanely destroyed as deemed proper by the court; or

(V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his presence.

COLO. REV. STAT. § 35-42-113 (2012). Animal protection fund—creation.

(1) There is hereby created an animal protection fund. Any donations collected for animal protection, any net proceeds from the sale of an animal pursuant to section 18-9-202.5(4), C.R.S., and any moneys from restitution ordered for the expenses of the department of agriculture in selling and providing for the care of and provision for an animal disposed of under the animal cruelty laws in accordance with part 2 of article 9 of title 18, C.R.S., or this article shall be transmitted to the state treasurer, who shall credit the moneys to the animal protection fund. The general assembly shall make annual appropriations from that fund to the department of agriculture to aid in carrying out the purposes of this article.; except that no such appropriations may be made for personal services.

(2) All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly through legislation.

7. SEIZURE / ON-SITE SUPERVISION

COLO. REV. STAT. § 18-9-202 (2012). Cruelty to animals—aggravated cruelty to animals—neglect of animals—offenses.

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)

(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal if he or she violates the provisions of subsection (1) of this section with respect to a service animal as defined in section 18-1.3-602(3.5), whether the service animal is on duty or not on duty.

(1.6) As used in this section, unless the context otherwise requires:

(a) “Serious physical harm” means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(a.5)

(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty to animals incident.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

COLO. REV. STAT. § 35-42-108 (2012). Care of confined animal.

(1) Except as authorized by law, no animal shall be confined without an adequate supply of food and water. *If any animal is found to be confined without adequate food or water, it shall be lawful for any officer or agent of the bureau, a peace officer within his jurisdiction, or a licensed veterinarian to, from time to time as may be necessary, enter into any and upon any area or building where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.*

(2) *Such officer, agent, peace officer, or veterinarian shall not be liable in any action for such entry.*

(3) *Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.*

(4) In the case of companion animals, if such animal is not cared for by a person other than an agent or officer of the bureau or a peace officer or veterinarian within seventy-two hours of the posting of said notification, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

COLO. REV. STAT. § 35-42-109 (2012). Protection of animals mistreated, neglected, or abandoned.

(1) No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered.

(2)

(a) The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)

(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)

(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)

(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

(II) Placed for adoption in a suitable home;

(III) Given to a suitable animal shelter;

(IV) Humanely destroyed as deemed proper by the court; or

(V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his presence.

COLO. REV. STAT. § 35-42-111 (2012). Investigations—access—administrative subpoena.

(1) The commissioner, upon his own motion or upon the complaint of any person, shall make any investigations necessary to ensure compliance with this article.

(2)

(a) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access, upon consent or upon obtaining an administrative search warrant, to all buildings, yards, pens, pastures, and other areas in which any animals are kept, handled, or transported for the purpose of carrying out any provision of this article or any rule made pursuant to this article.

(b) The commissioner shall have full authority to administer oaths and take statements, to issue administrative subpoenas requiring the attendance of witnesses and the production of all books, memoranda, papers, and other documents, articles, or instruments and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.

(3) Complaints of record made to the commissioner and the results of his investigations may, in the discretion of the commissioner, be closed to public inspection, except as provided by court order, during the investigatory period.

8. FORFEITURE / POSSESSION

COLO. REV. STAT. § 18-9-202.5 (2012). Impounded animals—costs of impoundment, provision, and care—disposition—procedures—application—definition.

(1)

(a)

(I) The owner or custodian of an animal that has been impounded by an impound agency because of alleged neglect or abuse or because of investigation of charges of cruelty to animals pursuant to section 18-9-202; animal fighting pursuant to section 18-9-204; mistreatment, neglect, or abandonment under article 42 of title 35, C.R.S.; or unlawful ownership of a dangerous dog as described in section 18-9-204.5, may prevent disposition of the animal by an impound agency by filing a payment for impoundment, care, and provision costs with the court in an amount determined by the impound agency to be sufficient to provide for the animal's care and provision at the impound agency for at least thirty days, including the day on which the animal was taken into custody .

(II) To the extent practicable, within seventy-two hours after an impoundment described under subparagraph (I) of this paragraph (a), upon request from the owner or custodian of the impounded animal, the impound agency shall allow a licensed veterinarian of the owner's or custodian's choosing and at his or her expense to examine the animal at a time and place selected by the impound agency, which examination may include taking photographs of the animal and taking biological samples for the purpose of diagnostic testing.

(b) The owner or custodian must file the payment:

(I) Within ten days after the animal is impounded; or

(II) If the owner or custodian requests a hearing pursuant to subparagraph (I) of paragraph (c) of this subsection (1), in accordance with subparagraph (IV) of paragraph (c) of this subsection (1).

(c)

(I) Within ten days after the date of impoundment, the owner or custodian may request a hearing in a criminal court of competent jurisdiction. the owner or custodian must provide notice to the district attorney of his or her request for a hearing. If the owner or custodian requests a hearing, the court shall hold the hearing within ten days after the request is made.

(II) At the hearing, the court shall determine, as appropriate:

(A) whether costs associated with the impoundment, care, and provision, as determined by the impound agency, are fair and reasonable and necessary, which costs shall be specifically itemized by the impound agency prior to the date of the hearing and shall include, at a minimum, an accounting of the costs of upkeep and veterinary services

(B) whether there was sufficient probable cause for the impoundment; and

(C) if the court finds probable cause for impoundment existed and the owner or custodian elects not to pay the reasonable impoundment, care, or provision costs to prevent disposition, release of the animal to the impound agency for disposition.

(III) A warrant issued in accordance with C.R.C.P. 41 (b) authorizing seizure of the impounded animal constitutes prima facie evidence of sufficient cause for impoundment.

(IV) If probable cause is found at a hearing conducted under this paragraph (c), the owner or custodian shall file payment for costs at the hearing.

(d) At the end of the time for which expenses are covered by an initial or any subsequent impoundment, care, and provision payment:

(I) If the owner or custodian desires to prevent disposition of the animal, the owner or custodian must file a new payment with the court within ten days prior to the previous payment's expiration.

(II) If the owner or custodian has not timely filed an additional payment for impoundment, care, and provision costs, the impound agency may determine disposition of the animal unless there is a court order prohibiting disposition. unless subsection (4) of this section applies, the owner or custodian is liable for any additional costs for the care of, provision for, or disposal of the animal.

(2)

(a) Failure to pay the impoundment, care, and provision costs pursuant to subsection (1) of this section results in the forfeiture of the right to contest those costs and any ownership rights to the animal in question.

(b) A dog that is not claimed by its owner within five days after being eligible for release from impoundment for investigation of a charge of unlawful ownership of a dangerous dog as described in section 18-9-204.5 is deemed abandoned and may be disposed of as the impound agency deems proper.

(c) If, in the opinion of a licensed veterinarian, an impounded animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past

recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(3) The court shall order an impound agency to refund to the owner or custodian all impoundment, care, and provision payments made for the animal if, after trial, a judge or jury enters or returns in favor of the owner or custodian a verdict of not guilty for all charges related to the original impoundment of the animal.

(4)

(a) With respect to the sale of an animal, the proceeds are first applied to the costs of the sale and then to the expenses for the care of and provision for the animal during impoundment and the pendency of the sale, including expenses incurred by the impound agency that have not been paid by the owner or custodian. If the owner of the animal is convicted of cruelty to animals under section 18-9-202, animal fighting under section 18-9-204, or unlawful ownership of a dangerous dog under section 18-9-204.5 or is found by court order to have mistreated, neglected, or abandoned the animal under article 42 of title 35, C.R.S., the remaining proceeds, if any, are paid to the impound agency. If the owner of the animal is not convicted of such charges or is not found by court order to have mistreated, neglected, or abandoned the animal, the impound agency shall pay over the remaining proceeds, if any, to the owner of the animal.

(b) If the impound agency is the department of agriculture, the department shall transmit the moneys credited for expenses to the state treasurer, who shall credit them to the animal protection fund created in section 35-42-113, C.R.S.

(c) If the owner of the animal cannot be found, the court shall pay any remaining proceeds after all other expenses have been paid to the impound agency into the animal protection fund or, if the impound agency is not the department of agriculture, to such other impound agency as the court orders. An owner claiming the remaining proceeds must make the claim within one year after the payment of the proceeds to the impound agency. A claim not so presented to the court is forever barred unless the court, by proper order made in any case, otherwise decrees. An impound agency shall pay to the claimant any refund ordered by court decree.

(d) At least six days prior to sale of the animal, the impound agency shall provide written notice to the owner, at the owner's last-known address, of the time and place of the sale of the animal.

(e) If the owner of the animal is unknown, the impound agency shall publish for one week, in a newspaper of general circulation in the jurisdiction in which the animal was found, notice of sale of the animal, and shall further post notice of the sale of the animal at a place provided for public notices in the jurisdiction in which the sale will take place, at least five days prior to the sale.

(f) This subsection (4) does not apply to the disposition of an animal for a fee by:

(I) Adoption of an animal;

(II) Release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.;

(III) Release of an animal to another pet animal facility pursuant to article 80 of title 35, C.R.S.; or

(IV) Release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service.

(5) For purposes of this section, “impound agency” means an animal shelter as defined in section 35-80-102 (1), C.R.S., the department of agriculture, created in section 24-1-123, C.R.S., or any other agency that impounds an animal pursuant to paragraph (a) of subsection (1) of this section or section 18-9-202 (1.8).

(6) This section does not apply to animals impounded solely under Article 42 of Title 35, C.R.S.

COLO. REV. STAT. § 35-80-102 (2012). Definitions.

As used in this article, unless the context otherwise requires:

(1) *“Animal shelter” means a public or private facility licensed pursuant to this article and the rules and regulations adopted pursuant thereto.*

(1.5) “Bird hobby breeder facility” means any facility engaged in the operation of breeding and raising birds for the purpose of personal enjoyment that does not transfer more than thirty birds per year.

(2) “Canine hobby breeder facility” means any facility which transfers no more than twenty-four dogs per year or breeds no more than two litters per year, whichever is greater.

(2.5) Deleted by Laws 2000, Ch. 290, § 4, eff. May 30, 2000.

(3) “Commission” means the state agricultural commission.

(4) “Commissioner” means the commissioner of agriculture, or the designee of the commissioner.

(5) “Committee” means the pet animal advisory committee created in section 35-80-115.

(6) “Department” means the department of agriculture.

(6.3) “Dispose” or “disposition” means adoption of a pet animal, return of a pet animal to the owner, release of a pet animal to a rescue group licensed pursuant to this article, release of a pet animal to another pet animal facility licensed pursuant to this article or to a rehabilitator licensed by the division of wildlife or the United States fish and wildlife service, or euthanasia.

(6.5) “Dog breeder” means any firm, person, or corporation which is engaged in the operation of breeding and raising dogs for the purpose of selling, trading, bartering, giving away, or otherwise transferring same, excluding racing greyhounds that are not intended to be companion pets.

(6.6) “Dog breeder, large scale operation” or “large scale operation dog breeder” means a dog breeder that transfers at least one hundred dogs per year, excluding racing greyhounds that are not intended to be companion pets.

(6.7) “Dog breeder, small scale operation” or “small scale operation dog breeder” means a dog breeder that transfers at least twenty-five but no more than ninety-nine dogs per year.

(7) “Euthanasia” means to produce a humane death by techniques accepted by the American veterinary medical association.

(8) “Feline hobby breeder facility” means any facility that produces or transfers no more than twenty-four cats per year or breeds no more than three litters per year.

(9) “Livestock” means cattle, horses, mules, burros, sheep, poultry, swine, llama, and goats, regardless of use, and any animal that is used for working purposes on a farm or ranch, and any other animal designated by the commissioner, which animal is raised for food or fiber production.

(10) “Pet animal” means dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians, and invertebrates, or any other species of wild or domestic or hybrid animal sold, transferred, or retained for the purpose of being kept as a household pet, except livestock, as defined in subsection (9) of this section. “Pet animal” does not include an animal that is used for working purposes on a farm or ranch.

(11) “Pet animal facility” means any place or premise used in whole or in part, which part is used for the keeping of pet animals for the purpose of adoption, breeding, boarding, grooming, handling, selling, sheltering, trading, or otherwise transferring such animals. “Pet animal facility” also includes any individual animals kept by such a facility as breeding stock, such licensing of individual breeding stock to be inclusive in the pet animal facility license. “Pet animal facility” shall not mean a common carrier engaged in intrastate or interstate commerce. For purposes of this article, two or more animal facilities that have the same or a similar purpose and operate from one place or premises shall be considered a single pet animal facility.

(11.8) “Small animal breeder facility” means any facility that transfers more small mammals than the maximum number established by the commissioner by rule for each particular species.

(12) “Small animal hobby breeder facility” means any facility that transfers a number of small mammals that is less than the maximum number established by the commissioner by rule for each particular species.

(13) Deleted by Laws 2000, Ch. 290, § 4, eff. May 30, 2000.

COLO. REV. STAT. § 18-9-208 (2012). Forfeiture of animals.

(1) Upon the motion of the prosecuting attorney or upon the court’s own motion, after the conviction of a defendant for cruelty to animals as described in section 18-9-202, or for animal fighting as described in section 18-9- 204, the court may order the forfeiture of any animal owned by or in the custody of the defendant that:

(a) Was abused, neglected, mistreated, injured, or used by the defendant during the course of the criminal episode that gave rise to such conviction;

(b) Participated in or was affected by any act set forth in section 18-9- 204(1).

(2)

(a) If an animal is the subject of a motion made under subsection (1) of this section and is not owned by the defendant, the court may nevertheless enter an order of forfeiture of the animal if the court finds that:

(I) The animal was abandoned prior to the criminal episode described in subsection (1) of this section;

(II) The owner of the animal is unknown; or

(III) The owner of the animal is known but cannot be located.

(b) Any person who contests a motion brought under this section shall establish such person’s standing as a true owner of the animal. The factors to be considered by the court in determining whether such person is a true owner shall include, but shall not be limited to, the following:

(I) Whether the person was the primary user, custodian, or possessor of the animal;

(II) Whether there is evidence that ownership of the animal is vested in the person;

(III) Whether consideration was paid for the purchase of the animal, and, if so, how much of the consideration was furnished by the person.

(c) If the court determines that a person other than the defendant is the true owner of the animal, the court may not enter an order forfeiting the animal under this section unless the court finds:

(I) The true owner was involved in the criminal episode described in subsection (1) of this section;

(II) The true owner knew or reasonably should have known of the criminal episode described in subsection (1) of this section and failed to take all reasonable steps available to him or her to prevent it; or

(III) Ownership of the animal was conveyed to the true owner in order to avoid a forfeiture.

(3) An order of forfeiture entered pursuant to this section shall provide for the immediate disposition of the forfeited animal by any means described in section 18-9-201 (2.5) other than return to the owner. If, in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(4) The owner or custodian of an animal that is the subject of a motion brought under this section shall be liable for the cost of the care, keeping, transport, or disposal of the animal. In no event shall the prosecuting attorney or the office of the prosecuting attorney be liable for such cost.

(5) The court in its discretion may order a forfeiture authorized by this section as an element of sentencing, as a condition of probation, or as a condition of a deferred sentence.

COLO. REV. STAT. § 35-42-108 (2012). Care of confined animal.

(1) Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any officer or agent of the bureau, a peace officer within his jurisdiction, or a licensed veterinarian to, from time to time as may be necessary, enter into any and upon any area or building where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.

(2) Such officer, agent, peace officer, or veterinarian shall not be liable in any action for such entry.

(3) Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

(4) In the case of companion animals, if such animal is not cared for by a person other than an agent or officer of the bureau or a peace officer or veterinarian within seventy-two hours of the posting of said notification, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

COLO. REV. STAT. § 35-42-109 (2012). Protection of animals mistreated, neglected, or abandoned.

(1) No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered.

(2)

(a) The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)

(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)

(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; *except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.*

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)

(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

(II) Placed for adoption in a suitable home;

(III) Given to a suitable animal shelter;

(IV) Humanely destroyed as deemed proper by the court; or

(V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or

unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his presence.

COLO. REV. STAT. § 35-42-110 (2012). Injured animals may be euthanized.

Any agent of the bureau or peace officer, as described in section 16-2.5-101, C.R.S., may lawfully euthanize or cause to be euthanized, as defined in section 18-9-201 (2.7), C.R.S., any animal in his or her charge when, in the judgment of such agent or peace officer, and in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery. In the event a licensed veterinarian is not available, the animal may be euthanized if, by the written certificate of two persons, one of whom may be selected by the owner if the owner so requests, called to view the animal in the presence of the agent, the animal appears to be severely injured past recovery, severely disabled past recovery, severely diseased past recovery, or unfit for any useful purpose.

9. CROSS ENFORCEMENT / REPORTING

COLO. REV. STAT. § 18-9-209 (2012). Immunity for reporting animal cruelty—false report—penalty.

(1) Except as otherwise provided in subsection (2) of this section, a person who, in good faith, reports a suspected incident of animal cruelty, as described in section 18-9-202, to a local law enforcement agency or to the state bureau of animal protection shall be immune from civil liability for reporting the incident.

(2) The provisions of subsection (1) of this section shall not apply to a person who knowingly makes a false report of animal cruelty.

(3) A person who knowingly makes a false report of animal cruelty to a local law enforcement agency or to the state bureau of animal protection commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501.

COLO. REV. STAT. § 19-3-304 (2012). Persons required to report child abuse or neglect.

(1)

(a) Except as otherwise provided by section 19-3-307, sections 25-1-122 (4) (d) and 25-4-1404 (1) (d), C.R.S., and paragraph (b) of this subsection (1), any person specified in subsection (2) of this section who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department or local law enforcement agency.

(b) The reporting requirement described in paragraph (a) of this subsection (1) shall not apply if the person who is otherwise required to report does not:

(I) Learn of the suspected abuse or neglect until after the alleged victim of the suspected abuse or neglect is eighteen years of age or older; and

(II) Have reasonable cause to know or suspect that the perpetrator of the suspected abuse or neglect:

(A) Has subjected any other child currently under eighteen years of age to abuse or neglect or to circumstances or conditions that would likely result in abuse or neglect; or

(B) Is currently in a position of trust, as defined in section 18-3-401 (3.5), C.R.S., with regard to any child currently under eighteen years of age.

(2) Persons required to report such abuse or neglect or circumstances or conditions include any:

- (a) Physician or surgeon, including a physician in training;
- (b) Child health associate;
- (c) Medical examiner or coroner;
- (d) Dentist;
- (e) Osteopath;
- (f) Optometrist;
- (g) Chiropractor;
- (h) Podiatrist;
- (i) Registered nurse or licensed practical nurse;
- (j) Hospital personnel engaged in the admission, care, or treatment of patients;
- (k) Christian science practitioner;
- (l) Public or private school official or employee;
- (m) Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;
- (n) Mental health professional;
- (o) Dental hygienist;
- (p) Psychologist;
- (q) Physical therapist;
- (r) Veterinarian;
- (s) Peace officer as described in section 16-2.5-101, C.R.S.;
- (t) Pharmacist;

(u) Commercial film and photographic print processor as provided in subsection (2.5) of this section;

(v) Firefighter as defined in section 18-3-201 (1), C.R.S.;

(w) Victim's advocate, as defined in section 13-90-107 (1) (k) (II), C.R.S.;

(x) Licensed professional counselors;

(y) Licensed marriage and family therapists;

(z) Registered psychotherapists;

(aa)

(I) Clergy member.

(II) The provisions of this paragraph (aa) shall not apply to a person who acquires reasonable cause to know or suspect that a child has been subjected to abuse or neglect during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication.

(III) For purposes of this paragraph (aa), unless the context otherwise requires, "clergy member" means a priest, rabbi, duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.

(bb) Registered dietitian who holds a certificate through the commission on dietetic registration and who is otherwise prohibited by 7 CFR 246.26 from making a report absent a state law requiring the release of this information;

(cc) Worker in the state department of human services;

(dd) Juvenile parole and probation officers;

(ee) Child and family investigators, as described in section 14-10-116.5, C.R.S.;

(ff) Officers and agents of the state bureau of animal protection, and animal control officers;

(gg) The child protection ombudsman as created in article 3.3 of this title;

(hh) Educator providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786.

(2.5) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child engaged in an act of sexual conduct shall report such fact to a local law enforcement agency immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative, or slide attached within thirty-six hours of receiving the information concerning the incident.

(3) In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency or the county department.

(3.5) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse or neglect to a county department or local law enforcement agency.

(4) Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection (3.5) of this section:

(a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(b) Shall be liable for damages proximately caused thereby.

10. VETERINARIAN REPORTING / IMMUNITY

COLO REV. STAT. § 12-64-121 (2012). Reporting requirements—immunity for reporting—veterinary-patient-client privilege inapplicable.

(1) A licensed veterinarian who, during the course of attending or treating an animal, has reasonable cause to know or suspect that the animal has been subjected to cruelty in violation of section 18-9-202, C.R.S., or subjected to animal fighting in violation of section 18-9-204, C.R.S., shall report or cause a report to be made of the animal cruelty or animal fighting to a local law enforcement agency or the bureau of animal protection.

(2) A licensed veterinarian shall not knowingly make a false report of animal cruelty or animal fighting to a local law enforcement agency or to the bureau of animal protection.

(3) A licensed veterinarian who willfully violates the provisions of subsection (1) or (2) of this section commits a class 1 petty offense, punishable as provided in section 18-1.3-503, C.R.S.

(4) A licensed veterinarian who in good faith reports a suspected incident of animal cruelty or animal fighting to the proper authorities in accordance with subsection (1) of this section shall be immune from liability in any civil or criminal action brought against the veterinarian for reporting the incident. In any civil or criminal proceeding in which the liability of a veterinarian for reporting an incident described in subsection (1) of this section is at issue, the good faith of the veterinarian shall be presumed.

(5) The veterinary-patient-client privilege described in section 24-72-204(3)(a)(XIV), C.R.S., may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202, C.R.S., or for an act of animal fighting under section 18-9-204, C.R.S.

COLO. REV. STAT. § 24-72-204 (2012). Allowance or denial of inspection—grounds—procedure—appeal—definitions.

(1) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds or as provided in subsection (2) or (3) of this section:

(a) Such inspection would be contrary to any state statute.

(b) Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.

(c) Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.

(d) Such inspection would be contrary to the requirements of any joint rule of the senate and the house of representatives pertaining to lobbying practices.

* * * * *

(3)

(a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest under this subsection (3):

* * * * *

(XIV) Veterinary medical data, information, and records on individual animals that are owned by private individuals or business entities, but are in the custody of a veterinary medical practice or hospital, including the veterinary teaching hospital at Colorado state university, that provides veterinary medical care and treatment to animals. A veterinary-patient-client privilege exists with respect to such data, information, and records only when a person in interest and a veterinarian enter into a mutual agreement to provide medical treatment for an individual animal and such person in interest maintains an ownership interest in such animal undergoing treatment. For purposes of this subparagraph (XIV), “person in interest” means the owner of an animal undergoing veterinary medical treatment or such owner’s designated representative. Nothing in this subparagraph (XIV) shall prevent the state agricultural commission, the state agricultural commissioner, or the state board of veterinary medicine from exercising their investigatory and enforcement powers and duties granted pursuant to section 35-1-106 (1) (h), article 50 of title 35, and section 12-64-105 (9) (e), C.R.S., respectively. *The veterinary-patient-client privilege described in this subparagraph (XIV), pursuant to section 12-64-121 (5), C.R.S., may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202, C.R.S., or for an act of animal fighting under section 18-9-204, C.R.S.*

* * * * *

11. LAW ENFORCEMENT POLICIES

COLO. REV. STAT. § 30-15-105 (2012). Animal control officers—peace officer designation.

Personnel engaged in animal control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance without regard to the certification requirements of part 3 of article 31 of title 24, C.R.S. Personnel so engaged shall be included within the definition of “peace officer or firefighter engaged in the performance of his or her duties” in section 18-3-201 (2), C.R.S. Nothing in this part 1 is intended to vest authority in any person so engaged to enforce any resolution, ordinance, or statute other than the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance.

COLO. REV. STAT. § 35-42-105 (2012). Bureau of animal protection—creation.

There is hereby created the state bureau of animal protection, referred to in this article as the “bureau”.

COLO. REV. STAT. § 35-42-106 (2012). Powers and duties of the commissioner.

The commissioner has the power to administer and enforce the provisions of this article, appoint agents and establish the qualifications of such agents, promulgate rules and regulations, enter into contracts, and implement training, procedures, and rules and regulations of recommended standards for animal control officers.

COLO. REV. STAT. § 35-42-107 (2012). Bureau personnel—appointment.

(1) Subject to the provisions of section 13 of article XII of the state constitution, the commissioner shall appoint such animal protection agents as are necessary to carry out the provisions of this article.

(2) The commissioner may appoint agents who are employees of the state, nonprofit corporations, municipal corporations, counties, cities, cities and counties, or any other local governmental entity or political subdivision of the state.

(3) When agents who are employees of nonprofit corporations are appointed, the corporation shall furnish evidence of minimum liability insurance covering said agent in the amount of one hundred thousand dollars. The state shall not be liable for the actions of such agents. Agents of the bureau shall submit to training as specified by the commissioner.

(4) Agents of the bureau who have completed training as specified by the commissioner are vested with the power to issue summons and complaints to enforce the provisions of part 2 of article 9 of title 18, C.R.S., and article 80 of this title, as granted peace officers under section 16-2-104, C.R.S., and shall be designated as peace officers, as described in sections 16-2.5-101 and 16-2.5-118, C.R.S.

(5) The commissioner may, in his discretion, revoke the commission of any agent.

(6) The commissioner may in his discretion determine classifications and subclassifications for commissions of agent.

(7) Agents authorized to investigate cases involving livestock shall be employees of the division or the division of brand inspection of the department or any sheriffs when appointed and within their jurisdiction.

(8) All commissions issued by the commissioner shall expire on the anniversary date of issuance.

(9) A commission may, in the discretion of the commissioner, be renewed.

(10) All commissions shall be approved by the state agricultural commission.

COLO. REV. STAT. § 35-42-109 (2012). Protection of animals mistreated, neglected, or abandoned.

(1) No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered.

(2)

(a) The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)

(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)

(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)

(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

(II) Placed for adoption in a suitable home;

(III) Given to a suitable animal shelter;

(IV) Humanely destroyed as deemed proper by the court; or

(V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the stray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his presence.

COLO. REV. STAT. § 35-42-111 (2012). Investigations—access—administrative subpoena.

(1) The commissioner, upon his own motion or upon the complaint of any person, shall make any investigations necessary to ensure compliance with this article.

(2)

(a) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access, upon consent or upon obtaining an administrative search warrant, to all buildings, yards, pens, pastures, and other areas in which any animals are kept, handled, or transported for the purpose of carrying out any provision of this article or any rule made pursuant to this article.

(b) The commissioner shall have full authority to administer oaths and take statements, to issue administrative subpoenas requiring the attendance of witnesses and the production of all books, memoranda, papers, and other documents, articles, or instruments and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.

(3) Complaints of record made to the commissioner and the results of his investigations may, in the discretion of the commissioner, be closed to public inspection, except as provided by court order, during the investigatory period.

COLO. REV. STAT. § 35-42-112 (2012). Enforcement.

(1) The commissioner or his designee shall enforce the provisions of this article.

(2)

(a) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any rule made pursuant to this article has occurred and immediate enforcement is deemed necessary, he may issue a cease-and-desist order, which may require any person to cease violating any provision of this article or any rule made pursuant to this article. Such cease-and-desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and shall require that all actions causing the violation be ceased.

(b) In the event that any person fails to comply with a cease-and-desist order within twenty-four hours, the commissioner may bring a suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of this article.

(c) No stay of a cease-and-desist order shall be issued before a hearing thereon involving both parties.

(d) Matters brought before a court pursuant to this section shall have preference over other matters on the court's calendar.

(3) Whenever it appears to the commissioner upon sufficient evidence satisfactory to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this article or of any rule adopted pursuant to this article, he may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any rule adopted pursuant to this article. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.

ANNOTATIONS:

Generally. In the exercise of the police power of the state, the legislature may undoubtedly enact proper laws for the prevention of cruelty to animals, and it may further designate agents or officers who may be charged with the execution of such law. *Jenks v. Stump*, 41 Colo. 281, 93 P. 17, 20 (1907).

12. SEXUAL ASSAULT

COLO. REV. STAT. § 18-9-201 (2012).Definitions.

As used in this section and sections 18-9-201.5, 18-9-202, 18-9-202.5, and 18-9-204.5, unless the context otherwise requires:

(1) “Abandon” means the leaving of an animal without adequate provisions for the animal’s proper care by its owner, the person responsible for the animal’s care or custody, or any other person having possession of such animal.

(2) “Animal” means any living dumb creature, including a service animal as defined in section 18-1.3-602(3.5).

(2.5) “Disposal” or “disposition” means adoption of an animal; return of an animal to the owner; sale of an animal under section 18-9-202.5(4); release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.; release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S., or release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service; or euthanasia.

(2.7) “Euthanasia” means to produce a humane death by techniques accepted by the American veterinary medical association.

(2.9) “Livestock” means bovine, camelids, caprine, equine, ovine, porcine, and poultry.

(3) “Mistreatment” means every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

(4) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal.

(5) “Sexual act with an animal” means an act between a person and an animal involving direct physical contact between the genitals of one and the mouth, anus, or genitals of the other. A sexual act with an animal may be proven without allegation or proof of penetration. Nothing in this subsection (5) shall be construed to prohibit accepted animal husbandry practices.

COLO. REV. STAT. § 18-9-202 (2012).Cruelty to animals—aggravated cruelty to animals—neglect of animals—offenses.

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)

(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal if he or she violates the provisions of subsection (1) of this section with respect to a service animal as defined in section 18-1.3-602(3.5), whether the service animal is on duty or not on duty.

(1.6) As used in this section, unless the context otherwise requires:

(a) “Serious physical harm” means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(a.5)

(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty to animals incident.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

13. FIGHTING

COLO. REV. STAT. § 18-9-204 (2012). Animal fighting—penalty.

(1)

(a) No person shall cause, sponsor, arrange, hold, or encourage a fight between animals for the purpose of monetary gain or entertainment.

(b) For the purposes of this section, a person encourages a fight between animals for the purpose of monetary gain or entertainment if he or she:

(I) Is knowingly present at or wagers on such a fight;

(II) Owns, trains, transports, possesses, breeds, sells, transfers, or equips an animal with the intent that such animal will be engaged in such a fight;

(III) Knowingly allows any such fight to occur on any property owned or controlled by him;

(IV) Knowingly allows any animal used for such a fight to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by him;

(V) Knowingly uses any means of communication for the purpose of promoting such a fight; or

(VI) Knowingly possesses any animal used for such a fight or any device intended to enhance the animal's fighting ability.

(2) Any person who violates the provisions of this section commits a class 5 felony and, in addition to the punishment provided in section 18-1.3-401, may be punished by a fine of up to one thousand dollars. Any person committing a second or subsequent violation of this section commits a class 4 felony and, in addition to the punishment provided in section 18-1.3-401, may be punished by a fine of up to five thousand dollars.

(3) Nothing in this section shall prohibit normal hunting practices as approved by the division of wildlife.

(4) Nothing in this section shall be construed to prohibit the training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

COLO. REV. STAT. § 18-9-205 (2012).Disposition of fines.

Any fines collected pursuant to section 18-9-204 shall be transmitted to the state treasurer, who shall then transmit the same to the county where the offense occurred for deposit in the general fund to be used for the care of the animals involved in the offense, if required, or, if not required, for any other lawful purpose.

14. REFERENCED STATUTES

COLO. REV. STAT. § 12-64-121 (2012). Reporting requirements—immunity for reporting--veterinary-patient-client privilege inapplicable.

(1) A licensed veterinarian who, during the course of attending or treating an animal, has reasonable cause to know or suspect that the animal has been subjected to cruelty in violation of section 18-9-202, C.R.S., or subjected to animal fighting in violation of section 18-9-204, C.R.S., shall report or cause a report to be made of the animal cruelty or animal fighting to a local law enforcement agency or the bureau of animal protection.

(2) A licensed veterinarian shall not knowingly make a false report of animal cruelty or animal fighting to a local law enforcement agency or to the bureau of animal protection.

(3) A licensed veterinarian who willfully violates the provisions of subsection (1) or (2) of this section commits a class 1 petty offense, punishable as provided in section 18-1.3-503, C.R.S.

(4) A licensed veterinarian who in good faith reports a suspected incident of animal cruelty or animal fighting to the proper authorities in accordance with subsection (1) of this section shall be immune from liability in any civil or criminal action brought against the veterinarian for reporting the incident. In any civil or criminal proceeding in which the liability of a veterinarian for reporting an incident described in subsection (1) of this section is at issue, the good faith of the veterinarian shall be presumed.

(5) The veterinary-patient-client privilege described in section 24-72-204(3)(a)(XIV), C.R.S., may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202, C.R.S., or for an act of animal fighting under section 18-9-204, C.R.S.

COLO. REV. STAT. § 13-14-101 (2012). Definitions.

For purposes of this article, unless the context otherwise requires:

(1) “Abuse of the elderly or of an at-risk adult” means mistreatment of a person who is sixty years of age or older or who is an at-risk adult as defined in section 26-3.1-101 (1), C.R.S., including but not limited to repeated acts that:

- (a) Constitute verbal threats or assaults;
- (b) Constitute verbal harassment;
- (c) Result in the inappropriate use or the threat of inappropriate use of medications;
- (d) Result in the inappropriate use of physical or chemical restraints;

(e) Result in the misuse of power or authority granted to a person through a power of attorney or by a court in a guardianship or conservatorship proceeding that results in unreasonable confinement or restriction of liberty; or

(f) Constitute threats or acts of violence against, or the taking, transferring, concealing, harming, or disposing of, an animal owned, possessed, leased, kept, or held by the elderly or at-risk adult, which threats or acts are intended to coerce, control, punish, intimidate, or exact revenge upon the elderly or at-risk adult.

(1.5) “Adult” means a person eighteen years of age or older.

(2) “Domestic abuse” means any act or threatened act of violence that is committed by any person against another person to whom the actor is currently or was formerly related, or with whom the actor is living or has lived in the same domicile, or with whom the actor is involved or has been involved in an intimate relationship. “Domestic abuse” may also include any act or threatened act of violence against:

(a) The minor children of either of the parties; or

(b) An animal owned, possessed, leased, kept, or held by either of the parties or by a minor child of either of the parties, which threat or act is intended to coerce, control, punish, intimidate, or exact revenge upon either of the parties or a minor child of either of the parties.

(2.2) “Minor child” means a person under eighteen years of age.

(2.3) “Protected person” means the person or persons identified in a protection order as the person or persons for whose benefit the protection order was issued.

(2.4)

(a) “Protection order” means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person, or from threatening, taking, transferring, concealing, harming, or disposing of an animal owned, possessed, leased, kept, or held by a protected person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises or any other provision to protect the protected person from imminent danger to life or health that is issued by a court of this state or a municipal court and that is issued pursuant to:

(I) This article, section 18-1-1001, C.R.S., section 19-2-707, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;

(II) Sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., or section 19-3-316, C.R.S., as those sections existed prior to July 1, 2004;

(III) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(IV) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching a person, or from threatening, taking, transferring, concealing, harming, or disposing of an animal owned, possessed, leased, kept, or held by a person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(b) For purposes of this article only, “protection order” includes any order that amends, modifies, supplements, or supersedes the initial protection order. “Protection order” also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-104.

(2.8) “Restrained person” means a person identified in a protection order as a person prohibited from doing a specified act or acts.

(3) “Stalking” means the crime of stalking as described in section 18-3-602, C.R.S.

COLO. REV. STAT. § 13-14-102 (2012). Civil protection orders—legislative declaration.

(1)

(a) The general assembly hereby finds that the issuance and enforcement of protection orders are of paramount importance in the state of Colorado because protection orders promote safety, reduce violence, and prevent serious harm and death. In order to improve the public’s access to protection orders and to assure careful judicial consideration of requests and effective law enforcement, there shall be two processes for obtaining protection orders within the state of Colorado, a simplified civil process and a mandatory criminal process.

(b) The general assembly further finds and declares that:

(I) Domestic violence is not limited to physical threats of violence and harm but includes financial control, document control, property control, and other types of control that make a victim more likely to return to an abuser due to fear of retaliation or inability to meet basic needs;

(II) Victims of domestic violence in many cases are unable to access resources to seek lasting safety options;

(III) These victims need the assistance of additional court orders to meet their immediate needs for food, shelter, transportation, medical care, and child care at the time they go to court for a civil protection order; and

(IV) These additional court orders are needed not only in cases that end in dissolution of marriage but also in cases in which reconciliation is appropriate, as well as in other cases.

(1.5) Any municipal court of record, if authorized by the municipal governing body; any county court; and any district, probate, or juvenile court shall have original concurrent jurisdiction to issue a temporary or permanent civil protection order against an adult or against a juvenile who is ten years of age or older for any of the following purposes:

- (a) To prevent assaults and threatened bodily harm;
- (b) To prevent domestic abuse;
- (c) To prevent emotional abuse of the elderly or of an at-risk adult;
- (d) To prevent stalking.

(2) Any civil protection order issued pursuant to this section shall be issued using the standardized set of forms developed by the state court administrator pursuant to section 13-1-136.

(2.5) Venue for filing a motion or complaint pursuant to this section is proper in any county where the acts that are the subject of the motion or complaint occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(3) A motion for a temporary civil protection order shall be set for hearing, which hearing may be ex parte, at the earliest possible time and shall take precedence over all matters, except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

(3.3) Any district court, in an action commenced under the “Uniform Dissolution of Marriage Act”, article 10 of title 14, C.R.S., shall have authority to issue temporary and permanent protection orders pursuant to the provisions of subsection (1.5) of this section. Such protection order may be as a part of a motion for a protection order accompanied by an affidavit filed in an action brought under article 10 of title 14, C.R.S. Either party may request the court to issue a protection order consistent with any other provision of this article.

(3.7) At the time a protection order is requested pursuant to this section, the court shall inquire about, and the requesting party and such party’s attorney shall have an independent duty to disclose, knowledge such party and such party’s attorney may have concerning the existence of any prior protection or restraining order of any court addressing in whole or in part the subject matter of the requested protection order. In the event there are conflicting restraining or protection orders, the court shall consider, as its first priority, issues of public safety. An order that prevents assaults, threats of assault, or other bodily harm shall be given precedence over an

order that deals with the disposition of property or other tangible assets. Every effort shall be made by judicial officers to clarify conflicting orders.

(4)

(a) A temporary civil protection order may be issued if the issuing judge or magistrate finds that an imminent danger exists to the person or persons seeking protection under the civil protection order. In determining whether an imminent danger exists to the life or health of one or more persons, the court shall consider when the most recent incident of abuse or threat of harm occurred as well as all other relevant evidence concerning the safety and protection of the persons seeking the protection order. However, the court shall not deny a petitioner the relief requested solely because of a lapse of time between an act of abuse or threat of harm and filing of the petition for a protection order.

(b) If the judge or magistrate finds that an imminent danger exists to the employees of a business entity, he or she may issue a civil protection order in the name of the business for the protection of the employees. An employer shall not be liable for failing to obtain a civil protection order in the name of the business for the protection of the employees and patrons.

(5) Upon the filing of a complaint duly verified, alleging that the defendant has committed acts that would constitute grounds for a civil protection order, any judge or magistrate, after hearing the evidence and being fully satisfied therein that sufficient cause exists, may issue a temporary civil protection order to prevent the actions complained of and a citation directed to the defendant commanding the defendant to appear before the court at a specific time and date and to show cause, if any, why said temporary civil protection order should not be made permanent. In addition, the court may order any other relief that the court deems appropriate. Complaints maybe filed by persons seeking protection for themselves or for others as provided in section 26-3.1-102 (1) (b) and (1) (c), C.R.S.

(6) A copy of the complaint together with a copy of the temporary civil protection order and a copy of the citation shall be served upon the defendant and upon the person to be protected, if the complaint was filed by another person, in accordance with the rules for service of process as provided in rule 304 of the rules of county court civil procedure or rule 4 of the Colorado rules of civil procedure. The citation shall inform the defendant that, if the defendant fails to appear in court in accordance with the terms of the citation, a bench warrant may be issued for the arrest of the defendant and the temporary protection order previously entered by the court shall be made permanent without further notice or service upon the defendant.

(7) The return date of the citation shall be set not more than fourteen days after the issuance of the temporary civil protection order and citation. If the petitioner is unable to serve the defendant in that period, the court shall extend the temporary protection order previously issued, continue the show of cause hearing, and issue an alias citation stating the date and time to which the hearing is continued. The petitioner may thereafter request, and the court may grant, additional continuances as needed if the petitioner has still been unable to serve the defendant.

(8)

(a) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes such person from a shared residence, shall be permitted to return to such shared residence one time to obtain sufficient undisputed personal effects as are necessary for such person to maintain a normal standard of living during any period prior to a hearing concerning such order. Such person against whom a temporary protection order is issued shall be permitted to return to such shared residence only if such person is accompanied at all times while the person is at or in such shared residence by a peace officer.

(b) When any person is served with a temporary protection order issued against such person excluding such person from a shared residence, such temporary protection order shall contain a notification in writing to such person of such person's ability to return to such shared residence pursuant to paragraph (a) of this subsection (8). Such written notification shall be in bold print and conspicuously placed in such temporary protection order. No judge, magistrate, or other judicial officer shall issue a temporary protection order that does not comply with this subsection (8).

(c) Any person against whom a temporary protection order is issued pursuant to this section, which temporary protection order excludes such person from a shared residence, shall be entitled to avail himself or herself of the forcible entry and detainer remedies available pursuant to article 40 of this title. However, such person shall not be entitled to return to the residence until such time as a valid writ of restitution is executed, filed with the court issuing the protection order, and, if necessary, the protection order is modified accordingly. A landlord whose lessee has been excluded from a residence pursuant to the terms of a protection order is also entitled to avail himself or herself of the remedies available pursuant to article 40 of this title.

(9)

(a) On the return date of the citation, or on the day to which the hearing has been continued, the judge or magistrate shall examine the record and the evidence. If upon such examination the judge or magistrate is of the opinion that the defendant has committed acts constituting grounds for issuance of a civil protection order and that unless restrained will continue to commit such acts, the judge or magistrate shall order the temporary civil protection order to be made permanent or order a permanent civil protection order with different provisions from the temporary civil protection order. The judge or magistrate shall inform said defendant that a violation of the civil protection order shall constitute a criminal offense pursuant to section 18-6-803.5, C.R.S., or shall constitute contempt of court and subject the defendant to such punishment as may be provided by law. If the defendant fails to appear before the court for the show cause hearing at the time and on the date identified in the citation issued by the court and the court finds that the defendant was properly served with the temporary protection order and such citation, it shall not be necessary to re-serve the defendant to make the protection order permanent. However, if the court modifies the protection order on the

motion of the protected party, the modified protection order shall be served upon the defendant.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (9), the judge or magistrate, after examining the record and the evidence, for good cause shown, may continue the temporary protection order and the show cause hearing to a date certain not to exceed one hundred twenty days after the date of the hearing if he or she determines such continuance would be in the best interests of the parties and if both parties are present at the hearing and agree to the continuance. In addition, each party may request one continuance for a period not to exceed fourteen days which the judge or magistrate, after examining the record and the evidence, may grant upon a finding of good cause. The judge or magistrate shall inform the defendant that a violation of the temporary civil protection order shall constitute a criminal offense pursuant to section 18-6-803.5, C.R.S., or shall constitute contempt of court and subject the defendant to such punishment as may be provided by law.

(c) Notwithstanding the provisions of paragraph (b) of this subsection (9), for a protection order filed in a proceeding commenced under the “Uniform Dissolution of Marriage Act”, article 10 of title 14, C.R.S., the court may, on the motion of either party if both parties agree to the continuance, continue the temporary protection order until the time of the final decree or final disposition of the action.

(10) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, C.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party.

(11) If the order has not been personally served, the peace officer responding to a call for assistance shall serve a copy of said order on the person named defendant therein and shall write the time, date, and manner of service on the protected person’s copy of such order and shall sign such statement.

(12) The duties of peace officers enforcing the civil protection order shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

(13) A person failing to comply with any order of the court issued pursuant to this section shall be found in contempt of court or may be prosecuted for violation of a civil protection order pursuant to section 18-6-803.5, C.R.S.

(14) At the time a civil protection order is requested, the court shall inquire about, and the requesting party and such party’s attorney shall have an independent duty to disclose, any knowledge such party and such party’s attorney may have concerning the existence of any prior protection orders of any court addressing in whole or in part the subject matter of the requested civil protection order.

(15) A municipal court of record that is authorized by its municipal governing body to issue protection or restraining orders and any county court, in connection with issuing a civil protection order, shall have original concurrent jurisdiction with the district court to issue such additional orders as the municipal or county court deems necessary for the protection of persons. Such additional orders may include, but are not limited to:

- (a) Restraining a party from threatening, molesting, or injuring any other party or the minor child of either of the parties;
- (b) Restraining a party from contacting any other party or the minor child of either of the parties;
- (c) Excluding a party from the family home upon a showing that physical or emotional harm would otherwise result;
- (d) Excluding a party from the home of another party upon a showing that physical or emotional harm would otherwise result;
- (e)
 - (I) Awarding temporary care and control of any minor children of either party involved for a period of not more than one hundred twenty days.
 - (II) If temporary care and control is awarded, the order may include parenting time rights for the other party involved and any conditions of such parenting time, including the supervision of such parenting time by a third party who agrees on the record to the terms of the supervised parenting time and any costs associated with supervised parenting time, if necessary. If the restrained party is unable to pay the ordered costs, the court shall not place such responsibility with publicly funded agencies. If the court finds that the safety of any child or the protected party cannot be ensured with any form of parenting time reasonably available, the court may deny parenting time.
 - (II.5) The court may award interim decision-making responsibility of a child to a person entitled to bring an action for the allocation of parental responsibilities under section 14-10-123, C.R.S., when such award is reasonably related to preventing domestic abuse as defined in section 13-14-101 (2), or preventing the child from witnessing domestic abuse.
 - (III) The standard for the award of temporary care and control or interim decision-making responsibility shall be in accordance with section 14-10-124, C.R.S.
- (f) Such other relief as the court deems appropriate;

(f.2) Restraining a party from threatening, molesting, injuring, killing, taking, transferring, encumbering, concealing, or disposing of an animal owned, possessed, leased, kept, or held by any other party, a minor child of any other party, or an elderly or at-risk adult;

(f.4) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party, a minor child of any other party, or an elderly or at-risk adult.

(g)

(I) A temporary injunction that may be issued by the court that, upon personal service or upon waiver and acceptance of service by the defendant, is to be in effect against the defendant for a period determined to be appropriate by the court and restrains the defendant from ceasing to make payments for mortgage or rent, insurance, utilities or related services, transportation, medical care, or child care when the defendant has a prior existing duty or legal obligation or from transferring, encumbering, concealing, or in any way disposing of personal effects or real property, except in the usual course of business or for the necessities of life. The restrained party shall be required to account to the court for all extraordinary expenditures made after the injunction is in effect. Any injunction issued shall not exceed one hundred twenty days after the issuance of the permanent civil protection order.

(II) The provisions of the injunction shall be printed on the summons, and the petition and the injunction shall become an order of the court upon fulfillment of the requirements of subparagraph (I) of this paragraph (g).

(III) Nothing in this paragraph (g) shall preclude either party from applying to the district court for further temporary orders, an expanded temporary injunction, or modification or revocation. Any subsequent order issued by the district court as part of a domestic matter involving the parties shall supersede an injunction made pursuant to this paragraph (g).

(16) Any order for temporary care and control issued pursuant to subsection (15) of this section shall be governed by the “Uniform Child-custody Jurisdiction and Enforcement Act”, article 13 of title 14, C.R.S.

(17) Any order granted pursuant to paragraph (c) or (e) of subsection (15) of this section shall terminate whenever a subsequent order regarding the same subject matter is granted pursuant to the “Uniform Dissolution of Marriage Act”, article 10 of title 14, C.R.S., or the “Uniform Child-custody Jurisdiction and Enforcement Act”, article 13 of title 14, C.R.S., or the “Colorado Children’s Code”, title 19, C.R.S.

(17.5)

(a) Nothing in this section shall preclude the protected party from applying to the court at any time for modification, including but not limited to a modification of the duration of a protection order, or dismissal of a temporary or permanent protection order issued pursuant to this section. The restrained party may apply to the court for modification, including but not limited to a modification of the duration of the protection order, or dismissal of a permanent protection order pursuant to this section. However, if a permanent protection order has been issued or if a motion for modification or dismissal of a permanent protection order has been filed by the restrained party, whether or not it was granted, no motion to modify or dismiss may be filed by the restrained party within four years after issuance of the permanent order or after disposition of the prior motion.

(b)

(I)

(A) Notwithstanding any provision of paragraph (a) of this subsection (17.5) to the contrary, after issuance of the permanent protection order, if the restrained party is convicted of any misdemeanor other than the original misdemeanor that formed the basis for the issuance of the protection order, the underlying factual basis of which has been found by a court on the record to include an act of domestic violence, as that term is defined in section 18-6-800.3 (1), C.R.S., or of any felony, then the protection order shall remain permanent and shall not be modified or dismissed by the court.

(B) Notwithstanding the prohibition in sub-subparagraph (A) of this subparagraph (I), a protection order may be modified or dismissed on the motion of the protected person, or the person's attorney, parent or legal guardian if a minor, or conservator of legal guardian if one has been appointed; except that this sub-subparagraph (B) shall not apply if the parent, legal guardian, or conservator is the restrained person.

(II) A court shall not consider a motion to modify a protection order filed by a restrained party pursuant to paragraph (a) of this subsection (17.5) unless the court receives the results of a fingerprint-based criminal history record check of the restrained party that is conducted within ninety days prior to the filing of the motion. The fingerprint-based criminal history record check shall include a review of the state and federal criminal history records maintained by the Colorado bureau of investigation and federal bureau of investigation. The restrained party shall be responsible for supplying fingerprints to the Colorado bureau of investigation and to the federal bureau of investigation and paying the costs of the record checks. The restrained party may be required by the court to

provide certified copies of any criminal dispositions that are not reflected in the state or federal records and any other dispositions that are unknown.

(c) Except as otherwise provided in this section, the issuing court shall retain jurisdiction to enforce, modify, or dismiss a temporary or permanent protection order.

(d) Any motion filed pursuant to paragraph (a) of this subsection (17.5) shall be heard by the court. The party moving for a modification or dismissal of a temporary or permanent protection order pursuant to paragraph (a) of this subsection (17.5) shall affect personal service on the other party with a copy of the motion and notice of the hearing on the motion, as provided by rule 4 (e) of the Colorado rules of civil procedure. The moving party shall bear the burden of proof to show, by a preponderance of the evidence, that the modification is appropriate or that a dismissal is appropriate because the protection order is no longer necessary. If the protected party has requested that his or her address be kept confidential, the court shall not disclose such information to the restrained party or any other person, except as otherwise authorized by law.

(e) In considering whether to modify or dismiss a protection order issued pursuant to this section, the court shall consider all relevant factors, including but not limited to:

(I) Whether the restrained party has complied with the terms of the protection order;

(II) Whether the restrained party has met the conditions associated with the protection order, if any;

(III) Whether the restrained party has been ordered to participate in and complete a domestic violence treatment program provided by an entity approved pursuant to section 16-11.8-103 (4)(a)(III)(C), C.R.S., and whether the restrained party has completed the program;

(IV) Whether the restrained party has voluntarily participated in any domestic violence treatment program or other counseling addressing domestic violence or anger management issues;

(V) The time that has lapsed since the protection order was issued;

(VI) When the last incident of abuse or threat of harm occurred or other relevant information concerning the safety and protection of the protected person;

(VII) Whether, since the issuance of the protection order, the restrained person has been convicted of or pled guilty to a crime, the underlying factual basis of which has been found by a court on the record to include an act of domestic violence, as that term is defined in section 18-6-800.3 (1), C.R.S., other than the original offense, if any, that formed the basis for the issuance of the protection order;

(VIII) Whether any other restraining orders or protective orders or protection orders have been subsequently issued against the restrained person pursuant to this section or any other law of this state or any other state; and

(IX) The circumstances of the parties, including the relative proximity of the parties' residences and work places and whether the parties have minor children together.

(18) A court shall not grant a mutual protection order to prevent domestic abuse for the protection of opposing parties unless each party has met his or her burden of proof as described in subsection (4) of this section and the court makes separate and sufficient findings of fact to support the issuance of the mutual protection order to prevent domestic abuse for the protection of opposing parties. No party may waive the requirements set forth in this subsection (18).

(19) Repealed.

(20) Enactment of this section shall not affect the effectiveness of any civil protection or restraining order issued prior to July 1, 1999.

(21)

(a) The court may assess a filing fee against a petitioner seeking relief under this section; except that the court may not assess a filing fee against a petitioner if the court determines the petitioner is seeking the protection order as a victim of domestic abuse as defined by section 13-14-101(2); domestic violence as defined by section 18-6-800.3(1), C.R.S.; stalking as described in section 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S. Petitioners shall be provided the necessary number of certified copies at no cost.

(b) Fees for service of process may not be assessed by a state agency or public agency against petitioners seeking relief under this section as a victim of conduct consistent with the following: Domestic abuse as defined by section 13-14-101(2); domestic violence as defined by section 18-6-800.3(1), C.R.S.; stalking as described in section 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S.

(c) At the permanent protection order hearing, the court may require the respondent to pay the filing fee and service-of-process fees, as established by the state agency, political subdivision, or public agency pursuant to a fee schedule, and to reimburse the petitioner for costs incurred in bringing the action.

COLO. REV. STAT. § 13-14-103 (2012).Emergency protection orders.

(1)

(a) Any county or district court shall have the authority to enter an emergency protection order pursuant to the provisions of this subsection (1).

(b) An emergency protection order issued pursuant to this subsection (1) may include:

(I) Restraining a party from threatening, molesting, injuring, or contacting any other party, a minor child of either of the parties, or a minor child who is in danger in the reasonably foreseeable future of being a victim of an unlawful sexual offense or domestic abuse;

(II) Excluding a party from the family home or from the home of another party upon a showing that physical or emotional harm would otherwise result;

(III) Awarding temporary care and control of any minor child of a party involved;

(IV) Enjoining an individual from contacting a minor child at school, at work, or wherever he or she may be found.

(V) Restraining a party from threatening, molesting, injuring, killing, taking, transferring, encumbering, concealing, or disposing of an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult; or

(VI) Specifying arrangements for possession and care of an animal owned, possessed, leased, kept, or held by any other party, a minor child of either of the parties, or an elderly or at-risk adult.

(c) In cases involving a minor child, the juvenile court and the district court shall have the authority to issue emergency protection orders to prevent an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or to prevent domestic abuse, as defined in section 13-14-101 (2), when requested by the local law enforcement agency, the county department of social services, or a responsible person who asserts, in a verified petition supported by affidavit, that there are reasonable grounds to believe that a minor child is in danger in the reasonably foreseeable future of being the victim of an unlawful sexual offense or domestic abuse, based upon an allegation of a recent actual unlawful sexual offense or domestic abuse or threat of the same. Any emergency protection order issued pursuant to this subsection (1) shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected person.

(d) The chief judge in each judicial district shall be responsible for making available in each judicial district a judge to issue, by telephone, emergency protection orders at all times when the county and district courts are otherwise closed for judicial business. Such judge may be a district court or county court judge or a special associate, an associate, an assistant county judge, or a magistrate.

(e) When the county, district, and juvenile courts are unavailable from the close of business at the end of the day or week to the resumption of business at the beginning of the day or week and a peace officer asserts reasonable grounds to believe that an adult is in immediate and present danger of domestic abuse, based upon an allegation of a recent incident of actual domestic abuse or threat of domestic abuse, or that a minor child is in immediate and present danger of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or of domestic abuse, as defined in section 13-14-101 (2), a judge made available pursuant to paragraph (d) of this subsection (1) may issue a written or verbal ex parte emergency protection order. Any written emergency protection order issued pursuant to this subsection (1) shall be on a standardized form prescribed by the judicial department and a copy shall be provided to the protected person.

(f) An emergency protection order issued pursuant to this subsection (1) shall expire not later than the close of judicial business on the next day of judicial business following the day of issue, unless otherwise continued by the court. The court may continue an emergency protection order filed to prevent domestic abuse pursuant to this subsection (1) only if the judge is unable to set a hearing on plaintiff's request for a temporary protection order on the day the complaint was filed pursuant to section 13-14-102; except that this limitation on a court's power to continue an emergency protection order shall not apply to an emergency protection order filed to protect a minor child from an unlawful sexual offense or domestic abuse. For any emergency protection order continued pursuant to the provisions of this paragraph (f), following two days' notice to the party who obtained the emergency protection order or on such shorter notice to said party as the court may prescribe, the adverse party may appear and move its dissolution or modification. The motion to dissolve or modify the emergency protection order shall be set down for hearing at the earliest possible time and shall take precedence over all matters except older matters of the same character, and the court shall determine such motions as expeditiously as the ends of justice require.

(2)

(a) A verbal emergency protection order may be issued pursuant to subsection (1) of this section only if the issuing judge finds that an imminent danger in close proximity exists to the life or health of one or more persons or that a danger exists to the life or health of the minor child in the reasonably foreseeable future.

(b) Any verbal emergency protection order shall be reduced to writing and signed by the officer or other person asserting the grounds for the order and shall include a statement of the grounds for the order asserted by the officer or person. The officer or person shall not be subject to civil liability for any statement made or act performed in good faith. The emergency protection order shall be served upon the respondent with a copy given to the protected party and filed with the county or district court as soon as practicable after issuance. Any written emergency protection order issued pursuant to this subsection (2) shall be on a standardized form prescribed by the judicial department, and a copy shall be provided to the protected person.

(3) The court shall electronically transfer into the central registry of protection orders established pursuant to section 18-6-803.7, C.R.S., a copy of any order issued pursuant to this section and shall deliver a copy of such order to the protected party or his or her parent or an individual acting in the place of a parent who is not the respondent.

(4) If any person named in an order issued pursuant to this section has not been served personally with such order but has received actual notice of the existence and substance of such order from any person, any act in violation of such order may be deemed sufficient to subject the person named in such order to any penalty for such violation.

(5) Venue for filing a complaint pursuant to this section is proper in any county where the acts constituting unlawful sexual assault or domestic abuse that are the subject of the complaint occur, in any county where one of the parties resides, or in any county where one of the parties is employed. This requirement for venue does not prohibit the change of venue to any other county appropriate under applicable law.

(6) A person failing to comply with any order of the court issued pursuant to this section shall be found in contempt of court and, in addition, may be punished as provided in section 18-6-803.5, C.R.S.

(7) At any time that the law enforcement agency having jurisdiction to enforce the emergency protection order has cause to believe that a violation of the order has occurred, it shall enforce the order. If the order is written and has not been personally served, a member of the law enforcement agency shall serve a copy of said order on the person named respondent therein. If the order is verbal, a member of the law enforcement agency shall notify the respondent of the existence and substance thereof.

(8) The availability of an emergency protection order shall not be affected by the subject of domestic abuse leaving his or her residence to avoid such abuse.

(9) The issuance of an emergency protection order shall not be considered evidence of any wrongdoing.

(10) If three emergency protection orders are issued within a one-year period involving the same parties within the same jurisdiction, the court shall summon the parties to appear before the court at a hearing to review the circumstances giving rise to such emergency protection orders.

(11) The duties of peace officers enforcing orders issued pursuant to this section shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

COLO REV. STAT. § 18-6-800.3 (2012). Definitions.

As used in this part 8, unless the context otherwise requires:

(1) “Domestic violence” means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. “Domestic violence” also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(2) “Intimate relationship” means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

COLO REV. STAT. § 18-6-803.5(2012). Crime of violation of a protection order—penalty--peace officers’ duties.

(1) A person commits the crime of violation of a protection order if, after the person has been personally served with a protection order that identifies the person as a restrained person or otherwise has acquired from the court or law enforcement personnel actual knowledge of the contents of a protection order that identifies the person as a restrained person, the person:

(a) Contacts, harasses, injures, intimidates, molests, threatens, or touches the protected person or protected property, including an animal, identified in the protection order or enters or remains on premises or comes within a specified distance of the protected person, protected property, including an animal, or premises or violates any other provision of the protection order to protect the protected person from imminent danger to life or health, and such conduct is prohibited by the protection order; or

(b) Except as permitted pursuant to section 18-13-126(1)(b), hires, employs, or otherwise contracts with another person to locate or assist in the location of the protected person.

(1.5) As used in this section:

(a) “Protected person” means the person or persons identified in the protection order as the person or persons for whose benefit the protection order was issued.

(a.5)

(I) “Protection order” means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person or protected animal, or from entering or remaining on premises, or from coming within a specified distance of a protected person or protected animal or premises or any other provision to protect the protected person or protected animal from imminent danger to life or health, that is issued by a court of this state or a municipal court, and that is issued pursuant to:

(A) Article 14 of title 13, C.R.S., section 18-1-1001, section 19-2-707, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure;

(B) Sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., or section 19-3-316, C.R.S., as those sections existed prior to July 1, 2004;

(C) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(D) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(II) For purposes of this section only, “protection order” includes any order that amends, modifies, supplements, or supersedes the initial protection order.

“Protection order” also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14- 104, C.R.S.

(b) “Registry” means the computerized information system created in section 18-6-803.7 or the national crime information center created pursuant to 28 U.S.C. sec. 534.

(c) “Restrained person” means the person identified in the order as the person prohibited from doing the specified act or acts.

(d) Deleted by Laws 2003, Ch. 139, § 6, eff. July 1, 2003.

(2)

(a) Violation of a protection order is a class 2 misdemeanor; except that, if the restrained person has previously been convicted of violating this section or a former version of this section or an analogous municipal ordinance, or if the protection order is issued pursuant to section 18-1- 1001, the violation is a class 1 misdemeanor.

(a.5) A second or subsequent violation of a protection order is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501(3).

(b) Deleted by Laws 1995, H.B.95-1179, § 3, eff. July 1, 1995.

(c) Nothing in this section shall preclude the ability of a municipality to enact concurrent ordinances. Any sentence imposed for a violation of this section shall run consecutively and not concurrently with any sentence imposed for any crime which gave rise to the issuing of the protection order.

(3)

(a) Whenever a protection order is issued, the protected person shall be provided with a copy of such order. A peace officer shall use every reasonable means to enforce a protection order.

(b) A peace officer shall arrest, or, if an arrest would be impractical under the circumstances, seek a warrant for the arrest of a restrained person when the peace officer has information amounting to probable cause that:

(I) The restrained person has violated or attempted to violate any provision of a protection order; and

(II) The restrained person has been properly served with a copy of the protection order or the restrained person has received actual notice of the existence and substance of such order.

(c) In making the probable cause determination described in paragraph (b) of this subsection (3), a peace officer shall assume that the information received from the registry is accurate. A peace officer shall enforce a valid protection order whether or not there is a record of the protection order in the registry.

(d) The arrest and detention of a restrained person is governed by applicable constitutional and applicable state rules of criminal procedure. The arrested person shall be removed from the scene of the arrest and shall be taken to the peace officer's station for booking, whereupon the arrested person may be held or released in accordance with the adopted bonding schedules for the jurisdiction in which the arrest is made, or the arrested person may be taken to the jail in the county where the protection order was issued. The law enforcement agency or any other locally designated agency shall make all reasonable efforts to contact the protected party upon the arrest of the restrained

person. The prosecuting attorney shall present any available arrest affidavits and the criminal history of the restrained person to the court at the time of the first appearance of the restrained person before the court.

(e) The arresting agency arresting the restrained person shall forward to the issuing court a copy of such agency's report, a list of witnesses to the violation, and, if applicable, a list of any charges filed or requested against the restrained person. The agency shall give a copy of the agency's report, witness list, and charging list to the protected party. The agency shall delete the address and telephone number of a witness from the list sent to the court upon request of such witness, and such address and telephone number shall not thereafter be made available to any person, except law enforcement officials and the prosecuting agency, without order of the court.

(4) If a restrained person is on bond in connection with a violation or attempted violation of a protection order in this or any other state and is subsequently arrested for violating or attempting to violate a protection order, the arresting agency shall notify the prosecuting attorney who shall file a motion with the court which issued the prior bond for the revocation of the bond and for the issuance of a warrant for the arrest of the restrained person if such court is satisfied that probable cause exists to believe that a violation of the protection order issued by the court has occurred.

(5) A peace officer arresting a person for violating a protection order or otherwise enforcing a protection order shall not be held criminally or civilly liable for such arrest or enforcement unless the peace officer acts in bad faith and with malice or does not act in compliance with rules adopted by the Colorado supreme court.

(6)

(a) A peace officer is authorized to use every reasonable means to protect the alleged victim or the alleged victim's children to prevent further violence. Such peace officer may transport, or obtain transportation for, the alleged victim to shelter. Upon the request of the protected person, the peace officer may also transport the minor child of the protected person, who is not an emancipated minor, to the same shelter if such shelter is willing to accept the child, whether or not there is a custody order or an order allocating parental responsibilities with respect to such child or an order for the care and control of the child and whether or not the other parent objects. A peace officer who transports a minor child over the objection of the other parent shall not be held liable for any damages that may result from interference with the custody, parental responsibilities, care, and control of or access to a minor child in complying with this subsection (6).

(b) For purposes of this subsection (6), "shelter" means a battered women's shelter, a friend's or family member's home, or such other safe haven as may be designated by the protected person and which is within a reasonable distance from the location at which the peace officer found the victim.

(7) The protection order shall contain in capital letters and bold print a notice informing the protected person that such protected person may either initiate contempt proceedings against the restrained person if the order is issued in a civil action or request the prosecuting attorney to initiate contempt proceedings if the order is issued in a criminal action.

(8) A protection order issued in the state of Colorado shall contain a statement that:

(a) The order or injunction shall be accorded full faith and credit and be enforced in every civil or criminal court of the United States, another state, an Indian tribe, or a United States territory pursuant to 18 U.S.C. sec. 2265;

(b) The issuing court had jurisdiction over the parties and subject matter; and

(c) The defendant was given reasonable notice and opportunity to be heard.

(9) A criminal action charged pursuant to this section may be tried either in the county where the offense is committed or in the county in which the court that issued the protection order is located, if such court is within this state.

COLO REV. STAT. § 18-9-201 (2012). Definitions.

As used in this section and sections 18-9-201.5, 18-9-202, 18-9-202.5, and 18-9-204.5, unless the context otherwise requires:

(1) “Abandon” means the leaving of an animal without adequate provisions for the animal’s proper care by its owner, the person responsible for the animal’s care or custody, or any other person having possession of such animal.

(2) “Animal” means any living dumb creature, including a service animal as defined in section 18-1.3-602(3.5).

(2.5) “Disposal” or “disposition” means adoption of an animal; return of an animal to the owner; sale of an animal under section 18-9-202.5(4); release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.; release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S., or release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service; or euthanasia.

(2.7) “Euthanasia” means to produce a humane death by techniques accepted by the American veterinary medical association.

(2.9) “Livestock” means bovine, camelids, caprine, equine, ovine, porcine, and poultry.

(3) “Mistreatment” means every act or omission that causes or unreasonably permits the

continuation of unnecessary or unjustifiable pain or suffering.

(4) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal.

(5) “Sexual act with an animal” means an act between a person and an animal involving direct physical contact between the genitals of one and the mouth, anus, or genitals of the other. A sexual act with an animal may be proven without allegation or proof of penetration. Nothing in this subsection (5) shall be construed to prohibit accepted animal husbandry practices.

COLO. REV. STAT. § 18-9-201.5 (2012).Scope of part 2.

(1) Nothing in this part 2 shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals or in the extermination of undesirable pests as defined in articles 7, 10, and 43 of title 35, COLO. REV. STAT. ANN.

(2) In case of any conflict between this part 2 or section 35-43-126, COLO. REV. STAT. ANN., and the wildlife statutes of the state, said wildlife statutes shall control.

(3) Nothing in this part 2 shall affect animal care otherwise authorized by law.

(4) Nothing in this part 2 shall affect facilities licensed under the provisions of the federal “Animal Welfare Act of 1970”, 7 U.S.C. sec. 2131 et seq., as amended.

COLO. REV. STAT. § 18-9-202 (2012).Cruelty to animals—aggravated cruelty to animals—neglect of animals—offenses.

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.

(1.5)

(a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal if he or she violates the provisions of subsection (1) of this section with respect to a service animal as defined in section 18-1.3-602(3.5), whether the service animal is on duty or not on duty.

(1.6) As used in this section, unless the context otherwise requires:

(a) “Serious physical harm” means any of the following:

(I) Any physical harm that carries a substantial risk of death;

(II) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(III) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), cruelty to animals is a class 1 misdemeanor.

(a.5)

(I) Repealed by Laws 2000, Ch. 282, § 2, eff. July 1, 2005.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.

(IV) Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of one thousand dollars and shall be required to complete an anger management treatment program or any other appropriate treatment program.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This paragraph (a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 60 of title 12, C.R.S., the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202(1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105(3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, he or she shall be ordered to make restitution to the agency or individual owning the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the cruelty to animals incident.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

COLO. REV. STAT. § 18-9-202.5 (2012). Impounded animals—costs of impoundment, provision, and care—disposition—procedures—application—definition.

(1)

(a)

(I) The owner or custodian of an animal that has been impounded by an impound agency because of alleged neglect or abuse or because of investigation of charges of cruelty to animals pursuant to section 18-9-202; animal fighting pursuant to section 18-9-204; mistreatment, neglect, or abandonment under article 42 of title 35, C.R.S.; or unlawful ownership of a dangerous dog as described in section 18-9-204.5, may prevent disposition of the animal by an impound agency by filing a payment for impoundment, care, and provision costs with the court in an amount determined by the impound agency to be sufficient to provide for the animal's

care and provision at the impound agency for at least thirty days, including the day on which the animal was taken into custody .

(II) To the extent practicable, within seventy-two hours after an impoundment described under subparagraph (I) of this paragraph (a), upon request from the owner or custodian of the impounded animal, the impound agency shall allow a licensed veterinarian of the owner's or custodian's choosing and at his or her expense to examine the animal at a time and place selected by the impound agency, which examination may include taking photographs of the animal and taking biological samples for the purpose of diagnostic testing.

(b) The owner or custodian must file the payment:

(I) Within ten days after the animal is impounded; or

(II) If the owner or custodian requests a hearing pursuant to subparagraph (I) of paragraph (c) of this subsection (1), in accordance with subparagraph (IV) of paragraph (c) of this subsection (1).

(c)

(I) Within ten days after the date of impoundment, the owner or custodian may request a hearing in a criminal court of competent jurisdiction. The owner or custodian must provide notice to the district attorney of his or her request for a hearing. If the owner or custodian requests a hearing, the court shall hold the hearing within ten days after the request is made.

(II) At the hearing, the court shall determine, as appropriate:

(A) whether costs associated with the impoundment, care, and provision, as determined by the impound agency, are fair and reasonable and necessary, which costs shall be specifically itemized by the impound agency prior to the date of the hearing and shall include, at a minimum, an accounting of the costs of upkeep and veterinary services

(B) whether there was sufficient probable cause for the impoundment; and

(C) if the court finds probable cause for impoundment existed and the owner or custodian elects not to pay the reasonable impoundment, care, or provision costs to prevent disposition, release of the animal to the impound agency for disposition.

(III) A warrant issued in accordance with C.R.C.P. 41 (b) authorizing seizure of the impounded animal constitutes prima facie evidence of sufficient cause for impoundment.

(IV) If probable cause is found at a hearing conducted under this paragraph (c), the owner or custodian shall file payment for costs at the hearing.

(d) At the end of the time for which expenses are covered by an initial or any subsequent impoundment, care, and provision payment:

(I) If the owner or custodian desires to prevent disposition of the animal, the owner or custodian must file a new payment with the court within ten days prior to the previous payment's expiration.

(II) If the owner or custodian has not timely filed an additional payment for impoundment, care, and provision costs, the impound agency may determine disposition of the animal unless there is a court order prohibiting disposition. unless subsection (4) of this section applies, the owner or custodian is liable for any additional costs for the care of, provision for, or disposal of the animal.

(2)

(a) Failure to pay the impoundment, care, and provision costs pursuant to subsection (1) of this section results in the forfeiture of the right to contest those costs and any ownership rights to the animal in question.

(b) A dog that is not claimed by its owner within five days after being eligible for release from impoundment for investigation of a charge of unlawful ownership of a dangerous dog as described in section 18-9-204.5 IS deemed abandoned and may be disposed of as the impound agency deems proper.

(c) If, in the opinion of a licensed veterinarian, an impounded animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(3) The court shall order an impound agency to refund to the owner or custodian all impoundment, care, and provision payments made for the animal if, after trial, a judge or jury enters or returns in favor of the owner or custodian a verdict of not guilty for all charges related to the original impoundment of the animal.

(4)

(a) With respect to the sale of an animal, the proceeds are first applied to the costs of the sale and then to the expenses for the care of and provision for the animal during impoundment and the pendency of the sale, including expenses incurred by the impound agency that have not been paid by the owner or custodian. If the owner of the animal is convicted of cruelty to animals under section 18-9-202, animal fighting under section 18-9-204, or unlawful ownership of a dangerous dog under section 18-9-204.5 or is found by court order to have mistreated, neglected, or abandoned the animal under article 42 of title 35, C.R.S., the remaining proceeds, if any, are paid to the impound agency. If the

owner of the animal is not convicted of such charges or is not found by court order to have mistreated, neglected, or abandoned the animal, the impound agency shall pay over the remaining proceeds, if any, to the owner of the animal.

(b) If the impound agency is the department of agriculture, the department shall transmit the moneys credited for expenses to the state treasurer, who shall credit them to the animal protection fund created in section 35-42-113, C.R.S.

(c) If the owner of the animal cannot be found, the court shall pay any remaining proceeds after all other expenses have been paid to the impound agency into the animal protection fund or, if the impound agency is not the department of agriculture, to such other impound agency as the court orders. An owner claiming the remaining proceeds must make the claim within one year after the payment of the proceeds to the impound agency. A claim not so presented to the court is forever barred unless the court, by proper order made in any case, otherwise decrees. An impound agency shall pay to the claimant any refund ordered by court decree.

(d) At least six days prior to sale of the animal, the impound agency shall provide written notice to the owner, at the owner's last-known address, of the time and place of the sale of the animal.

(e) If the owner of the animal is unknown, the impound agency shall publish for one week, in a newspaper of general circulation in the jurisdiction in which the animal was found, notice of sale of the animal, and shall further post notice of the sale of the animal at a place provided for public notices in the jurisdiction in which the sale will take place, at least five days prior to the sale.

(f) This subsection (4) does not apply to the disposition of an animal for a fee by:

(I) Adoption of an animal;

(II) Release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.;

(III) Release of an animal to another pet animal facility pursuant to article 80 of title 35, C.R.S.; or

(IV) Release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service.

(5) For purposes of this section, "impound agency" means an animal shelter as defined in section 35-80-102 (1), C.R.S., the department of agriculture, created in section 24-1-123, C.R.S., or any other agency that impounds an animal pursuant to paragraph (a) of subsection (1) of this section or section 18-9-202 (1.8).

(6) This section does not apply to animals impounded solely under Article 42 of Title 35, C.R.S.

COLO. REV. STAT. § 18-9-204 (2012).Animal fighting—penalty.

(1)

(a) No person shall cause, sponsor, arrange, hold, or encourage a fight between animals for the purpose of monetary gain or entertainment.

(b) For the purposes of this section, a person encourages a fight between animals for the purpose of monetary gain or entertainment if he or she:

(I) Is knowingly present at or wagers on such a fight;

(II) Owns, trains, transports, possesses, breeds, sells, transfers, or equips an animal with the intent that such animal will be engaged in such a fight;

(III) Knowingly allows any such fight to occur on any property owned or controlled by him;

(IV) Knowingly allows any animal used for such a fight to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by him;

(V) Knowingly uses any means of communication for the purpose of promoting such a fight; or

(VI) Knowingly possesses any animal used for such a fight or any device intended to enhance the animal's fighting ability.

(2) Any person who violates the provisions of this section commits a class 5 felony and, in addition to the punishment provided in section 18-1.3-401, may be punished by a fine of up to one thousand dollars. Any person committing a second or subsequent violation of this section commits a class 4 felony and, in addition to the punishment provided in section 18-1.3-401, may be punished by a fine of up to five thousand dollars.

(3) Nothing in this section shall prohibit normal hunting practices as approved by the division of wildlife.

(4) Nothing in this section shall be construed to prohibit the training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

COLO. REV. STAT. § 18-9-205 (2012).Disposition of fines.

Any fines collected pursuant to section 18-9-204 shall be transmitted to the state treasurer, who shall then transmit the same to the county where the offense occurred for deposit in the general fund to be used for the care of the animals involved in the offense, if required, or, if not required, for any other lawful purpose.

COLO. REV. STAT. § 18-9-208 (2012).Forfeiture of animals.

(1) Upon the motion of the prosecuting attorney or upon the court's own motion, after the conviction of a defendant for cruelty to animals as described in section 18-9-202, or for animal fighting as described in section 18-9-204, the court may order the forfeiture of any animal owned by or in the custody of the defendant that:

(a) Was abused, neglected, mistreated, injured, or used by the defendant during the course of the criminal episode that gave rise to such conviction;

(b) Participated in or was affected by any act set forth in section 18-9-204(1).

(2)

(a) If an animal is the subject of a motion made under subsection (1) of this section and is not owned by the defendant, the court may nevertheless enter an order of forfeiture of the animal if the court finds that:

(I) The animal was abandoned prior to the criminal episode described in subsection (1) of this section;

(II) The owner of the animal is unknown; or

(III) The owner of the animal is known but cannot be located.

(b) Any person who contests a motion brought under this section shall establish such person's standing as a true owner of the animal. The factors to be considered by the court in determining whether such person is a true owner shall include, but shall not be limited to, the following:

(I) Whether the person was the primary user, custodian, or possessor of the animal;

(II) Whether there is evidence that ownership of the animal is vested in the person;

(III) Whether consideration was paid for the purchase of the animal, and, if so, how much of the consideration was furnished by the person.

(c) If the court determines that a person other than the defendant is the true owner of the animal, the court may not enter an order forfeiting the animal under this section unless the court finds:

(I) The true owner was involved in the criminal episode described in subsection (1) of this section;

(II) The true owner knew or reasonably should have known of the criminal episode described in subsection (1) of this section and failed to take all reasonable steps available to him or her to prevent it; or

(III) Ownership of the animal was conveyed to the true owner in order to avoid a forfeiture.

(3) An order of forfeiture entered pursuant to this section shall provide for the immediate disposition of the forfeited animal by any means described in section 18-9-201 (2.5) other than return to the owner. If, in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(4) The owner or custodian of an animal that is the subject of a motion brought under this section shall be liable for the cost of the care, keeping, transport, or disposal of the animal. In no event shall the prosecuting attorney or the office of the prosecuting attorney be liable for such cost.

(5) The court in its discretion may order a forfeiture authorized by this section as an element of sentencing, as a condition of probation, or as a condition of a deferred sentence.

COLO. REV. STAT. § 18-9-209 (2012). Immunity for reporting animal cruelty—false report—penalty.

(1) Except as otherwise provided in subsection (2) of this section, a person who, in good faith, reports a suspected incident of animal cruelty, as described in section 18-9-202, to a local law enforcement agency or to the state bureau of animal protection shall be immune from civil liability for reporting the incident.

(2) The provisions of subsection (1) of this section shall not apply to a person who knowingly makes a false report of animal cruelty.

(3) A person who knowingly makes a false report of animal cruelty to a local law enforcement agency or to the state bureau of animal protection commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501.

ANNOTATIONS:

Generally. In the exercise of the police power of the state, the legislature may undoubtedly enact proper laws for the prevention of cruelty to animals, and it may further designate agents or officers who may be charged with the execution of such law. *Jenks v. Stump*, 41 Colo. 281, 93 P. 17, 20 (1907).

COLO. REV. STAT. § 19-3-304 (2012). Persons required to report child abuse or neglect.

(1)

(a) Except as otherwise provided by section 19-3-307, sections 25-1-122 (4) (d) and 25-4-1404 (1) (d), C.R.S., and paragraph (b) of this subsection (1), any person specified in subsection (2) of this section who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department or local law enforcement agency.

(b) The reporting requirement described in paragraph (a) of this subsection (1) shall not apply if the person who is otherwise required to report does not:

(I) Learn of the suspected abuse or neglect until after the alleged victim of the suspected abuse or neglect is eighteen years of age or older; and

(II) Have reasonable cause to know or suspect that the perpetrator of the suspected abuse or neglect:

(A) Has subjected any other child currently under eighteen years of age to abuse or neglect or to circumstances or conditions that would likely result in abuse or neglect; or

(B) Is currently in a position of trust, as defined in section 18-3-401 (3.5), C.R.S., with regard to any child currently under eighteen years of age.

(2) Persons required to report such abuse or neglect or circumstances or conditions include any:

(a) Physician or surgeon, including a physician in training;

(b) Child health associate;

(c) Medical examiner or coroner;

(d) Dentist;

(e) Osteopath;

- (f) Optometrist;
- (g) Chiropractor;
- (h) Podiatrist;
- (i) Registered nurse or licensed practical nurse;
- (j) Hospital personnel engaged in the admission, care, or treatment of patients;
- (k) Christian science practitioner;
- (l) Public or private school official or employee;
- (m) Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;
- (n) Mental health professional;
- (o) Dental hygienist;
- (p) Psychologist;
- (q) Physical therapist;
- (r) Veterinarian;
- (s) Peace officer as described in section 16-2.5-101, C.R.S.;
- (t) Pharmacist;
- (u) Commercial film and photographic print processor as provided in subsection (2.5) of this section;
- (v) Firefighter as defined in section 18-3-201 (1), C.R.S.;
- (w) Victim's advocate, as defined in section 13-90-107 (1) (k) (II), C.R.S.;
- (x) Licensed professional counselors;
- (y) Licensed marriage and family therapists;
- (z) Registered psychotherapists;

(aa)

(I) Clergy member.

(II) The provisions of this paragraph (aa) shall not apply to a person who acquires reasonable cause to know or suspect that a child has been subjected to abuse or neglect during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication.

(III) For purposes of this paragraph (aa), unless the context otherwise requires, "clergy member" means a priest, rabbi, duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.

(bb) Registered dietitian who holds a certificate through the commission on dietetic registration and who is otherwise prohibited by 7 CFR 246.26 from making a report absent a state law requiring the release of this information;

(cc) Worker in the state department of human services;

(dd) Juvenile parole and probation officers;

(ee) Child and family investigators, as described in section 14-10-116.5, C.R.S.;

(ff) Officers and agents of the state bureau of animal protection, and animal control officers;

(gg) The child protection ombudsman as created in article 3.3 of this title;

(hh) Educator providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786.

(2.5) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child engaged in an act of sexual conduct shall report such fact to a local law enforcement agency immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative, or slide attached within thirty-six hours of receiving the information concerning the incident.

(3) In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency or the county department.

(3.5) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse or neglect to a county department or local law enforcement agency.

(4) Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection (3.5) of this section:

(a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(b) Shall be liable for damages proximately caused thereby.

COLO. REV. STAT. § 24-72-204 (2012). Allowance or denial of inspection—grounds—procedure—appeal—definitions.

(1) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds or as provided in subsection (2) or (3) of this section:

(a) Such inspection would be contrary to any state statute.

(b) Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.

(c) Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.

(d) Such inspection would be contrary to the requirements of any joint rule of the senate and the house of representatives pertaining to lobbying practices.

* * * * *

(3)

(a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest under this subsection (3):

* * * * *

(XIV) Veterinary medical data, information, and records on individual animals that are owned by private individuals or business entities, but are in the custody of a veterinary medical practice or hospital, including the veterinary teaching hospital at Colorado state university, that provides veterinary medical care and treatment to animals. A veterinary-patient-client privilege exists with respect to such data, information, and records only when a person in interest and a veterinarian enter into a mutual agreement to provide medical treatment for an individual animal and such person in interest maintains an ownership interest in such animal undergoing treatment. For purposes of this subparagraph (XIV), “person in interest” means the owner of an animal undergoing veterinary medical treatment or such owner’s designated representative. Nothing in this subparagraph (XIV) shall prevent the state agricultural commission, the state agricultural commissioner, or the state board of veterinary medicine from exercising their investigatory and enforcement powers and duties granted pursuant to section 35-1-106 (1) (h), article 50 of title 35, and section 12-64-105 (9) (e), C.R.S., respectively. The veterinary-patient-client privilege described in this subparagraph (XIV), pursuant to section 12-64-121 (5), C.R.S., may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202, C.R.S., or for an act of animal fighting under section 18-9-204, C.R.S.

* * * * *

COLO. REV. STAT. § 30-15-105(2012). Animal control officers—peace officer designation.

Personnel engaged in animal control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance without regard to the certification requirements of part 3 of article 31 of title 24, C.R.S. Personnel so engaged shall be included within the definition of “peace officer or firefighter engaged in the performance of his or her duties” in section 18-3-201 (2), C.R.S. Nothing in this part 1 is intended to vest authority in any person so engaged to enforce any resolution, ordinance, or statute other than the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance.

COLO. REV. STAT. § 35-42-102 (2012). Legislative declaration.

The general assembly hereby finds and declares that the protection of companion animals and livestock is a matter of statewide concern; and that it is the policy of this state that persons responsible for the care or custody of such animals be persons fit to adequately provide for the health and well-being of such animals.

COLO. REV. STAT. § 35-42-103 (2012). Definitions.

As used in this article, unless the context otherwise requires:

- (1) “Abandon” means the leaving of an animal without adequate provisions for the animal’s proper care by its owner, the person responsible for the animal’s care or custody, or any other person having possession of such animal.
- (2) “Accepted animal husbandry” means practices generally recognized as appropriate in the care of animals consistent with the species, breed, and type of animal.
- (3) “Animal” means any living dumb creature.
- (4) “Commissioner” means the Colorado commissioner of agriculture or his designee.
- (5) “Companion animal” means domestic dogs, domestic cats, small pet birds, and other nonlivestock species.
- (6) “Department” means the Colorado department of agriculture.
- (7) “Division” means the division of animal industry of the department of agriculture.
- (8) “Livestock” means cattle, swine, sheep, goats, and such horses, mules, asses, and other animals used in the farm or ranch production of food, fiber, or other products defined by the commissioner as agricultural products.
- (9) “Mistreat” means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.
- (10) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal.

COLO. REV. STAT. § 35-42-104 (2012). Scope of article.

- (1) Nothing in this article shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals, or in the extermination of undesirable pests as defined in articles 7, 10, and 43 of this title.
- (2) In case of any conflict between this article or regulations adopted pursuant to this article or section 35-43-126 and the wildlife statutes of the state, said wildlife statutes shall control.
- (3) Nothing in this article shall affect animal care otherwise authorized by law.

(4) Nothing in this article shall affect facilities licensed under the provisions of the federal “Animal Welfare Act of 1970”, 7 U.S.C. sec. 2131 et seq., as amended.

COLO. REV. STAT. § 35-42-105 (2012). Bureau of animal protection—creation.

There is hereby created the state bureau of animal protection, referred to in this article as the “bureau”.

COLO. REV. STAT. § 35-42-106(2012). Powers and duties of the commissioner.

The commissioner has the power to administer and enforce the provisions of this article, appoint agents and establish the qualifications of such agents, promulgate rules and regulations, enter into contracts, and implement training, procedures, and rules and regulations of recommended standards for animal control officers.

COLO. REV. STAT. § 35-42-107 (2012). Bureau personnel—appointment.

(1) Subject to the provisions of section 13 of article XII of the state constitution, the commissioner shall appoint such animal protection agents as are necessary to carry out the provisions of this article.

(2) The commissioner may appoint agents who are employees of the state, nonprofit corporations, municipal corporations, counties, cities, cities and counties, or any other local governmental entity or political subdivision of the state.

(3) When agents who are employees of nonprofit corporations are appointed, the corporation shall furnish evidence of minimum liability insurance covering said agent in the amount of one hundred thousand dollars. The state shall not be liable for the actions of such agents. Agents of the bureau shall submit to training as specified by the commissioner.

(4) Agents of the bureau who have completed training as specified by the commissioner are vested with the power to issue summons and complaints to enforce the provisions of part 2 of article 9 of title 18, C.R.S., and article 80 of this title, as granted peace officers under section 16-2-104, C.R.S., and shall be designated as peace officers, as described in sections 16-2.5-101 and 16-2.5-118, C.R.S.

(5) The commissioner may, in his discretion, revoke the commission of any agent.

(6) The commissioner may in his discretion determine classifications and subclassifications for commissions of agent.

(7) Agents authorized to investigate cases involving livestock shall be employees of the division

or the division of brand inspection of the department or any sheriffs when appointed and within their jurisdiction.

(8) All commissions issued by the commissioner shall expire on the anniversary date of issuance.

(9) A commission may, in the discretion of the commissioner, be renewed.

(10) All commissions shall be approved by the state agricultural commission.

COLO. REV. STAT. § 35-42-108 (2012). Care of confined animal.

(1) Except as authorized by law, no animal shall be confined without an adequate supply of food and water. If any animal is found to be confined without adequate food or water, it shall be lawful for any officer or agent of the bureau, a peace officer within his jurisdiction, or a licensed veterinarian to, from time to time as may be necessary, enter into any and upon any area or building where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.

(2) Such officer, agent, peace officer, or veterinarian shall not be liable in any action for such entry.

(3) Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

(4) In the case of companion animals, if such animal is not cared for by a person other than an agent or officer of the bureau or a peace officer or veterinarian within seventy-two hours of the posting of said notification, such animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

COLO. REV. STAT. § 35-42-109 (2012). Protection of animals mistreated, neglected, or abandoned.

(1) No animal shall be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered.

(2)

(a) The commissioner may take charge of, provide for, or remove from the area or building where found any companion animal found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(b) Pursuant to court order, the commissioner may take charge of, provide for, or remove from the area or building where found any livestock found to be mistreated or neglected to such degree or abandoned in any circumstance so that the animal's life or health is endangered. The commissioner shall petition any court of competent jurisdiction for a prompt hearing to determine whether the owner, if known, is able to adequately provide for the animal and is a fit person to own the animal.

(3)

(a) The commissioner shall cause to be served upon the owner:

(I) If the owner is known and residing within the jurisdiction wherein the animal is found, written notice at least five days prior to the hearing of the time and place of the hearing;

(II) If the owner is known but residing out of the jurisdiction where such animal is found or if the commissioner is unable after reasonable attempts to serve the owner, written notice by any method, including posting at least five days prior to the hearing at a place provided for public notices in the jurisdiction wherein such hearing shall be held, or service of process shall be given.

(b) If the owner is not known, the commissioner shall cause to be published, in a newspaper of general circulation in the jurisdiction wherein such animal is found, notice of the hearing, and shall further cause notice of the hearing to be posted at a place provided for public notices in the jurisdiction wherein such hearing shall be held, at least five days prior to the hearing.

(4) Such hearing shall be held promptly after the date of the seizure of the animal.

(5)

(a) The commissioner may, in his discretion, provide for such animal until judgment by the court.

(b) The court may order the animal sold and the proceeds deposited in the registry of the court pending a decision.

(c) The court may adjudge that the owner is a person able to adequately provide for such animal and a person fit to own the animal, in which case the animal shall be returned to the owner after all reasonable expenses of any food, shelter, and care provided by the commissioner have been paid; except that, if such expenses are not paid within ten days of a court order adjudging the owner a person able to adequately provide for such animal and a person fit to own the animal, the commissioner may, in his discretion and without liability, dispose of the animal by selling it at public auction, placing it for adoption in a suitable home, giving it to a suitable animal shelter, or humanely destroying it as deemed proper by the commissioner.

(d) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the stray fund, created pursuant to section 35-41-102.

(e) At least six days prior to disposing of the animal, the commissioner shall provide written notice to the owner at his last-known address of the time and place of the disposition of the animal.

(6)

(a) If the owner is adjudged by the court a person unable to adequately provide for the animal or a person not fit to own the animal, then the court shall order that the animal be:

(I) Sold by the commissioner at public auction;

(II) Placed for adoption in a suitable home;

(III) Given to a suitable animal shelter;

(IV) Humanely destroyed as deemed proper by the court; or

(V) Disposed of in any other manner as deemed proper by the court.

(b) In no case shall the person adjudged unable to adequately provide for the animal or unfit to own the animal be allowed to purchase directly or indirectly the animal at any sale.

(c) With respect to the sale of an animal, the proceeds shall first be applied to the costs of the sale and then to the expenses for the care and provision of the animal, with the remaining proceeds, if any, being paid over to the owner of the animal. If the owner of the animal cannot be found, any remaining proceeds shall be paid into the estray fund, created pursuant to section 35-41-102.

(7) Nothing in this section shall be construed to prohibit the destruction of an animal as provided in section 35-42-110.

(8) Any officer or agent of the bureau may lawfully interfere to prevent the perpetration of an act of mistreatment, neglect, abandonment, or cruelty, pursuant to part 2 of article 9 of title 18, C.R.S., which act occurs in his presence.

COLO. REV. STAT. § 35-42-110 (2012). Injured animals may be euthanized.

Any agent of the bureau or peace officer, as described in section 16-2.5-101, C.R.S., may lawfully euthanize or cause to be euthanized, as defined in section 18-9-201 (2.7), C.R.S., any animal in his or her charge when, in the judgment of such agent or peace officer, and in the opinion of a licensed veterinarian, the animal is experiencing extreme pain or suffering or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery. In the event a licensed veterinarian is not available, the animal may be euthanized if, by the written certificate of two persons, one of whom may be selected by the owner if the owner so requests, called to view the animal in the presence of the agent, the animal appears to be severely injured past recovery, severely disabled past recovery, severely diseased past recovery, or unfit for any useful purpose.

COLO. REV. STAT. § 35-42-111 (2012). Investigations—access—administrative subpoena.

(1) The commissioner, upon his own motion or upon the complaint of any person, shall make any investigations necessary to ensure compliance with this article.

(2)

(a) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access, upon consent or upon obtaining an administrative search warrant, to all buildings, yards, pens, pastures, and other areas in which any animals are kept, handled, or transported for the purpose of carrying out any provision of this article or any rule made pursuant to this article.

(b) The commissioner shall have full authority to administer oaths and take statements, to issue administrative subpoenas requiring the attendance of witnesses and the production of all books, memoranda, papers, and other documents, articles, or instruments and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the

commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.

(3) Complaints of record made to the commissioner and the results of his investigations may, in the discretion of the commissioner, be closed to public inspection, except as provided by court order, during the investigatory period.

COLO. REV. STAT. § 35-42-112(2012). Enforcement.

(1) The commissioner or his designee shall enforce the provisions of this article.

(2)

(a) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any rule made pursuant to this article has occurred and immediate enforcement is deemed necessary, he may issue a cease-and-desist order, which may require any person to cease violating any provision of this article or any rule made pursuant to this article. Such cease-and-desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and shall require that all actions causing the violation be ceased.

(b) In the event that any person fails to comply with a cease-and-desist order within twenty-four hours, the commissioner may bring a suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of this article.

(c) No stay of a cease-and-desist order shall be issued before a hearing thereon involving both parties.

(d) Matters brought before a court pursuant to this section shall have preference over other matters on the court's calendar.

(3) Whenever it appears to the commissioner upon sufficient evidence satisfactory to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this article or of any rule adopted pursuant to this article, he may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any rule adopted pursuant to this article. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.

COLO. REV. STAT. § 35-42-113 (2012). Animal protection fund—creation.

(1) There is hereby created an animal protection fund. Any donations collected for animal protection, any net proceeds from the sale of an animal pursuant to section 18-9-202.5(4), C.R.S., and any moneys from restitution ordered for the expenses of the department of agriculture in selling and providing for the care of and provision for an animal disposed of under the animal cruelty laws in accordance with part 2 of article 9 of title 18, C.R.S., or this article shall be transmitted to the state treasurer, who shall credit the moneys to the animal protection fund. The general assembly shall make annual appropriations from that fund to the department of agriculture to aid in carrying out the purposes of this article.; except that no such appropriations may be made for personal services.

(2) All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund shall not be transferred or credited to the general fund or to any other fund except as directed by the general assembly through legislation.

ANIMAL PROTECTION LAWS OF CONNECTICUT

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Connecticut's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Connecticut may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

CONNECTICUT

1. GENERAL PROHIBITIONS*	<p>(1) General cruelty to animals CONN. GEN. STAT. § 53-247(a)</p> <p>(2) Malicious and intentional injury or killing CONN. GEN. STAT. § 53-247(b)</p>
<i>Animals Covered in Definition</i>	<p>“[A]ll brute creatures and birds” CONN. GEN. STAT. § 29-108a</p>
<i>Classification of Crimes</i>	<p>(1) Unclassified misdemeanor</p> <p>(2) Unclassified felony</p>
2. MAXIMUM PENALTIES**	<p>(1) 1 year imprisonment <i>and/or</i> \$1,000 fine CONN. GEN. STAT. § 53-247(a)</p> <p>(2) 5 years imprisonment <i>and/or</i> \$5,000 fine CONN. GEN. STAT. § 53-247(b)</p>
3. EXEMPTIONS***	<p>1, 2, 3, 4 CONN. GEN. STAT. § 53-247(b)</p>
4. COUNSELING / EVALUATIONS†	<p>-----</p>
5. PROTECTIVE ORDERS†	<p>Protective order may include provisions necessary to protect any animal owned or kept by the applicant. CONN. GEN. STAT. §§ 46b-15, 46b-38c, 54-1k</p>

CONNECTICUT*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]</p>	<p>Bond for costs of care authorized, limited to \$500. CONN. GEN. STAT. § 22-329a</p> <p>A state “animal abuse cost recovery account” is established and funded with proceeds from sales, at public auction, of domestic animals to reimburse for costs of care for any seized domestic animal. CONN. GEN. STAT. § 22-329a(j)</p> <p>Cost of care is lien on animals seized. CONN. GEN. STAT. §§ 29-108d, -108e(e), 53-253</p> <p>Costs of care to be paid by owner or person having responsibility for animal. CONN. GEN. STAT. §§ 22-329a(h), 29-108e(e)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Any animal control officer may lawfully take charge of any animal found neglected or cruelly treated. CONN. GEN. STAT. § 22-329a</p> <p>Any humane society agent may seize, from vehicles, any animal cruelly treated. CONN. GEN. STAT. § 29-108d</p> <p>Any officer or agent of the Connecticut Humane Society may seize neglected or cruelly treated animals. CONN. GEN. STAT. § 29-108e</p>

CONNECTICUT <i>continued</i>	
8. FORFEITURE / POSSESSION[†]	<p>A court may issue an order for the temporary care and custody of seized animals pending a hearing on allegations of mistreatment. CONN. GEN. STAT. §§ 22-329a, 29-108e(d)</p> <p>If, following a hearing, a court finds the animal was mistreated, the court may order the animal forfeited. CONN. GEN. STAT. §§ 22-329a, 29-108e(d)</p>
9. CROSS ENFORCEMENT / REPORTING	<p>Animal control officers shall report all cases of suspected animal mistreatment to the Commissioner of Agriculture. Such reports shall be made available to the Commissioner of Child & Families to aid in investigations of child abuse or neglect. CONN. PUB. ACT NO. 11-194(1),(2)*</p> <p>Any employee of the Department of Children and Families, in the course of employment, shall report suspected animal mistreatment to the Commissioner of Agriculture. CONN. PUB. ACT NO. 11-194(3)*</p> <p><i>*Not yet codified</i></p>
10. VETERINARIAN REPORTING/ IMMUNITY	-----

CONNECTICUT <i>continued</i>	
11. LAW ENFORCEMENT POLICIES	<p>The commissioner of agriculture, any animal control officer, or any law enforcement officer may interfere to prevent any act of cruelty upon any dog or other animal. CONN. GEN. STAT. § 22-329</p> <p>The commissioner of agriculture and animal control officers may arrest any person and may issue a complaint and summons for violations of any law relating to dogs or domestic animals. CONN. GEN. STAT. § 22-330</p> <p>Accredited agents of the Connecticut Humane Society can be appointed special police officers. CONN. GEN. STAT. § 29-108b</p> <p>Any officer or agent of the Connecticut Humane Society may intervene to prevent cruelty. CONN. GEN. STAT. § 29-108c</p>
12. SEXUAL ASSAULT	-----
13. FIGHTING	<p>Various animal fighting activities are unclassified felonies. CONN. GEN. STAT. § 53-247(c)</p>
<i>Other Felony Provisions Affecting Animals</i>[‡]	<p>Intentional killing of a law enforcement animal CONN. GEN. STAT. § 53-247(d)</p>
NOTES	<p>See other species-specific statutes in Ch. 435</p> <p>Liability for intentionally killing or injuring companion animal CONN. GEN. STAT. § 22-351a</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control,

7-rodeo, 8-zoos/circuses, 9-other.

†This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

CONN. GEN. STAT. § 29-108a (2012). Definitions.

The terms “animals” and “animal”, as used in this chapter and in sections 53-247, 53-252 and 53-253, shall include all brute creatures and birds.

CONN. GEN. STAT. § 53-247 (2012).Cruelty to animals. Fighting animals. Intentional killing of police animal.

(a) *Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, shall be fined not more than one thousand dollars or imprisoned not more than one year or both.*

(b) *Any person who maliciously and intentionally maims, mutilates, tortures, wounds or kills an animal shall be fined not more than five thousand dollars or imprisoned not more than five years or both. The provisions of this subsection shall not apply to any licensed veterinarian while following accepted standards of practice of the profession or to any person while following approved methods of slaughter under section 22-272a, while performing medical research as an employee of, student in or person associated with any hospital, educational institution or laboratory, while following generally accepted agricultural practices or while lawfully engaged in the taking of wildlife.*

(c) *Any person who knowingly (1) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting for amusement or gain, (2) possesses, keeps or trains an animal with the intent that it be engaged in an exhibition of fighting for amusement or gain, (3) permits an act described in subdivision (1) or (2) of this subsection to take place on premises under his control, (4) acts as judge or spectator at an exhibition of animal fighting for amusement or gain, or (5) bets or wagers on the outcome of an exhibition of animal fighting for amusement or gain, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.*

(d) Any person who intentionally injures any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally injures a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(e) Any person who intentionally kills any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally kills a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than ten thousand dollars or imprisoned not more than ten years or both.

2. PENALTIES

CONN. GEN. STAT. § 53-247 (2012).Cruelty to animals. Fighting animals. Intentional killing of police animal.

(a) Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, *shall be fined not more than one thousand dollars or imprisoned not more than one year or both.*

(b) Any person who maliciously and intentionally maims, mutilates, tortures, wounds or kills an animal *shall be fined not more than five thousand dollars or imprisoned not more than five years or both.* The provisions of this subsection shall not apply to any licensed veterinarian while following accepted standards of practice of the profession or to any person while following approved methods of slaughter under section 22-272a, while performing medical research as an employee of, student in or person associated with any hospital, educational institution or laboratory, while following generally accepted agricultural practices or while lawfully engaged in the taking of wildlife.

(c) Any person who knowingly (1) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting for amusement or gain, (2) possesses, keeps or trains an animal with the intent that it be engaged in an exhibition of fighting for amusement or gain, (3) permits an act described in subdivision (1) or (2) of this subsection to take place on premises under his control, (4) acts as judge or spectator at an exhibition of animal fighting for amusement or gain, or (5) bets or wagers on the outcome of an exhibition of animal fighting for amusement or gain, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(d) Any person who intentionally injures any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally injures a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(e) Any person who intentionally kills any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally kills

a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than ten thousand dollars or imprisoned not more than ten years or both.

CONN. GEN. STAT. § 53a-25 (2012). Felony: Definition, classification, designation.

(a) *An offense for which a person may be sentenced to a term of imprisonment in excess of one year is a felony.*

(b) *Felonies are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D, (5) unclassified and (6) capital felonies.*

(c) *The particular classification of each felony defined in this chapter is expressly designated in the section defining it. Any offense defined in any other section of the general statutes which, by virtue of an expressly specified sentence, is within the definition set forth in subsection (a) shall be deemed an unclassified felony.*

CONN. GEN. STAT. § 53a-26 (2012). Misdemeanor: Definition, classification, designation

(a) *An offense for which a person may be sentenced to a term of imprisonment of not more than one year is a misdemeanor.*

(b) *Misdemeanors are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C and (4) unclassified.*

(c) *The particular classification of each misdemeanor defined in this chapter is expressly designated in the section defining it. Any offense defined in any other section of the general statutes which, by virtue of an expressly specified sentence, is within the definition set forth in subsection (a) shall be deemed an unclassified misdemeanor.*

3. EXEMPTIONS

CONN. GEN. STAT. § 53-247 (2012).Cruelty to animals. Fighting animals. Intentional killing of police animal.

(a) Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, shall be fined not more than one thousand dollars or imprisoned not more than one year or both.

(b) Any person who maliciously and intentionally maims, mutilates, tortures, wounds or kills an animal shall be fined not more than five thousand dollars or imprisoned not more than five years or both.*The provisions of this subsection shall not apply to any licensed veterinarian while following accepted standards of practice of the profession or to any person while following approved methods of slaughter under section 22-272a, while performing medical research as an employee of, student in or person associated with any hospital, educational institution or laboratory, while following generally accepted agricultural practices or while lawfully engaged in the taking of wildlife.*

(c) Any person who knowingly (1) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting for amusement or gain, (2) possesses, keeps or trains an animal with the intent that it be engaged in an exhibition of fighting for amusement or gain, (3) permits an act described in subdivision (1) or (2) of this subsection to take place on premises under his control, (4) acts as judge or spectator at an exhibition of animal fighting for amusement or gain, or (5) bets or wagers on the outcome of an exhibition of animal fighting for amusement or gain, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(d) Any person who intentionally injures any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally injures a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(e) Any person who intentionally kills any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally kills

a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than ten thousand dollars or imprisoned not more than ten years or both.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

CONN. GEN. STAT. § 46b-15 (2012). Relief from physical abuse by family or household member or person in dating relationship. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies.

(a) Any family or household member as defined in section 46b-38a, as amended by this act, who has been subjected to a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening, by another family or household member may make an application to the Superior Court for relief under this section.

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the respondent holds a permit to carry a pistol or revolver or possesses one or more firearms. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than fourteen days from the date of the order. The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. In making such orders, the court, in its discretion, may consider relevant court records if the records are available to the public from a clerk of the Superior Court or on the Judicial Branch's Internet web site. Such orders may include temporary child custody or visitation rights and such relief may include but is not limited to an order enjoining the respondent from

(1) imposing any restraint upon the person or liberty of the applicant;

(2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or

(3) entering the family dwelling or the dwelling of the applicant. *Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal.* If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party and granted, the order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.

(c) Every order of the court made in accordance with this section shall contain the following language: "This order may be extended by the court beyond six months. In accordance with section 53a-107, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree. This is a criminal offense punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars or both."

(d) No order of the court shall exceed six months, except that an order may be extended by the court upon motion of the applicant for such additional time as the court deems necessary. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by first-class mail directed to the respondent at his or her last known address.

(e) The applicant shall cause notice of the hearing pursuant to subsection (b) of this section and a copy of the application and the applicant's affidavit and of any ex parte order issued pursuant to subsection (b) of this section to be served on the respondent not less than five days before the hearing. The cost of such service shall be paid for by the judicial branch. Upon the granting of an ex parte order, the clerk of the court shall provide two copies of the order to the applicant. Upon the granting of an order after notice and hearing, the clerk of the court shall provide two copies of the order to the applicant and a copy to the respondent. Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. Immediately after making service on the respondent, the proper officer shall send or cause to be sent, by facsimile or other means, a copy of the application, or the information contained in such application, stating the date and time the respondent was served, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides. The clerk of the court shall send, by facsimile or other means, a copy of any ex parte order and of any order after notice and hearing, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, within forty-eight hours of the issuance of such order.

(f) A caretaker who is providing shelter in his or her residence to a person sixty years or older shall not be enjoined from the full use and enjoyment of his or her home and property. The Superior Court may make any other appropriate order under the provisions of this section.

(g) When a motion for contempt is filed for violation of a restraining order, there shall be an expedited hearing. Such hearing shall be held within five court days of service of the motion on the respondent, provided service on the respondent is made not less than twenty-four hours before the hearing. If the court finds the respondent in contempt for violation of an order, the court may impose such sanctions as the court deems appropriate.

(h) An action under this section shall not preclude the applicant from seeking any other civil or criminal relief.

CONN. GEN. STAT. § 46b-38c (2012). Family violence response and intervention units. Local units. Duties and functions. Protective orders. Pretrial family violence education program.

(a) There shall be family violence response and intervention units in the Connecticut judicial system to respond to cases involving family violence. The units shall be coordinated and governed by formal agreement between the Chief State's Attorney and the Judicial Department.

(b) The Court Support Services Division, in accordance with the agreement between the Chief State's Attorney and the Judicial Department, shall establish within each geographical area of the Superior Court a local family violence intervention unit to implement sections 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f, inclusive, as amended by this act, and 54-1g. The Court Support Services Division shall oversee direct operations of the local units.

(c) Each such local family violence intervention unit shall:

(1) Accept referrals of family violence cases from a judge or prosecutor,

(2) prepare written or oral reports on each case for the court by the next court date to be presented at any time during the court session on that date,

(3) provide or arrange for services to victims and offenders,

(4) administer contracts to carry out such services, and

(5) establish centralized reporting procedures. All information provided to a family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department in a local family violence intervention unit shall be used solely for the purposes of preparation of the report and the protective order forms for each case and recommendation of services and shall otherwise be confidential and retained in the files of such unit and not be subject to subpoena or other court process for use in any other proceeding or for any other purpose, except that a family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department:

(A) Shall disclose to the court and the prosecuting authority for appropriate action information that the victim has indicated that the defendant holds a permit to carry a pistol or revolver or possesses one or more firearms;

(B) Shall disclose to an employee of the Department of Children and Families information that indicates that a defendant poses a danger or threat to a child or a custodial parent of the child;

(C) May disclose to another family relations counselor, family relations counselor trainee or family services supervisor information pursuant to guidelines adopted by the Chief Court Administrator;

(D) May disclose to a bail commissioner employed by the Judicial Department information regarding a defendant who is on or is being considered for pretrial release;

(E) May disclose to a law enforcement agency information that indicates that a defendant poses a danger or threat to another person;

(F) May disclose, after disposition of a family violence case, to a probation officer or a juvenile probation officer, for purposes of determining service needs and supervision levels, information regarding a defendant who has been convicted and sentenced to a period of probation in the family violence case;

(G) May disclose, after a conviction in a family violence case, to a probation officer for the purpose of preparing a presentence investigation report, any information regarding the defendant that has been provided to the family relations counselor, family relations counselor trainee or family services supervisor in the case or in any other case that resulted in the conviction of the defendant;

(H) May disclose to any organization under contract with the Judicial Department to provide family violence programs and services, for the purpose of determining program and service needs, information regarding any defendant who is a client of such organization, provided no information that personally identifies the victim may be disclosed to such organization; and

(I) Shall disclose such information as may be necessary to fulfill such counselor's, trainee's or supervisor's duty as a mandated reporter under section 17a-101a to report suspected child abuse or neglect.

(d) In all cases of family violence, a written or oral report and recommendation of the local family violence intervention unit shall be available to a judge at the first court date appearance to be presented at any time during the court session on that date. A judge of the Superior Court may consider and impose the following conditions to protect the parties, including, but not limited to:

(1) Issuance of a protective order pursuant to subsection (e) of this section;

(2) prohibition against subjecting the victim to further violence;

(3) referral to a family violence education program for batterers; and

(4) immediate referral for more extensive case assessment. Such protective order shall be an order of the court, and the clerk of the court shall cause

(A) a copy of such order to be sent to the victim, and

(B) a copy of such order, or the information contained in such order, to be sent by facsimile or other means within forty-eight hours of its issuance to the law enforcement agency for the town in which the victim resides and, if the defendant resides in a town different from the town in which the victim resides, to the law

enforcement agency for the town in which the defendant resides. If the victim is employed in a town different from the town in which the victim resides, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such order, or the information contained in such order, to the law enforcement agency for the town in which the victim is employed within forty-eight hours of the issuance of such order.

(e) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including, but not limited to, an order enjoining the defendant from

(1) imposing any restraint upon the person or liberty of the victim,

(2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or

(3) entering the family dwelling or the dwelling of the victim. *A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal.* Such order shall be made a condition of the bail or release of the defendant and shall contain the following notification: “In accordance with section 53a–223 of the Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, in accordance with section 53a–107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or release, and may result in raising the amount of bail or revoking release.” Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51–5c.

(f) The Judicial Department may establish, within available appropriations, a pilot program in three judicial districts for the purpose of using electronic monitoring in accordance with this subsection. Such pilot program shall be conducted in at least one judicial district that contains an urban area, as defined in section 4b–13, and at least one judicial district that does not contain such an urban area. Pursuant to such pilot program, the court may order that any person appearing in such judicial district who is charged with the violation of a restraining order or a protective order, and who has been determined to be a high-risk offender by the family violence intervention unit, be subject to electronic monitoring designed to warn law enforcement agencies, a state-wide information collection center and the victim when the person is within a specified distance of the victim, if the court finds that such electronic monitoring is necessary to protect the victim, provided the cost of such electronic monitoring is paid by the person who is

subject to such electronic monitoring, subject to guidelines established by the Chief Court Administrator. If the court orders that such person be subject to electronic monitoring, the clerk of the court shall send, by facsimile or other means, a copy of the order, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the person resides. The Judicial Department shall cease operation of any pilot program established under this subsection not later than March 31, 2011, unless resources are available to continue operation of the pilot program.

(g) In cases referred to the local family violence intervention unit, it shall be the function of the unit to

(1) identify victim service needs and, by contract with victim service providers, make available appropriate services that include, but are not limited to, the provision of trauma-informed care by a counselor who provides trauma-informed care, or a referral to a counselor, and

(2) identify appropriate offender services and where possible, by contract, provide treatment programs for offenders. For purposes of this subsection, “trauma-informed care” means services directed by a thorough understanding of the neurological, biological, psychological and social effects of trauma and violence on a person.

(h)

(1) There shall be a pretrial family violence education program for persons who are charged with family violence crimes. At a minimum, such program shall inform participants of the basic elements of family violence law and applicable penalties. The court may, in its discretion, invoke such program on motion of the defendant when it finds:

(A) That the defendant has not previously been convicted of a family violence crime which occurred on or after October 1, 1986;

(B) the defendant has not had a previous case assigned to the family violence education program;

(C) the defendant has not previously invoked or accepted accelerated rehabilitation under section 54–56e for a family violence crime which occurred on or after October 1, 1986; and

(D) that the defendant is not charged with a class A, class B or class C felony, or an unclassified felony carrying a term of imprisonment of more than ten years, or unless good cause is shown, a class D felony or an unclassified offense carrying a term of imprisonment of more than five years. Participation by any person in the accelerated pretrial rehabilitation program under section 54–56e prior to October 1, 1986, shall not prohibit eligibility of such person for the pretrial family violence education program under this section. The court may require that the defendant answer such questions under oath, in open court or before any person

designated by the clerk and duly authorized to administer oaths, under the penalties of perjury as will assist the court in making these findings.

(2) The court, on such motion, may refer the defendant to the family violence intervention unit, and may continue the defendant's case pending the submission of the report of the unit to the court. The court shall also give notice to the victim or victims that the defendant has requested assignment to the family violence education program, and, where possible, give the victim or victims opportunity to be heard. Any defendant who accepts placement in the family violence education program shall agree to the tolling of any statute of limitations with respect to the crime or crimes with which the defendant is charged, and to a waiver of the defendant's right to a speedy trial. Any such defendant shall appear in court and shall be released to the custody of the family violence intervention unit for such period, not exceeding two years, and under such conditions as the court shall order. If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial. If the defendant satisfactorily completes the family violence education program and complies with the conditions imposed for the period set by the court, the defendant may apply for dismissal of the charges against the defendant and the court, on finding satisfactory compliance, shall dismiss such charges.

(3) Upon dismissal of charges under this subsection, all records of such charges shall be erased pursuant to section 54-142a.

(i) A nonrefundable application fee of one hundred dollars shall be paid to the court by any person who files a motion pursuant to subdivision (1) of subsection (h) of this section to participate in the pretrial family violence education program, and a fee of three hundred dollars shall be paid to the court by any person who enters the family violence education program, except that no person shall be excluded from such program for inability to pay any such fee, provided

(1) the person files with the court an affidavit of indigency or inability to pay, and

(2) the court enters a finding thereof. All such fees shall be credited to the General Fund.

(j) The Judicial Department shall establish an ongoing training program for judges, Court Support Services Division personnel and clerks to inform them about the policies and procedures of sections 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f, inclusive, as amended by this act, and 54-1g, including, but not limited to, the function of the family violence intervention units and the use of restraining and protective orders.

CONN. GEN. STAT. § 54-1k (2012). Issuance of protective orders in stalking and harassment cases.

(a) Upon the arrest of a person for a violation of subdivision (1) or (2) of subsection (a) of section 53-21 of the 2008 supplement to the general statutes, section 53a-70, 53a-70a, 53a-70c of the 2008 supplement to the general statutes, 53a-71 of the 2008 supplement to the general statutes, 53a-72a, 53a-72b, or 53a-73a of the 2008 supplement to the general statutes, or any attempt thereof, or section 53a-181c, 53a-181d or 53a-181e, the court may issue a protective order pursuant to this section. Upon the arrest of a person for a violation of section 53a-182b or 53a-183, the court may issue a protective order pursuant to this section if it finds that such violation caused the victim to reasonably fear for his or her physical safety. Such order shall be an order of the court, and the clerk of the court shall cause

(1) a copy of such order or the information contained in such order to be sent to the victim, and

(2) a copy of such order, or the information contained in such order, to be sent by facsimile or other means within forty-eight hours of its issuance to the law enforcement agency or agencies for the town in which the victim resides, the town in which the victim is employed and the town in which the defendant resides.

(b) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including but not limited to, an order enjoining the defendant from

(1) imposing any restraint upon the person or liberty of the victim,

(2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or

(3) entering the dwelling of the victim. *A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal.* Such order shall be made a condition of the bail or release of the defendant and shall contain the following language: “In accordance with section 53a-223 of the Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, in accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or release and may result in raising the amount of bail or revoking release. “

(c) The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51-5c, as amended by this act.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

CONN. GEN. STAT. § 22-329a (2012). Seizure and custody of neglected or cruelly treated animals. Animal abuse cost recovery account.

(a) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal when such animal control officer has reasonable cause to believe that such animal is in imminent harm and is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and, not later than ninety-six hours after taking physical custody, shall proceed as provided in subsection (c) of this section, except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(b) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal upon issuance of a warrant finding probable cause that such animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and shall thereupon proceed as provided in subsection (c) of this section except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(c) Such officer shall file with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford a verified petition plainly stating such facts of neglect or cruel treatment as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition, the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named.

(d) If physical custody of an animal has been taken pursuant to subsection (a) or (b) of this section and it appears from the allegations of the petition filed pursuant to subsection (c) of this section and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that temporary care and custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to show cause why the court should not vest in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition, or (2) issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition. A hearing on the order issued by the court pursuant to subdivision (1) or (2) of this subsection shall be held not later than fourteen days after the issuance of such order. The service of such order may be made by any officer

authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which such officer took physical custody of such animal not less than forty-eight hours prior to the date and time of such hearing.

(e) If physical custody of an animal has not been taken pursuant to subsection (a) or (b) of this section, and the Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer has reasonable cause to believe that an animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, such animal control officer may file a petition with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford, plainly stating such facts of neglect or cruel treatment as to bring the animal within the jurisdiction of the court and praying for appropriate action by the court to ensure the welfare of the animal including, but not limited to, physical removal and temporary care and custody of the animal, authorization of an animal control officer or a licensed veterinarian to provide care for the animal on site, vesting of ownership of the animal, the posting of a bond in accordance with subsection (f) of this section and the assessment of costs in accordance with subsection (h) of this section. Upon the filing of such petition, the court shall cause a summons for an order to show cause to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town where the animal is located not less than forty-eight hours prior to the date and time of the hearing. If it appears from the allegations of the petition filed pursuant to this subsection and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require the immediate removal of the animal from the owner or owners or person having responsibility for the care of the animal to safeguard its welfare, the court shall issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held not later than ten days after the issuance of such order for such temporary care and custody. The service of such order may be made by any officer authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing.

(f) If the court issues an order vesting the animal's temporary care and custody in some suitable state, municipal or other public or private agency or person, the owner or owners shall either relinquish ownership of the animal or post a surety bond or cash bond with the agency or person in whom the animal's temporary care and custody was vested. The surety bond or cash bond shall be in the amount of five hundred dollars and shall secure payment for the reasonable expenses of the agency or person having temporary care and custody of the animal in caring and providing for such animal until the court makes a finding as to the animal's disposition under subsection (g) of this section. The requirement that a bond be posted may be waived if such owner provides satisfactory evidence that such owner is indigent and unable to pay for such bond.

(g)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it shall vest ownership of the animal in any state, municipal or other public or private agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any state, municipal or other public or private agency or person found to be suitable or worthy of such responsibility.

(4) If the court makes a finding under subdivision (1) or (2) of this subsection less than thirty days after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return the balance of such bond, if any, to the owner. The amount of the bond to be returned to the owner shall be calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock for the number of days less than thirty that such agency or person has not had temporary care and custody of the animal less any veterinary costs and expenses incurred for the welfare of the animal.

(5) If the court makes a finding under subdivision (3) of this subsection after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return such bond to such owner.

(h) If the court finds that the animal is neglected or cruelly treated, the expenses incurred by the state or a municipality in providing proper food, shelter and care to an animal it has taken custody of under subsection (a) or (b) of this section and the expenses incurred by any state, municipal or other public or private agency or person in providing temporary care and custody pursuant to an order vesting temporary care and custody, calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock until the date ownership is vested pursuant to subdivision (1) of subsection (g) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal. In addition, all veterinary costs and expenses incurred for the welfare of the animal that are not covered by the per diem rate shall be paid by the owner or owners or person having responsibility for the animal.

(i) If the court vests ownership of the animal in the Commissioner of Agriculture or a municipality, the commissioner or the municipality may conduct or participate in a public auction of the animal under such conditions the commissioner or the municipality deems necessary or the commissioner or the municipality may consign the animal to an auction or sell the animal through an open advertised bid process whereby bid price and demonstration of sufficient knowledge and ability to care for such animal are factors for the commissioner's or municipality's consideration. All moneys collected from the sale of animals sold by the Commissioner of Agriculture through such open advertised bid process shall be deposited in the "animal abuse cost recovery account" established in subsection (j) of this section. All moneys collected from the sale of animals sold by a municipality through such open advertised bid process shall be deposited by the town treasurer or other fiscal officer in the town's general fund. In a case where rehabilitative or special care of such animal is required, the commissioner or the municipality may vest ownership of such animal in an individual or a public or private nonprofit animal rescue or adoption organization which annually places ten or more animals in private homes as pets.

(j) There is established a separate, nonlapsing account within the General Fund, to be known as the "animal abuse cost recovery account". All moneys collected from sales at public auction of animals seized by the Department of Agriculture pursuant to this section shall be deposited into the account. Deposits of moneys may be made into the account from public or private sources, including, but not limited to, the federal government or municipal governments.

(k) Notwithstanding any provision of the general statutes, any moneys received by the Department of Agriculture pursuant to subsection (j) of this section shall be deposited in the General Fund and credited to the animal abuse cost recovery account. The account shall be available to the Commissioner of Agriculture for the purpose of the housing, care and welfare of any animal seized by the department, until final disposition of such animal. Nothing in this section shall prevent the commissioner from obtaining or using funds from sources other than the account for the housing, care and welfare of any animal seized by the department pursuant to this section.

CONN. GEN. STAT. § 29-108d (2012). Disposition of animal or vehicle of person arrested.

When any person arrested under any provision of the laws relating to cruelty to animals is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, any agent or officer of the Connecticut Humane Society may take charge of such animal and of such vehicle and its contents, and shall give notice thereof to the owner, if known, at his last-known address by registered or certified mail, return receipt requested, and if the owner is not known, by publication in a newspaper having a circulation in the town in which the society took charge of such animal. The society shall care and provide for the animal and the vehicle and its contents until their owner takes charge of them or, if the state claims such seized property is a nuisance, until they are destroyed or disposed of in accordance with section 54-33g. *The society shall have a lien on any such animal and vehicle for the expenses of such care and provision.*

CONN. GEN. STAT. § 29-108e (2012). Detention and disposition of neglected or cruelly treated animals.

(a) Any officer or agent of the Connecticut Humane Society may lawfully take charge of any animal found neglected or cruelly treated, in violation of sections 22-366, 22-415 and 53-247 to 53-252, inclusive, and shall thereupon proceed as provided in subsection (b) of this section, except that if, in the opinion of a licensed veterinarian, such animal is so injured or diseased that it should be destroyed immediately, such officer or agent may humanely destroy or cause such animal to be humanely destroyed.

(b) Such officer or agent shall file with the superior court which has venue over such matter a verified petition plainly stating such facts as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named, which summons shall be served not less than fourteen days before the date of the hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which the society took charge of such animal not less than fourteen days before the date of the hearing. Such court shall further give notice to the petitioner of the time and place of the hearing not less than fourteen days before the date of the hearing.

(c) If it appears from the allegations of the petition and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that its custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to the owner or owners or person having responsibility for the care of the animal to show cause at such time as the court may designate why the court shall not vest in some suitable agency or person the animal's temporary care and custody pending a hearing on the petition or (2) issue an order

vesting in some suitable agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held within ten days from the issuance of such order on the need for such temporary care and custody. The service of such orders may be made by any officer authorized by law to serve process, state police officer or indifferent person.

(d)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it may vest ownership of the animal in any private or public agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any private or public agency or person found to be suitable or worthy of such responsibility.

(e) Unless the court finds that the animal is not neglected or cruelly treated, the expense incurred by the society in providing proper food, shelter and care to an animal it has taken charge of under subsection (a) of this section and the expense incurred by an agency or person in providing temporary care and custody to an animal under subsection (c) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal and the society or such agency or person shall have a lien upon such animal for such expense.

CONN. GEN. STAT. § 53-253 (2012). Notice of arrest of offender to be given.

Any person making an arrest for a violation of the laws relating to cruelty to animals shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested and shall properly care and provide for them until their owner takes charge of them, provided the owner shall take charge of them within sixty days from the date of such notice; and *the person making such arrest shall have a lien on such animals for the expense of such care and provision.*

7. SEIZURE / ON-SITE SUPERVISION

CONN. GEN. STAT. § 22-329a (2012). Seizure and custody of neglected or cruelly treated animals. Animal abuse cost recovery account.

(a) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal when such animal control officer has reasonable cause to believe that such animal is in imminent harm and is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and, not later than ninety-six hours after taking physical custody, shall proceed as provided in subsection (c) of this section, except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(b) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal upon issuance of a warrant finding probable cause that such animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and shall thereupon proceed as provided in subsection (c) of this section except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(c) Such officer shall file with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford a verified petition plainly stating such facts of neglect or cruel treatment as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition, the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named.

(d) If physical custody of an animal has been taken pursuant to subsection (a) or (b) of this section and it appears from the allegations of the petition filed pursuant to subsection (c) of this section and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that temporary care and custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to show cause why the court should not vest in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition, or (2) issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition. A hearing on the order issued by the court pursuant to subdivision (1) or (2) of this subsection shall be held not later than fourteen days after the issuance of such order. The service of such order may be made by

any officer authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which such officer took physical custody of such animal not less than forty-eight hours prior to the date and time of such hearing.

(e) If physical custody of an animal has not been taken pursuant to subsection (a) or (b) of this section, and the Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer has reasonable cause to believe that an animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, such animal control officer may file a petition with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford, plainly stating such facts of neglect or cruel treatment as to bring the animal within the jurisdiction of the court and praying for appropriate action by the court to ensure the welfare of the animal including, but not limited to, physical removal and temporary care and custody of the animal, authorization of an animal control officer or a licensed veterinarian to provide care for the animal on site, vesting of ownership of the animal, the posting of a bond in accordance with subsection (f) of this section and the assessment of costs in accordance with subsection (h) of this section. Upon the filing of such petition, the court shall cause a summons for an order to show cause to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town where the animal is located not less than forty-eight hours prior to the date and time of the hearing. If it appears from the allegations of the petition filed pursuant to this subsection and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require the immediate removal of the animal from the owner or owners or person having responsibility for the care of the animal to safeguard its welfare, the court shall issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held not later than ten days after the issuance of such order for such temporary care and custody. The service of such order may be made by any officer authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing.

(f) If the court issues an order vesting the animal's temporary care and custody in some suitable state, municipal or other public or private agency or person, the owner or owners shall either relinquish ownership of the animal or post a surety bond or cash bond with the agency or person in whom the animal's temporary care and custody was vested. The surety bond or cash bond shall be in the amount of five hundred dollars and shall secure payment for the reasonable expenses of the agency or person having temporary care and custody of the animal in caring and providing for such animal until the court makes a finding as to the animal's disposition under subsection (g) of this section. The requirement that a bond be posted may be waived if such

owner provides satisfactory evidence that such owner is indigent and unable to pay for such bond.

(g)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it shall vest ownership of the animal in any state, municipal or other public or private agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) *If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any state, municipal or other public or private agency or person found to be suitable or worthy of such responsibility.*

(4) If the court makes a finding under subdivision (1) or (2) of this subsection less than thirty days after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return the balance of such bond, if any, to the owner. The amount of the bond to be returned to the owner shall be calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock for the number of days less than thirty that such agency or person has not had temporary care and custody of the animal less any veterinary costs and expenses incurred for the welfare of the animal.

(5) If the court makes a finding under subdivision (3) of this subsection after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return such bond to such owner.

(h) If the court finds that the animal is neglected or cruelly treated, the expenses incurred by the state or a municipality in providing proper food, shelter and care to an animal it has taken custody of under subsection (a) or (b) of this section and the expenses incurred by any state, municipal or other public or private agency or person in providing temporary care and custody pursuant to an order vesting temporary care and custody, calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock until the date ownership is vested pursuant to subdivision (1) of subsection (g) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal. In addition, all veterinary costs and expenses incurred for the welfare of the animal

that are not covered by the per diem rate shall be paid by the owner or owners or person having responsibility for the animal.

(i) If the court vests ownership of the animal in the Commissioner of Agriculture or a municipality, the commissioner or the municipality may conduct or participate in a public auction of the animal under such conditions the commissioner or the municipality deems necessary or the commissioner or the municipality may consign the animal to an auction or sell the animal through an open advertised bid process whereby bid price and demonstration of sufficient knowledge and ability to care for such animal are factors for the commissioner's or municipality's consideration. All moneys collected from the sale of animals sold by the Commissioner of Agriculture through such open advertised bid process shall be deposited in the "animal abuse cost recovery account" established in subsection (j) of this section. All moneys collected from the sale of animals sold by a municipality through such open advertised bid process shall be deposited by the town treasurer or other fiscal officer in the town's general fund. In a case where rehabilitative or special care of such animal is required, the commissioner or the municipality may vest ownership of such animal in an individual or a public or private nonprofit animal rescue or adoption organization which annually places ten or more animals in private homes as pets.

(j) There is established a separate, nonlapsing account within the General Fund, to be known as the "animal abuse cost recovery account". All moneys collected from sales at public auction of animals seized by the Department of Agriculture pursuant to this section shall be deposited into the account. Deposits of moneys may be made into the account from public or private sources, including, but not limited to, the federal government or municipal governments.

(k) Notwithstanding any provision of the general statutes, any moneys received by the Department of Agriculture pursuant to subsection (j) of this section shall be deposited in the General Fund and credited to the animal abuse cost recovery account. The account shall be available to the Commissioner of Agriculture for the purpose of the housing, care and welfare of any animal seized by the department, until final disposition of such animal. Nothing in this section shall prevent the commissioner from obtaining or using funds from sources other than the account for the housing, care and welfare of any animal seized by the department pursuant to this section.

CONN. GEN. STAT. § 29-108d (2012). Disposition of animal or vehicle of person arrested.

When any person arrested under any provision of the laws relating to cruelty to animals is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, any agent or officer of the Connecticut Humane Society may take charge of such animal and of such vehicle and its contents, and shall give notice thereof to the owner, if known, at his last-known address by registered or certified mail, return receipt requested, and if the owner is not known, by publication in a newspaper having a circulation in the town in which the society took charge of such animal. The society shall care and provide for the animal and the vehicle and its contents until their owner takes charge of them or, if the state claims such seized property is a nuisance, until they are destroyed or disposed of in accordance with section 54-33g. The society shall have a lien on any such animal and vehicle for the expenses of such care and provision.

CONN. GEN. STAT. § 29-108e (2012). Detention and disposition of neglected or cruelly treated animals.

(a) Any officer or agent of the Connecticut Humane Society may lawfully take charge of any animal found neglected or cruelly treated, in violation of sections 22-366, 22-415 and 53-247 to 53-252, inclusive, and shall thereupon proceed as provided in subsection (b) of this section, except that if, in the opinion of a licensed veterinarian, such animal is so injured or diseased that it should be destroyed immediately, such officer or agent may humanely destroy or cause such animal to be humanely destroyed.

(b) Such officer or agent shall file with the superior court which has venue over such matter a verified petition plainly stating such facts as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named, which summons shall be served not less than fourteen days before the date of the hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which the society took charge of such animal not less than fourteen days before the date of the hearing. Such court shall further give notice to the petitioner of the time and place of the hearing not less than fourteen days before the date of the hearing.

(c) If it appears from the allegations of the petition and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that its custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to the owner or owners or person having responsibility for the care of the animal to show cause at such time as the court may designate why the court shall not vest in some suitable agency or person

the animal's temporary care and custody pending a hearing on the petition or (2) issue an order vesting in some suitable agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held within ten days from the issuance of such order on the need for such temporary care and custody. The service of such orders may be made by any officer authorized by law to serve process, state police officer or indifferent person.

(d)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it may vest ownership of the animal in any private or public agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any private or public agency or person found to be suitable or worthy of such responsibility.

(e) Unless the court finds that the animal is not neglected or cruelly treated, the expense incurred by the society in providing proper food, shelter and care to an animal it has taken charge of under subsection (a) of this section and the expense incurred by an agency or person in providing temporary care and custody to an animal under subsection (c) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal and the society or such agency or person shall have a lien upon such animal for such expense.

8. FORFEITURE / POSSESSION

CONN. GEN. STAT. § 22-329a (2012). Seizure and custody of neglected or cruelly treated animals. Animal abuse cost recovery account.

(a) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal when such animal control officer has reasonable cause to believe that such animal is in imminent harm and is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and, not later than ninety-six hours after taking physical custody, shall proceed as provided in subsection (c) of this section, except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(b) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal upon issuance of a warrant finding probable cause that such animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and shall thereupon proceed as provided in subsection (c) of this section except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(c) Such officer shall file with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford a verified petition plainly stating such facts of neglect or cruel treatment as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition, the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named.

(d) If physical custody of an animal has been taken pursuant to subsection (a) or (b) of this section and it appears from the allegations of the petition filed pursuant to subsection (c) of this section and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that temporary care and custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to show cause why the court should not vest in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition, or (2) issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition. A hearing on the order issued by the court pursuant to subdivision (1) or (2) of this subsection shall be held not later than fourteen days after the issuance of such order. The service of such order may be made by

any officer authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which such officer took physical custody of such animal not less than forty-eight hours prior to the date and time of such hearing.

(e) If physical custody of an animal has not been taken pursuant to subsection (a) or (b) of this section, and the Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer has reasonable cause to believe that an animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, such animal control officer may file a petition with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford, plainly stating such facts of neglect or cruel treatment as to bring the animal within the jurisdiction of the court and praying for appropriate action by the court to ensure the welfare of the animal including, but not limited to, physical removal and temporary care and custody of the animal, authorization of an animal control officer or a licensed veterinarian to provide care for the animal on site, vesting of ownership of the animal, the posting of a bond in accordance with subsection (f) of this section and the assessment of costs in accordance with subsection (h) of this section. Upon the filing of such petition, the court shall cause a summons for an order to show cause to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town where the animal is located not less than forty-eight hours prior to the date and time of the hearing. If it appears from the allegations of the petition filed pursuant to this subsection and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require the immediate removal of the animal from the owner or owners or person having responsibility for the care of the animal to safeguard its welfare, the court shall issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held not later than ten days after the issuance of such order for such temporary care and custody. The service of such order may be made by any officer authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing.

(f) If the court issues an order vesting the animal's temporary care and custody in some suitable state, municipal or other public or private agency or person, the owner or owners shall either relinquish ownership of the animal or post a surety bond or cash bond with the agency or person in whom the animal's temporary care and custody was vested. The surety bond or cash bond shall be in the amount of five hundred dollars and shall secure payment for the reasonable expenses of the agency or person having temporary care and custody of the animal in caring and providing for such animal until the court makes a finding as to the animal's disposition under subsection (g) of this section. The requirement that a bond be posted may be waived if such

owner provides satisfactory evidence that such owner is indigent and unable to pay for such bond.

(g)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it shall vest ownership of the animal in any state, municipal or other public or private agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any state, municipal or other public or private agency or person found to be suitable or worthy of such responsibility.

(4) If the court makes a finding under subdivision (1) or (2) of this subsection less than thirty days after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return the balance of such bond, if any, to the owner. The amount of the bond to be returned to the owner shall be calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock for the number of days less than thirty that such agency or person has not had temporary care and custody of the animal less any veterinary costs and expenses incurred for the welfare of the animal.

(5) If the court makes a finding under subdivision (3) of this subsection after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return such bond to such owner.

(h) If the court finds that the animal is neglected or cruelly treated, the expenses incurred by the state or a municipality in providing proper food, shelter and care to an animal it has taken custody of under subsection (a) or (b) of this section and the expenses incurred by any state, municipal or other public or private agency or person in providing temporary care and custody pursuant to an order vesting temporary care and custody, calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock until the date ownership is vested pursuant to subdivision (1) of subsection (g) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal. In addition, all veterinary costs and expenses incurred for the welfare of the animal that are not covered by the per diem rate shall be paid by the owner or owners or person having responsibility for the animal.

(i) If the court vests ownership of the animal in the Commissioner of Agriculture or a municipality, the commissioner or the municipality may conduct or participate in a public auction of the animal under such conditions the commissioner or the municipality deems necessary or the commissioner or the municipality may consign the animal to an auction or sell the animal through an open advertised bid process whereby bid price and demonstration of sufficient knowledge and ability to care for such animal are factors for the commissioner's or municipality's consideration. All moneys collected from the sale of animals sold by the Commissioner of Agriculture through such open advertised bid process shall be deposited in the "animal abuse cost recovery account" established in subsection (j) of this section. All moneys collected from the sale of animals sold by a municipality through such open advertised bid process shall be deposited by the town treasurer or other fiscal officer in the town's general fund. In a case where rehabilitative or special care of such animal is required, the commissioner or the municipality may vest ownership of such animal in an individual or a public or private nonprofit animal rescue or adoption organization which annually places ten or more animals in private homes as pets.

(j) There is established a separate, nonlapsing account within the General Fund, to be known as the "animal abuse cost recovery account". All moneys collected from sales at public auction of animals seized by the Department of Agriculture pursuant to this section shall be deposited into the account. Deposits of moneys may be made into the account from public or private sources, including, but not limited to, the federal government or municipal governments.

(k) Notwithstanding any provision of the general statutes, any moneys received by the Department of Agriculture pursuant to subsection (j) of this section shall be deposited in the General Fund and credited to the animal abuse cost recovery account. The account shall be available to the Commissioner of Agriculture for the purpose of the housing, care and welfare of any animal seized by the department, until final disposition of such animal. Nothing in this section shall prevent the commissioner from obtaining or using funds from sources other than the account for the housing, care and welfare of any animal seized by the department pursuant to this section.

CONN. GEN. STAT. § 29-108e (2012). Detention and disposition of neglected or cruelly treated animals.

(a) Any officer or agent of the Connecticut Humane Society may lawfully take charge of any animal found neglected or cruelly treated, in violation of sections 22-366, 22-415 and 53-247 to 53-252, inclusive, and shall thereupon proceed as provided in subsection (b) of this section, except that if, in the opinion of a licensed veterinarian, such animal is so injured or diseased that it should be destroyed immediately, such officer or agent may humanely destroy or cause such animal to be humanely destroyed.

(b) Such officer or agent shall file with the superior court which has venue over such matter a verified petition plainly stating such facts as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named, which summons shall be served not less than fourteen days before the date of the hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which the society took charge of such animal not less than fourteen days before the date of the hearing. Such court shall further give notice to the petitioner of the time and place of the hearing not less than fourteen days before the date of the hearing.

(c) If it appears from the allegations of the petition and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that its custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to the owner or owners or person having responsibility for the care of the animal to show cause at such time as the court may designate why the court shall not vest in some suitable agency or person the animal's temporary care and custody pending a hearing on the petition or (2) issue an order vesting in some suitable agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held within ten days from the issuance of such order on the need for such temporary care and custody. The service of such orders may be made by any officer authorized by law to serve process, state police officer or indifferent person.

(d)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it may vest ownership of the animal in any private or public agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any private or public agency or person found to be suitable or worthy of such responsibility.

(e) Unless the court finds that the animal is not neglected or cruelly treated, the expense incurred by the society in providing proper food, shelter and care to an animal it has taken charge of under subsection (a) of this section and the expense incurred by an agency or person in providing temporary care and custody to an animal under subsection (c) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal and the society or such agency or person shall have a lien upon such animal for such expense.

9. CROSS ENFORCEMENT / REPORTING

CONN. PUB. ACT NO. 11-194 (2012)*

(1)

(a) Any animal control officer appointed pursuant to section 22–328, 22–331 or 22–331a of the general statutes, who (1) has reasonable cause to suspect that an animal observed in the course of the officer’s employment is being or has been harmed, neglected or treated cruelly in violation of section 53–247 of the general statutes, and (2) files a verified petition with the Superior Court pursuant to section 22–329a of the general statutes, shall make a written report to the Commissioner of Agriculture in accordance with subsection (b) of this section.

(b) The report shall be made by the officer as soon as practicable, but not later than forty-eight hours after the officer has filed the verified petition. Each report shall contain, if known: (1) The address where the animal was observed and the name and address of the owner or other person responsible for care of the animal; (2) the name and a description of the animal; (3) the nature and extent of the harm, neglect or cruelty to the animal; (4) the approximate date and time such harm, neglect or cruelty occurred; (5) any information concerning any previous harm to, neglect of or cruelty toward the animal; (6) the circumstances under which such harm, neglect or cruelty came to be known by the officer; and (7) the name and address of every person the officer reasonably suspects to be responsible for such harm, neglect or cruelty.

(c) Not later than November 1, 2011, and monthly thereafter, the Commissioner of Agriculture shall send a report to the Commissioner of Children and Families containing all of the information received pursuant to subsection (b) of this section during the preceding month.

(2) Not later than one week after receiving a report pursuant to subsection (c) of section 1 of this act, the Commissioner of Children and Families shall determine if any address provided in said report is an address where the Department of Children and Families has opened an investigation of a child pursuant to a report of abuse or neglect made under chapter 319a1 of the general statutes. If the commissioner determines that there is an open investigation of a child at the same address as an address provided in said report, the commissioner shall provide the department’s investigator with all relevant information from said report. The department shall include the information provided to the investigator in the department’s record on the child.

(3)

(a) Any employee of the Department of Children and Families who, in the course of his or her employment, has reasonable cause to suspect that an animal is being or has been harmed, neglected or treated cruelly in violation of section 53–247 of the general statutes shall make an oral report to the Commissioner of Agriculture in accordance with subsection (b) of this section.

(b) A report made pursuant to subsection (a) of this section shall be made as soon as practicable, but not later than forty-eight hours after the employee has reasonable cause to suspect that an animal has been harmed, neglected or treated cruelly, and shall contain the following, if known: (1) The address where the animal was observed and the name and address of the owner or other person responsible for care of the animal; (2) the name and a description of the animal; (3) the nature and extent of the harm, neglect or cruelty to the animal; and (4) the approximate date and time such harm, neglect or cruelty was suspected.

(c) Not later than October 1, 2012, and annually thereafter, the Commissioner of Children and Families, in consultation with the Commissioner of Agriculture and within available appropriations, shall develop and implement training for Department of Children and Families' employees concerning the identification of harm to, neglect of and cruelty toward animals and its relationship to child welfare case practice.

(4)The Commissioner of Children and Families shall, within available appropriations, make available to all animal control officers training concerning the accurate and prompt identification and reporting of child abuse and neglect.

***Editor's note:** This section will be codified when the code is revised in 1/2013.

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

CONN. GEN. STAT. §22-329(2012).Prevention of cruelty to dogs and other animals.

The commissioner, the Chief Animal Control Officer, any animal control officer, any municipal animal control officer or any law enforcement officer may interfere to prevent any act of cruelty upon any dog or other animal, and any person who interferes with or obstructs or resists the commissioner or any such officer in the discharge of such duty shall be fined not more than fifty dollars or imprisoned not more than thirty days.

CONN. GEN. STAT. §22-330 (2012).Authority of officers issuing summons.

The commissioner, the Chief Animal Control Officer and any animal control officer in any part of the state, any regional animal control officer in the territory to which he is assigned and any municipal animal control officer in the municipality for which he has been appointed may arrest any person and may issue a written complaint and summons in furtherance thereof for any violation of any law relating to dogs or to any domestic animal in the same manner police officers or constables may exercise in their respective jurisdictions.

CONN. GEN. STAT. § 29-108b (2012).Appointment of agents as special police officers.

The Commissioner of Emergency Services and Public Protection may appoint, at the request of the Connecticut Humane Society, accredited agents of that society as special police officers to serve for two years from the date of their respective appointments, subject to removal by said commissioner. Such officers shall serve without pay, except their regular compensation as agents of said society. They shall receive no fees for service or return of any criminal process and shall have, throughout the state, the powers of constables and police officers to arrest and detain any person violating any provision of the statutes concerning cruelty to animals.

CONN. GEN. STAT. § 29-108c (2012).Prevention of cruelty to animals.

Any officer or agent of the Connecticut Humane Society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence, and any person who interferes with or obstructs or resists any such officer or agent in the discharge of his duty shall be fined not more than fifty dollars or imprisoned not more than thirty days.

12. SEXUAL ASSAULT

13. FIGHTING

CONN. GEN. STAT. § 53-247 (2012).Cruelty to animals. Fighting animals. Intentional killing of police animal.

(a) Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, shall be fined not more than one thousand dollars or imprisoned not more than one year or both.

(b) Any person who maliciously and intentionally maims, mutilates, tortures, wounds or kills an animal shall be fined not more than five thousand dollars or imprisoned not more than five years or both. The provisions of this subsection shall not apply to any licensed veterinarian while following accepted standards of practice of the profession or to any person while following approved methods of slaughter under section 22-272a, while performing medical research as an employee of, student in or person associated with any hospital, educational institution or laboratory, while following generally accepted agricultural practices or while lawfully engaged in the taking of wildlife.

(c) Any person who knowingly (1) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting for amusement or gain, (2) possesses, keeps or trains an animal with the intent that it be engaged in an exhibition of fighting for amusement or gain, (3) permits an act described in subdivision (1) or (2) of this subsection to take place on premises under his control, (4) acts as judge or spectator at an exhibition of animal fighting for amusement or gain, or (5) bets or wagers on the outcome of an exhibition of animal fighting for amusement or gain, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(d) Any person who intentionally injures any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally injures a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(e) Any person who intentionally kills any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally kills

a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than ten thousand dollars or imprisoned not more than ten years or both.

14. REFERENCED STATUTES

CONN. GEN. STAT. §22-329(2012).Prevention of cruelty to dogs and other animals.

The commissioner, the Chief Animal Control Officer, any animal control officer, any municipal animal control officer or any law enforcement officer may interfere to prevent any act of cruelty upon any dog or other animal, and any person who interferes with or obstructs or resists the commissioner or any such officer in the discharge of such duty shall be fined not more than fifty dollars or imprisoned not more than thirty days.

CONN. GEN. STAT. § 22-329a (2012). Seizure and custody of neglected or cruelly treated animals. Animal abuse cost recovery account.

(a) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal when such animal control officer has reasonable cause to believe that such animal is in imminent harm and is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and, not later than ninety-six hours after taking physical custody, shall proceed as provided in subsection (c) of this section, except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(b) The Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer may take physical custody of any animal upon issuance of a warrant finding probable cause that such animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, and shall thereupon proceed as provided in subsection (c) of this section except that if, in the opinion of a licensed veterinarian or the State Veterinarian, at any time after physical custody of such animal is taken, such animal is so injured or diseased that it should be destroyed immediately, such officer may humanely destroy or cause such animal to be humanely destroyed.

(c) Such officer shall file with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford a verified petition plainly stating such facts of neglect or cruel treatment as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition, the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named.

(d) If physical custody of an animal has been taken pursuant to subsection (a) or (b) of this section and it appears from the allegations of the petition filed pursuant to subsection (c) of this section and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that temporary care and custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to show cause why the court should not vest in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition, or (2) issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition. A hearing on the order issued by the court pursuant to subdivision (1) or (2) of this subsection shall be held not later than fourteen days after the issuance of such order. The service of such order may be made by any officer authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which such officer took physical custody of such animal not less than forty-eight hours prior to the date and time of such hearing.

(e) If physical custody of an animal has not been taken pursuant to subsection (a) or (b) of this section, and the Chief Animal Control Officer, any animal control officer or any municipal or regional animal control officer has reasonable cause to believe that an animal is neglected or is cruelly treated in violation of section 22-366, 22-415, 53-247, 53-248, 53-249, 53-249a, 53-250, 53-251 or 53-252, such animal control officer may file a petition with the superior court which has venue over such matter or with the superior court for the judicial district of Hartford at Hartford, plainly stating such facts of neglect or cruel treatment as to bring the animal within the jurisdiction of the court and praying for appropriate action by the court to ensure the welfare of the animal including, but not limited to, physical removal and temporary care and custody of the animal, authorization of an animal control officer or a licensed veterinarian to provide care for the animal on site, vesting of ownership of the animal, the posting of a bond in accordance with subsection (f) of this section and the assessment of costs in accordance with subsection (h) of this section. Upon the filing of such petition, the court shall cause a summons for an order to show cause to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town where the animal is located not less than forty-eight hours prior to the date and time of the hearing. If it appears from the allegations of the petition filed pursuant to this subsection and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require the immediate removal of the animal from the owner or owners or person having responsibility for the care of the animal to safeguard its welfare, the court shall issue an order vesting in some suitable state, municipal or other public or private agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held not later than ten days after the issuance of such order for such temporary care and custody. The

service of such order may be made by any officer authorized by law to serve process, state police officer or indifferent person and shall be served not less than forty-eight hours prior to the date and time of such hearing.

(f) If the court issues an order vesting the animal's temporary care and custody in some suitable state, municipal or other public or private agency or person, the owner or owners shall either relinquish ownership of the animal or post a surety bond or cash bond with the agency or person in whom the animal's temporary care and custody was vested. The surety bond or cash bond shall be in the amount of five hundred dollars and shall secure payment for the reasonable expenses of the agency or person having temporary care and custody of the animal in caring and providing for such animal until the court makes a finding as to the animal's disposition under subsection (g) of this section. The requirement that a bond be posted may be waived if such owner provides satisfactory evidence that such owner is indigent and unable to pay for such bond.

(g)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it shall vest ownership of the animal in any state, municipal or other public or private agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any state, municipal or other public or private agency or person found to be suitable or worthy of such responsibility.

(4) If the court makes a finding under subdivision (1) or (2) of this subsection less than thirty days after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return the balance of such bond, if any, to the owner. The amount of the bond to be returned to the owner shall be calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock for the number of days less than thirty that such agency or person has not had temporary care and custody of the animal less any veterinary costs and expenses incurred for the welfare of the animal.

(5) If the court makes a finding under subdivision (3) of this subsection after the issuance of an order of temporary care and custody and the owner of the animal has posted a bond, the agency or person with whom the bond was posted shall return such bond to such

owner.

(h) If the court finds that the animal is neglected or cruelly treated, the expenses incurred by the state or a municipality in providing proper food, shelter and care to an animal it has taken custody of under subsection (a) or (b) of this section and the expenses incurred by any state, municipal or other public or private agency or person in providing temporary care and custody pursuant to an order vesting temporary care and custody, calculated at the rate of fifteen dollars per day per animal or twenty-five dollars per day per animal if the animal is a horse or other large livestock until the date ownership is vested pursuant to subdivision (1) of subsection (g) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal. In addition, all veterinary costs and expenses incurred for the welfare of the animal that are not covered by the per diem rate shall be paid by the owner or owners or person having responsibility for the animal.

(i) If the court vests ownership of the animal in the Commissioner of Agriculture or a municipality, the commissioner or the municipality may conduct or participate in a public auction of the animal under such conditions the commissioner or the municipality deems necessary or the commissioner or the municipality may consign the animal to an auction or sell the animal through an open advertised bid process whereby bid price and demonstration of sufficient knowledge and ability to care for such animal are factors for the commissioner's or municipality's consideration. All moneys collected from the sale of animals sold by the Commissioner of Agriculture through such open advertised bid process shall be deposited in the "animal abuse cost recovery account" established in subsection (j) of this section. All moneys collected from the sale of animals sold by a municipality through such open advertised bid process shall be deposited by the town treasurer or other fiscal officer in the town's general fund. In a case where rehabilitative or special care of such animal is required, the commissioner or the municipality may vest ownership of such animal in an individual or a public or private nonprofit animal rescue or adoption organization which annually places ten or more animals in private homes as pets.

(j) There is established a separate, nonlapsing account within the General Fund, to be known as the "animal abuse cost recovery account". All moneys collected from sales at public auction of animals seized by the Department of Agriculture pursuant to this section shall be deposited into the account. Deposits of moneys may be made into the account from public or private sources, including, but not limited to, the federal government or municipal governments.

(k) Notwithstanding any provision of the general statutes, any moneys received by the Department of Agriculture pursuant to subsection (j) of this section shall be deposited in the General Fund and credited to the animal abuse cost recovery account. The account shall be available to the Commissioner of Agriculture for the purpose of the housing, care and welfare of any animal seized by the department, until final disposition of such animal. Nothing in this section shall prevent the commissioner from obtaining or using funds from sources other than the account for the housing, care and welfare of any animal seized by the department pursuant to this section.

CONN. GEN. STAT. §22-330 (2012).Authority of officers issuing summons.

The commissioner, the Chief Animal Control Officer and any animal control officer in any part of the state, any regional animal control officer in the territory to which he is assigned and any municipal animal control officer in the municipality for which he has been appointed may arrest any person and may issue a written complaint and summons in furtherance thereof for any violation of any law relating to dogs or to any domestic animal in the same manner police officers or constables may exercise in their respective jurisdictions.

CONN. GEN. STAT. § 22-351a (2012).Liability for intentionally killing or injuring companion animal.

(a) For the purposes of this section, “companion animal” means a domesticated dog or cat that is normally kept in or near the household of its owner or keeper and is dependent on a person for food, shelter and veterinary care, but does not include a dog or cat kept for farming or biomedical research practices.

(b) Any person who intentionally kills or injures a companion animal, except in defense of such person or another person or as otherwise authorized by law, shall be liable to the owner of such companion animal for economic damages sustained by such owner including, but not limited to, expenses of veterinary care, the fair monetary value of the companion animal and burial expenses for the companion animal.

(c) In addition to any economic damages awarded pursuant to subsection (b) of this section, and except as provided in subsection (d) of this section, the court may award punitive damages in an amount not to exceed the jurisdictional monetary limit established by subsection (d) of section 51-15, together with a reasonable attorney’s fee.

(d) The court shall not assess punitive damages and a reasonable attorney’s fee pursuant to subsection (c) of this section against: (1) A veterinarian licensed pursuant to chapter 384 while following accepted standards of practice of the profession, (2) the state or any political subdivision of the state or any employee, officer or agent thereof while acting within the scope of such employee’s, officer’s or agent’s employment or official duties, or (3) an employee of or volunteer for a nonprofit organization or nonprofit corporation organized and operated exclusively for the prevention of cruelty to animals or the protection of stray, abandoned or mistreated animals while acting within the scope of such employee’s or volunteer’s employment or duties.

CONN. GEN. STAT. § 29-108a (2012). Definitions.

The terms “animals” and “animal”, as used in this chapter and in sections 53-247, 53-252 and 53-253, shall include all brute creatures and birds.

CONN. GEN. STAT. § 29-108b (2012).Appointment of agents as special police officers.

The Commissioner of Emergency Services and Public Protection may appoint, at the request of the Connecticut Humane Society, accredited agents of that society as special police officers to serve for two years from the date of their respective appointments, subject to removal by said commissioner. Such officers shall serve without pay, except their regular compensation as agents of said society. They shall receive no fees for service or return of any criminal process and shall have, throughout the state, the powers of constables and police officers to arrest and detain any person violating any provision of the statutes concerning cruelty to animals.

CONN. GEN. STAT. § 29-108c (2012).Prevention of cruelty to animals.

Any officer or agent of the Connecticut Humane Society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence, and any person who interferes with or obstructs or resists any such officer or agent in the discharge of his duty shall be fined not more than fifty dollars or imprisoned not more than thirty days.

CONN. GEN. STAT. § 29-108d (2012).Disposition of animal or vehicle of person arrested.

When any person arrested under any provision of the laws relating to cruelty to animals is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, any agent or officer of the Connecticut Humane Society may take charge of such animal and of such vehicle and its contents, and shall give notice thereof to the owner, if known, at his last-known address by registered or certified mail, return receipt requested, and if the owner is not known, by publication in a newspaper having a circulation in the town in which the society took charge of such animal. The society shall care and provide for the animal and the vehicle and its contents until their owner takes charge of them or, if the state claims such seized property is a nuisance, until they are destroyed or disposed of in accordance with section 54-33g. The society shall have a lien on any such animal and vehicle for the expenses of such care and provision.

CONN. GEN. STAT. § 29-108e (2011) Detention and disposition of neglected or cruelly treated animals.

(a) Any officer or agent of the Connecticut Humane Society may lawfully take charge of any animal found neglected or cruelly treated, in violation of sections 22-366, 22-415 and 53-247 to 53-252, inclusive, and shall thereupon proceed as provided in subsection (b) of this section, except that if, in the opinion of a licensed veterinarian, such animal is so injured or diseased that it should be destroyed immediately, such officer or agent may humanely destroy or cause such animal to be humanely destroyed.

(b) Such officer or agent shall file with the superior court which has venue over such matter a verified petition plainly stating such facts as to bring such animal within the jurisdiction of the court and praying for appropriate action by the court in accordance with the provisions of this section. Upon the filing of such petition the court shall cause a summons to be issued requiring the owner or owners or person having responsibility for the care of the animal, if known, to appear in court at the time and place named, which summons shall be served not less than fourteen days before the date of the hearing. If the owner or owners or person having responsibility for the care of the animal is not known, notice of the time and place of the hearing shall be given by publication in a newspaper having a circulation in the town in which the society took charge of such animal not less than fourteen days before the date of the hearing. Such court shall further give notice to the petitioner of the time and place of the hearing not less than fourteen days before the date of the hearing.

(c) If it appears from the allegations of the petition and other affirmations of fact accompanying the petition, or provided subsequent thereto, that there is reasonable cause to find that the animal's condition or the circumstances surrounding its care require that its custody be immediately assumed to safeguard its welfare, the court shall either (1) issue an order to the owner or owners or person having responsibility for the care of the animal to show cause at such time as the court may designate why the court shall not vest in some suitable agency or person the animal's temporary care and custody pending a hearing on the petition or (2) issue an order vesting in some suitable agency or person the animal's temporary care and custody pending a hearing on the petition which hearing shall be held within ten days from the issuance of such order on the need for such temporary care and custody. The service of such orders may be made by any officer authorized by law to serve process, state police officer or indifferent person.

(d)

(1) If, after hearing, the court finds that the animal is neglected or cruelly treated, it may vest ownership of the animal in any private or public agency which is permitted by law to care for neglected or cruelly treated animals or with any person found to be suitable or worthy of such responsibility by the court.

(2) If, after hearing, the court finds that the animal is so injured or diseased that it should be destroyed, the court may order that such animal be humanely destroyed.

(3) If, after hearing, the court finds that the animal is not neglected or cruelly treated, it may cause the animal to be returned to its owner or owners or person having responsibility for its care or, if such owner or owners or person is unknown or unwilling to resume caring for such animal, it may vest ownership of the animal in any private or public agency or person found to be suitable or worthy of such responsibility.

(e) Unless the court finds that the animal is not neglected or cruelly treated, the expense incurred by the society in providing proper food, shelter and care to an animal it has taken charge of under subsection (a) of this section and the expense incurred by an agency or person in providing temporary care and custody to an animal under subsection (c) of this section shall be paid by the owner or owners or person having responsibility for the care of the animal and the society or such agency or person shall have a lien upon such animal for such expense.

CONN. GEN. STAT. § 46b-15 (2012). Relief from physical abuse by family or household member or person in dating relationship. Application. Court orders. Duration. Copies. Expedited hearing for violation of order. Other remedies.

(a) Any family or household member as defined in section 46b-38a, as amended by this act, who has been subjected to a continuous threat of present physical pain or physical injury, stalking or a pattern of threatening, by another family or household member may make an application to the Superior Court for relief under this section.

(b) The application form shall allow the applicant, at the applicant's option, to indicate whether the respondent holds a permit to carry a pistol or revolver or possesses one or more firearms. The application shall be accompanied by an affidavit made under oath which includes a brief statement of the conditions from which relief is sought. Upon receipt of the application the court shall order that a hearing on the application be held not later than fourteen days from the date of the order. The court, in its discretion, may make such orders as it deems appropriate for the protection of the applicant and such dependent children or other persons as the court sees fit. In making such orders, the court, in its discretion, may consider relevant court records if the records are available to the public from a clerk of the Superior Court or on the Judicial Branch's Internet web site. Such orders may include temporary child custody or visitation rights and such relief may include but is not limited to an order enjoining the respondent from

(1) imposing any restraint upon the person or liberty of the applicant;

(2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or

(3) entering the family dwelling or the dwelling of the applicant. Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate. If a postponement of a hearing on the application is requested by either party

and granted, the order shall not be continued except upon agreement of the parties or by order of the court for good cause shown.

(c) Every order of the court made in accordance with this section shall contain the following language: “This order may be extended by the court beyond six months. In accordance with section 53a-107, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree. This is a criminal offense punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars or both.”

(d) No order of the court shall exceed six months, except that an order may be extended by the court upon motion of the applicant for such additional time as the court deems necessary. If the respondent has not appeared upon the initial application, service of a motion to extend an order may be made by first-class mail directed to the respondent at his or her last known address.

(e) The applicant shall cause notice of the hearing pursuant to subsection (b) of this section and a copy of the application and the applicant’s affidavit and of any ex parte order issued pursuant to subsection (b) of this section to be served on the respondent not less than five days before the hearing. The cost of such service shall be paid for by the judicial branch. Upon the granting of an ex parte order, the clerk of the court shall provide two copies of the order to the applicant. Upon the granting of an order after notice and hearing, the clerk of the court shall provide two copies of the order to the applicant and a copy to the respondent. Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. Immediately after making service on the respondent, the proper officer shall send or cause to be sent, by facsimile or other means, a copy of the application, or the information contained in such application, stating the date and time the respondent was served, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides. The clerk of the court shall send, by facsimile or other means, a copy of any ex parte order and of any order after notice and hearing, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the applicant resides, the town in which the applicant is employed and the town in which the respondent resides, within forty-eight hours of the issuance of such order.

(f) A caretaker who is providing shelter in his or her residence to a person sixty years or older shall not be enjoined from the full use and enjoyment of his or her home and property. The Superior Court may make any other appropriate order under the provisions of this section.

(g) When a motion for contempt is filed for violation of a restraining order, there shall be an expedited hearing. Such hearing shall be held within five court days of service of the motion on the respondent, provided service on the respondent is made not less than twenty-four hours before the hearing. If the court finds the respondent in contempt for violation of an order, the court may impose such sanctions as the court deems appropriate.

(h) An action under this section shall not preclude the applicant from seeking any other civil or criminal relief.

CONN. GEN. STAT. § 46b-38c (2012). Family violence response and intervention units. Local units. Duties and functions. Protective orders. Pretrial family violence education program.

(a) There shall be family violence response and intervention units in the Connecticut judicial system to respond to cases involving family violence. The units shall be coordinated and governed by formal agreement between the Chief State's Attorney and the Judicial Department.

(b) The Court Support Services Division, in accordance with the agreement between the Chief State's Attorney and the Judicial Department, shall establish within each geographical area of the Superior Court a local family violence intervention unit to implement sections 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f, inclusive, as amended by this act, and 54-1g. The Court Support Services Division shall oversee direct operations of the local units.

(c) Each such local family violence intervention unit shall:

- (1) Accept referrals of family violence cases from a judge or prosecutor,
- (2) prepare written or oral reports on each case for the court by the next court date to be presented at any time during the court session on that date,
- (3) provide or arrange for services to victims and offenders,
- (4) administer contracts to carry out such services, and
- (5) establish centralized reporting procedures. All information provided to a family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department in a local family violence intervention unit shall be used solely for the purposes of preparation of the report and the protective order forms for each case and recommendation of services and shall otherwise be confidential and retained in the files of such unit and not be subject to subpoena or other court process for use in any other proceeding or for any other purpose, except that a family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department:
 - (A) Shall disclose to the court and the prosecuting authority for appropriate action information that the victim has indicated that the defendant holds a permit to carry a pistol or revolver or possesses one or more firearms;
 - (B) Shall disclose to an employee of the Department of Children and Families information that indicates that a defendant poses a danger or threat to a child or a custodial parent of the child;
 - (C) May disclose to another family relations counselor, family relations counselor trainee or family services supervisor information pursuant to guidelines adopted by the Chief Court Administrator;

(D) May disclose to a bail commissioner employed by the Judicial Department information regarding a defendant who is on or is being considered for pretrial release;

(E) May disclose to a law enforcement agency information that indicates that a defendant poses a danger or threat to another person;

(F) May disclose, after disposition of a family violence case, to a probation officer or a juvenile probation officer, for purposes of determining service needs and supervision levels, information regarding a defendant who has been convicted and sentenced to a period of probation in the family violence case;

(G) May disclose, after a conviction in a family violence case, to a probation officer for the purpose of preparing a presentence investigation report, any information regarding the defendant that has been provided to the family relations counselor, family relations counselor trainee or family services supervisor in the case or in any other case that resulted in the conviction of the defendant;

(H) May disclose to any organization under contract with the Judicial Department to provide family violence programs and services, for the purpose of determining program and service needs, information regarding any defendant who is a client of such organization, provided no information that personally identifies the victim may be disclosed to such organization; and

(I) Shall disclose such information as may be necessary to fulfill such counselor's, trainee's or supervisor's duty as a mandated reporter under section 17a-101a to report suspected child abuse or neglect.

(d) In all cases of family violence, a written or oral report and recommendation of the local family violence intervention unit shall be available to a judge at the first court date appearance to be presented at any time during the court session on that date. A judge of the Superior Court may consider and impose the following conditions to protect the parties, including, but not limited to:

(1) Issuance of a protective order pursuant to subsection (e) of this section;

(2) prohibition against subjecting the victim to further violence;

(3) referral to a family violence education program for batterers; and

(4) immediate referral for more extensive case assessment. Such protective order shall be an order of the court, and the clerk of the court shall cause

(A) a copy of such order to be sent to the victim, and

(B) a copy of such order, or the information contained in such order, to be sent by facsimile or other means within forty-eight hours of its issuance to the law enforcement agency for the town in which the victim resides and, if the defendant resides in a town different from the town in which the victim resides, to the law

enforcement agency for the town in which the defendant resides. If the victim is employed in a town different from the town in which the victim resides, the clerk of the court shall, upon the request of the victim, send, by facsimile or other means, a copy of such order, or the information contained in such order, to the law enforcement agency for the town in which the victim is employed within forty-eight hours of the issuance of such order.

(e) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including, but not limited to, an order enjoining the defendant from

(1) imposing any restraint upon the person or liberty of the victim,

(2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or

(3) entering the family dwelling or the dwelling of the victim. A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal. Such order shall be made a condition of the bail or release of the defendant and shall contain the following notification: "In accordance with section 53a-223 of the Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, in accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or release, and may result in raising the amount of bail or revoking release." Every order of the court made in accordance with this section after notice and hearing shall be accompanied by a notification that is consistent with the full faith and credit provisions set forth in 18 USC 2265(a), as amended from time to time. The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51-5c.

(f) The Judicial Department may establish, within available appropriations, a pilot program in three judicial districts for the purpose of using electronic monitoring in accordance with this subsection. Such pilot program shall be conducted in at least one judicial district that contains an urban area, as defined in section 4b-13, and at least one judicial district that does not contain such an urban area. Pursuant to such pilot program, the court may order that any person appearing in such judicial district who is charged with the violation of a restraining order or a protective order, and who has been determined to be a high-risk offender by the family violence intervention unit, be subject to electronic monitoring designed to warn law enforcement agencies, a state-wide information collection center and the victim when the person is within a specified distance of the victim, if the court finds that such electronic monitoring is necessary to protect the victim, provided the cost of such electronic monitoring is paid by the person who is

subject to such electronic monitoring, subject to guidelines established by the Chief Court Administrator. If the court orders that such person be subject to electronic monitoring, the clerk of the court shall send, by facsimile or other means, a copy of the order, or the information contained in any such order, to the law enforcement agency or agencies for the town in which the person resides. The Judicial Department shall cease operation of any pilot program established under this subsection not later than March 31, 2011, unless resources are available to continue operation of the pilot program.

(g) In cases referred to the local family violence intervention unit, it shall be the function of the unit to

(1) identify victim service needs and, by contract with victim service providers, make available appropriate services that include, but are not limited to, the provision of trauma-informed care by a counselor who provides trauma-informed care, or a referral to a counselor, and

(2) identify appropriate offender services and where possible, by contract, provide treatment programs for offenders. For purposes of this subsection, “trauma-informed care” means services directed by a thorough understanding of the neurological, biological, psychological and social effects of trauma and violence on a person.

(h)

(1) There shall be a pretrial family violence education program for persons who are charged with family violence crimes. At a minimum, such program shall inform participants of the basic elements of family violence law and applicable penalties. The court may, in its discretion, invoke such program on motion of the defendant when it finds:

(A) That the defendant has not previously been convicted of a family violence crime which occurred on or after October 1, 1986;

(B) the defendant has not had a previous case assigned to the family violence education program;

(C) the defendant has not previously invoked or accepted accelerated rehabilitation under section 54–56e for a family violence crime which occurred on or after October 1, 1986; and

(D) that the defendant is not charged with a class A, class B or class C felony, or an unclassified felony carrying a term of imprisonment of more than ten years, or unless good cause is shown, a class D felony or an unclassified offense carrying a term of imprisonment of more than five years. Participation by any person in the accelerated pretrial rehabilitation program under section 54–56e prior to October 1, 1986, shall not prohibit eligibility of such person for the pretrial family violence education program under this section. The court may require that the defendant answer such questions under oath, in open court or before any person

designated by the clerk and duly authorized to administer oaths, under the penalties of perjury as will assist the court in making these findings.

(2) The court, on such motion, may refer the defendant to the family violence intervention unit, and may continue the defendant's case pending the submission of the report of the unit to the court. The court shall also give notice to the victim or victims that the defendant has requested assignment to the family violence education program, and, where possible, give the victim or victims opportunity to be heard. Any defendant who accepts placement in the family violence education program shall agree to the tolling of any statute of limitations with respect to the crime or crimes with which the defendant is charged, and to a waiver of the defendant's right to a speedy trial. Any such defendant shall appear in court and shall be released to the custody of the family violence intervention unit for such period, not exceeding two years, and under such conditions as the court shall order. If the defendant refuses to accept, or, having accepted, violates such conditions, the defendant's case shall be brought to trial. If the defendant satisfactorily completes the family violence education program and complies with the conditions imposed for the period set by the court, the defendant may apply for dismissal of the charges against the defendant and the court, on finding satisfactory compliance, shall dismiss such charges.

(3) Upon dismissal of charges under this subsection, all records of such charges shall be erased pursuant to section 54-142a.

(i) A nonrefundable application fee of one hundred dollars shall be paid to the court by any person who files a motion pursuant to subdivision (1) of subsection (h) of this section to participate in the pretrial family violence education program, and a fee of three hundred dollars shall be paid to the court by any person who enters the family violence education program, except that no person shall be excluded from such program for inability to pay any such fee, provided

(1) the person files with the court an affidavit of indigency or inability to pay, and

(2) the court enters a finding thereof. All such fees shall be credited to the General Fund.

(j) The Judicial Department shall establish an ongoing training program for judges, Court Support Services Division personnel and clerks to inform them about the policies and procedures of sections 46b-1, 46b-15, as amended by this act, 46b-38a to 46b-38f, inclusive, as amended by this act, and 54-1g, including, but not limited to, the function of the family violence intervention units and the use of restraining and protective orders.

CONN. GEN. STAT. § 53-247 (2012).Cruelty to animals. Fighting animals. Intentional killing of police animal.

(a) Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, shall be fined not more than one thousand dollars or imprisoned not more than one year or both.

(b) Any person who maliciously and intentionally maims, mutilates, tortures, wounds or kills an animal shall be fined not more than five thousand dollars or imprisoned not more than five years or both. The provisions of this subsection shall not apply to any licensed veterinarian while following accepted standards of practice of the profession or to any person while following approved methods of slaughter under section 22-272a, while performing medical research as an employee of, student in or person associated with any hospital, educational institution or laboratory, while following generally accepted agricultural practices or while lawfully engaged in the taking of wildlife.

(c) Any person who knowingly (1) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting for amusement or gain, (2) possesses, keeps or trains an animal with the intent that it be engaged in an exhibition of fighting for amusement or gain, (3) permits an act described in subdivision (1) or (2) of this subsection to take place on premises under his control, (4) acts as judge or spectator at an exhibition of animal fighting for amusement or gain, or (5) bets or wagers on the outcome of an exhibition of animal fighting for amusement or gain, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(d) Any person who intentionally injures any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally injures a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than five thousand dollars or imprisoned not more than five years or both.

(e) Any person who intentionally kills any animal while such animal is in the performance of its duties under the supervision of a peace officer, as defined in section 53a-3, or intentionally kills a dog that is a member of a volunteer canine search and rescue team, as defined in section 5-249, while such dog is in the performance of its duties under the supervision of the active individual member of such team, shall be fined not more than ten thousand dollars or imprisoned not more

than ten years or both.

CONN. GEN. STAT. § 53-253 (2012). Notice of arrest of offender to be given.

Any person making an arrest for a violation of the laws relating to cruelty to animals shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested and shall properly care and provide for them until their owner takes charge of them, provided the owner shall take charge of them within sixty days from the date of such notice; and the person making such arrest shall have a lien on such animals for the expense of such care and provision.

CONN. GEN. STAT. § 53a-25 (2012). Felony: Definition, classification, designation.

(a) An offense for which a person may be sentenced to a term of imprisonment in excess of one year is a felony.

(b) Felonies are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C, (4) class D, (5) unclassified and (6) capital felonies.

(c) The particular classification of each felony defined in this chapter is expressly designated in the section defining it. Any offense defined in any other section of the general statutes which, by virtue of an expressly specified sentence, is within the definition set forth in subsection (a) shall be deemed an unclassified felony.

CONN. GEN. STAT. § 53a-26 (2012). Misdemeanor: Definition, classification, designation.

(a) An offense for which a person may be sentenced to a term of imprisonment of not more than one year is a misdemeanor.

(b) Misdemeanors are classified for the purposes of sentence as follows: (1) Class A, (2) class B, (3) class C and (4) unclassified.

(c) The particular classification of each misdemeanor defined in this chapter is expressly designated in the section defining it. Any offense defined in any other section of the general statutes which, by virtue of an expressly specified sentence, is within the definition set forth in subsection (a) shall be deemed an unclassified misdemeanor.

CONN. GEN. STAT. § 54-1k (2012). Issuance of protective orders in stalking and harassment cases.

(a) Upon the arrest of a person for a violation of subdivision (1) or (2) of subsection (a) of

section 53-21 of the 2008 supplement to the general statutes, section 53a-70, 53a-70a, 53a-70c of the 2008 supplement to the general statutes, 53a-71 of the 2008 supplement to the general statutes, 53a-72a, 53a-72b, or 53a-73a of the 2008 supplement to the general statutes, or any attempt thereof, or section 53a-181c, 53a-181d or 53a-181e, the court may issue a protective order pursuant to this section. Upon the arrest of a person for a violation of section 53a-182b or 53a-183, the court may issue a protective order pursuant to this section if it finds that such violation caused the victim to reasonably fear for his or her physical safety. Such order shall be an order of the court, and the clerk of the court shall cause

(1) a copy of such order or the information contained in such order to be sent to the victim, and

(2) a copy of such order, or the information contained in such order, to be sent by facsimile or other means within forty-eight hours of its issuance to the law enforcement agency or agencies for the town in which the victim resides, the town in which the victim is employed and the town in which the defendant resides.

(b) A protective order issued under this section may include provisions necessary to protect the victim from threats, harassment, injury or intimidation by the defendant, including but not limited to, an order enjoining the defendant from

(1) imposing any restraint upon the person or liberty of the victim,

(2) threatening, harassing, assaulting, molesting or sexually assaulting the victim, or

(3) entering the dwelling of the victim. A protective order issued under this section may include provisions necessary to protect any animal owned or kept by the victim including, but not limited to, an order enjoining the defendant from injuring or threatening to injure such animal. Such order shall be made a condition of the bail or release of the defendant and shall contain the following language: "In accordance with section 53a-223 of the Connecticut general statutes, any violation of this order constitutes criminal violation of a protective order which is punishable by a term of imprisonment of not more than five years, a fine of not more than five thousand dollars, or both. Additionally, in accordance with section 53a-107 of the Connecticut general statutes, entering or remaining in a building or any other premises in violation of this order constitutes criminal trespass in the first degree which is punishable by a term of imprisonment of not more than one year, a fine of not more than two thousand dollars, or both. Violation of this order also violates a condition of your bail or release and may result in raising the amount of bail or revoking release. "

(c) The information contained in and concerning the issuance of any protective order issued under this section shall be entered in the registry of protective orders pursuant to section 51-5c, as amended by this act.

CONN. PUB. ACT NO. 11-194 (2012)*

(1)

(a) Any animal control officer appointed pursuant to section 22–328, 22–331 or 22–331a of the general statutes, who (1) has reasonable cause to suspect that an animal observed in the course of the officer’s employment is being or has been harmed, neglected or treated cruelly in violation of section 53–247 of the general statutes, and (2) files a verified petition with the Superior Court pursuant to section 22–329a of the general statutes, shall make a written report to the Commissioner of Agriculture in accordance with subsection (b) of this section.

(b) The report shall be made by the officer as soon as practicable, but not later than forty-eight hours after the officer has filed the verified petition. Each report shall contain, if known: (1) The address where the animal was observed and the name and address of the owner or other person responsible for care of the animal; (2) the name and a description of the animal; (3) the nature and extent of the harm, neglect or cruelty to the animal; (4) the approximate date and time such harm, neglect or cruelty occurred; (5) any information concerning any previous harm to, neglect of or cruelty toward the animal; (6) the circumstances under which such harm, neglect or cruelty came to be known by the officer; and (7) the name and address of every person the officer reasonably suspects to be responsible for such harm, neglect or cruelty.

(c) Not later than November 1, 2011, and monthly thereafter, the Commissioner of Agriculture shall send a report to the Commissioner of Children and Families containing all of the information received pursuant to subsection (b) of this section during the preceding month.

(2) Not later than one week after receiving a report pursuant to subsection (c) of section 1 of this act, the Commissioner of Children and Families shall determine if any address provided in said report is an address where the Department of Children and Families has opened an investigation of a child pursuant to a report of abuse or neglect made under chapter 319a1 of the general statutes. If the commissioner determines that there is an open investigation of a child at the same address as an address provided in said report, the commissioner shall provide the department’s investigator with all relevant information from said report. The department shall include the information provided to the investigator in the department’s record on the child.

(3)

(a) Any employee of the Department of Children and Families who, in the course of his or her employment, has reasonable cause to suspect that an animal is being or has been harmed, neglected or treated cruelly in violation of section 53–247 of the general statutes shall make an oral report to the Commissioner of Agriculture in accordance with subsection (b) of this section.

(b) A report made pursuant to subsection (a) of this section shall be made as soon as practicable, but not later than forty-eight hours after the employee has reasonable cause to suspect that an animal has been harmed, neglected or treated cruelly, and shall contain the following, if known: (1) The address where the animal was observed and the name and address of the owner or other person responsible for care of the animal; (2) the name and a description of the animal; (3) the nature and extent of the harm, neglect or cruelty to the animal; and (4) the approximate date and time such harm, neglect or cruelty was suspected.

(c) Not later than October 1, 2012, and annually thereafter, the Commissioner of Children and Families, in consultation with the Commissioner of Agriculture and within available appropriations, shall develop and implement training for Department of Children and Families' employees concerning the identification of harm to, neglect of and cruelty toward animals and its relationship to child welfare case practice.

(4)The Commissioner of Children and Families shall, within available appropriations, make available to all animal control officers training concerning the accurate and prompt identification and reporting of child abuse and neglect.

***Editor's note:** This section will be codified when the code is revised in 1/2013.

ANIMAL PROTECTION LAWS OF THE DISTRICT OF COLUMBIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains the D.C. general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

The District of Columbia may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any

statute.

DISTRICT OF COLUMBIA	
1. GENERAL PROHIBITIONS [*]	<p>(1) General cruelty to animals D.C. CODE ANN. §22-1001(a)</p> <p>(2) Aggravated cruelty to animals D.C. CODE ANN. §22-1001(d)</p> <p>(3), (4), (5), (6) Other animal abuse, cruelly transporting, neglect, abandonment D.C. CODE ANN. §§22-1002, 22-1007, 22-1011, 22-1012</p>
<i>Animals Covered in Definition</i>	<p>“[A]ll living and sentient creatures (human beings excepted)” D.C. CODE ANN. §22-1013</p>
<i>Classification of Crimes</i>	<i>Defined in statute</i>
2. MAXIMUM PENALTIES ^{**}	<p>(1), (3), (4), (5), (6) 6 months imprisonment <i>and/or</i> \$250 D.C. CODE ANN. §§22-1001(a), 22-1012(a)</p> <p>(2) 5 years imprisonment <i>and/or</i> \$25,000 D.C. CODE ANN. §22-1001(d)</p>
3. EXEMPTIONS ^{***}	<p>2 D.C. CODE ANN. § 22-1012(b)</p> <p>9 D.C. CODE ANN. § 22-1001(d)</p>

DISTRICT OF COLUMBIA <i>continued</i>	
4. COUNSELING / EVALUATIONS[†]	The court may order an adult or youth offender to obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the offender. D.C. CODE ANN. §§ 22-1001(a)(2)(A), (a)(3)
5. PROTECTIVE ORDERS[†]	D.C. CODE ANN. § 16-1005
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>Court may order offender to repay the reasonable costs of care incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty. D.C. CODE ANN. § 22-1001(a)(2)(C)</p> <p>Reimbursement for costs of care is a lien. D.C. CODE ANN. §§ 22-1004, 22-1008, 22-1012</p> <p>Certain fines collected go to humane society. D.C. CODE ANN. §§ 22-1006, 44-1506</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>A humane officer of the Washington Humane Society may take possession of any animal to protect it from neglect or cruelty. D.C. CODE ANN. § 22-1004(b)</p> <p>Person making arrest shall care and provide for mistreated animals. D.C. CODE ANN. § 22-1004(a)</p> <p>Search warrants shall be issued to humane society members or law enforcers for reasonable cause. D.C. CODE ANN. § 22-1005</p>

DISTRICT OF COLUMBIA <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION <i>continued</i>	<p>Humane officers may enter pounds and care and provide for impounded animals. D.C. CODE ANN. § 22-1008</p> <p>Humane officers may seize any animals in the charge of a person who is arrested. D.C. CODE ANN. § 22-1012</p>
8. FORFEITURE / POSSESSION[†]	<p>Court may order the forfeiture of animal victim(s) upon conviction and may order offender not to own or possess an animal for a specified period of time. D.C. CODE ANN. §§ 22-1001(a)(2)(B,D)</p> <p>If the owner or custodian of an animal impounded to protect it from neglect or cruelty fails to respond to notice of impound after 20 days, the animal shall become the property of the Washington Humane Society. D.C. CODE ANN. §22-1004(b)</p> <p>Humane society may euthanize injured or abandoned animals. D.C. CODE ANN. § 22-1012</p>
9. CROSS ENFORCEMENT / REPORTING	<p>Humane officers must report suspected child abuse or neglect and any adults in need of protective services due to abuse or neglect. D.C. CODE ANN. §§4-1321.02; 7-1903(a)</p> <p>Any law enforcement or child or protective services employee shall report suspected animal cruelty, abandonment, or neglect, and the observation of an animal at the home of a person reasonably suspected of child, adult, or animal abuse. No civil or criminal liability for reports made in good faith.</p>

	D.C. CODE ANN. § 22-1002.01
DISTRICT OF COLUMBIA <i>continued</i>	
9. CROSS ENFORCEMENT / REPORTING <i>continued</i>	Humane society agents may act to protect children. D.C. CODE ANN. §§ 44-1508, 44-1509
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	It shall be the duty of all marshals, deputy marshals, police officers, or any humane officer of the Washington Humane Society, to prosecute all animal protection violations which come to their notice or knowledge. D.C. CODE ANN. § 22-1006 Police shall arrest law violators at request of humane society members who have witnessed animal abuse. D.C. CODE ANN. §44-1505 Mayor may appoint police officials to enforce cruelty laws. D.C. CODE ANN. §44-1510
12. SEXUAL ASSAULT	-----
13. FIGHTING	Any person who keeps or uses, or is in any way connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept for animal fighting or baiting, may be arrested and punished for animal cruelty. D.C. CODE ANN. § 22-1009 Various animal fighting activities, including spectatorship are felonies. D.C. CODE ANN. § 22-1015

	Urging or causing dogs to fight is punishable by a penalty of up to \$1,000. D.C. CODE ANN. § 22-1310
DISTRICT OF COLUMBIA <i>continued</i>	
<i>Other Felony Provisions Affecting Animals</i> ^{††}	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

[†]This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

^{††} This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

D.C. CODE ANN. § 22-1001 (2012). Definition and penalty.

(a)

(1) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding \$250, or by both.

(2) The court may order a person convicted of cruelty to animals:

(A) To obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the person convicted;

(B) To forfeit any rights in the animal or animals subjected to cruelty;

(C) To repay the reasonable costs incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty; and

(D) Not to own or possess an animal for a specified period of time.

(3) The court may order a child adjudicated delinquent for cruelty to animals to undergo psychiatric or psychological evaluation, or to participate in appropriate treatment programs or counseling, and may impose the costs of the program or counseling on the person adjudicated delinquent.

(b) For the purposes of this section, "cruelly chains" means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

(1) Exceeds 1/8 the body weight of the animal;

(2) Causes the animal to choke;

(3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;

(4) Is situated where it can become entangled;

(5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or

(6) Does not permit the animal to escape harm.

(c) For the purposes of this section, “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, mutilation, or protracted loss or impairment of the function of a bodily member or organ. Serious bodily injury includes, but is not limited to, broken bones, burns, internal injuries, severe malnutrition, severe lacerations or abrasions, and injuries resulting from untreated medical conditions.

(d) Except where the animal is an undomesticated and dangerous animal such as rats, bats, and snakes, and there is a reasonable apprehension of an imminent attack by such animal on that person or another, whoever commits any of the acts or omissions set forth in subsection (a) of this section with the intent to commit serious bodily injury or death to an animal, or whoever, under circumstances manifesting extreme indifference to animal life, commits any of the acts or omissions set forth in subsection (a) of this section which results in serious bodily injury or death to the animal, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment not exceeding 5 years, or by a fine not exceeding \$25,000, or both.

D.C. CODE ANN.§22-1002 (2012).Other cruelties to animals.

Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in or upon any vehicle, or otherwise, in an unnecessarily cruel or inhuman manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind, shall be punished for every such offense in the manner provided in § 22-1001.

D.C. CODE ANN.§22-1007 (2012).Impounded animals to be supplied with food and water.

Any person who shall impound, or cause to be impounded in any pound, any creature, shall supply the same, during such confinement, with a sufficient quantity of good and wholesome food and water; and in default thereof shall, upon conviction, be punished for every such offense in the same manner provided in § 22-1001.

D.C. CODE ANN.§22-1011 (2012).Neglect of sick or disabled animals.

If any maimed, sick, infirm, or disabled animal shall fail to receive proper food or shelter from said owner or person in charge of the same for more than 5 consecutive hours, such person shall, for every such offense, be punished in the same manner provided in § 22-1001.

D.C. CODE ANN.§22-1012 (2012).Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) *A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than \$10 nor more than \$250, or by imprisonment in jail not more than 180 days, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.*

(b) *Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22- 1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.*

D.C. CODE ANN.§22-1013 (2012). Definitions.

In §§ 22-1001 to 22-1009, inclusive, and § 22-1011, the word "animals" or "animal" shall be held to include all living and sentient creatures (human beings excepted), and the words "owner," "persons," and "whoever" shall be held to include corporations and incorporated companies as well as individuals.

2. PENALTIES

D.C. CODE ANN. § 22-1001 (2012). Definition and penalty.

(a)

(1) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, *shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding \$250, or by both.*

(2) The court may order a person convicted of cruelty to animals:

(A) To obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the person convicted;

(B) To forfeit any rights in the animal or animals subjected to cruelty;

(C) To repay the reasonable costs incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty; and

(D) Not to own or possess an animal for a specified period of time.

(3) The court may order a child adjudicated delinquent for cruelty to animals to undergo psychiatric or psychological evaluation, or to participate in appropriate treatment programs or counseling, and may impose the costs of the program or counseling on the person adjudicated delinquent.

(b) For the purposes of this section, “cruelly chains” means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

(1) Exceeds 1/8 the body weight of the animal;

(2) Causes the animal to choke;

(3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;

(4) Is situated where it can become entangled;

(5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or

(6) Does not permit the animal to escape harm.

(c) For the purposes of this section, “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, mutilation, or protracted loss or impairment of the function of a bodily member or organ. Serious bodily injury includes, but is not limited to, broken bones, burns, internal injuries, severe malnutrition, severe lacerations or abrasions, and injuries resulting from untreated medical conditions.

(d) Except where the animal is an undomesticated and dangerous animal such as rats, bats, and snakes, and there is a reasonable apprehension of an imminent attack by such animal on that person or another, whoever commits any of the acts or omissions set forth in subsection (a) of this section with the intent to commit serious bodily injury or death to an animal, or whoever, under circumstances manifesting extreme indifference to animal life, commits any of the acts or omissions set forth in subsection (a) of this section which results in serious bodily injury or death to the animal, shall be guilty of a felony *and, upon conviction thereof, shall be punished by imprisonment not exceeding 5 years, or by a fine not exceeding \$25,000, or both.*

D.C. CODE ANN.§22-1002 (2012).Other cruelties to animals.

Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in or upon any vehicle, or otherwise, in an unnecessarily cruel or inhuman manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind, *shall be punished for every such offense in the manner provided in § 22-1001.*

D.C. CODE ANN.§22-1007 (2012).Impounded animals to be supplied with food and water.

Any person who shall impound, or cause to be impounded in any pound, any creature, shall supply the same, during such confinement, with a sufficient quantity of good and wholesome food and water; and in default thereof *shall, upon conviction, be punished for every such offense in the same manner provided in § 22-1001.*

D.C. CODE ANN. § 22-1011 (2012). Neglect of sick or disabled animals.

If any maimed, sick, infirm, or disabled animal shall fail to receive proper food or shelter from said owner or person in charge of the same for more than 5 consecutive hours, *such person shall, for every such offense, be punished in the same manner provided in § 22-1001.*

D.C. CODE ANN. § 22-1012 (2012). Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable *by a fine of not less than \$10 nor more than \$250, or by imprisonment in jail not more than 180 days, or both.* Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

(b) Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22-1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

3. EXEMPTIONS

D.C. CODE ANN. § 22-1001 (2012). Definition and penalty.

(a)

(1) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding \$250, or by both.

(2) The court may order a person convicted of cruelty to animals:

(A) To obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the person convicted;

(B) To forfeit any rights in the animal or animals subjected to cruelty;

(C) To repay the reasonable costs incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty; and

(D) Not to own or possess an animal for a specified period of time.

(3) The court may order a child adjudicated delinquent for cruelty to animals to undergo psychiatric or psychological evaluation, or to participate in appropriate treatment programs or counseling, and may impose the costs of the program or counseling on the person adjudicated delinquent.

(b) For the purposes of this section, “cruelly chains” means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

(1) Exceeds 1/8 the body weight of the animal;

(2) Causes the animal to choke;

(3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;

(4) Is situated where it can become entangled;

(5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or

(6) Does not permit the animal to escape harm.

(c) For the purposes of this section, “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, mutilation, or protracted loss or impairment of the function of a bodily member or organ. Serious bodily injury includes, but is not limited to, broken bones, burns, internal injuries, severe malnutrition, severe lacerations or abrasions, and injuries resulting from untreated medical conditions.

(d) Except where the animal is an undomesticated and dangerous animal such as rats, bats, and snakes, and there is a reasonable apprehension of an imminent attack by such animal on that person or another, whoever commits any of the acts or omissions set forth in subsection (a) of this section with the intent to commit serious bodily injury or death to an animal, or whoever, under circumstances manifesting extreme indifference to animal life, commits any of the acts or omissions set forth in subsection (a) of this section which results in serious bodily injury or death to the animal, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment not exceeding 5 years, or by a fine not exceeding \$25,000, or both.

D.C. CODE ANN.§22-1012 (2012).Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than \$10 nor more than \$250, or by imprisonment in jail not more than 180 days, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer’s presence, to be glandered, injured, or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

(b) Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22-1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

4. COUNSELING / EVALUATIONS

D.C. CODE ANN. § 22-1001 (2012). Definition and penalty.

(a)

(1) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding \$250, or by both.

(2) *The court may order a person convicted of cruelty to animals:*

(A) *To obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the person convicted;*

(B) To forfeit any rights in the animal or animals subjected to cruelty;

(C) To repay the reasonable costs incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty; and

(D) Not to own or possess an animal for a specified period of time.

(3) *The court may order a child adjudicated delinquent for cruelty to animals to undergo psychiatric or psychological evaluation, or to participate in appropriate treatment programs or counseling, and may impose the costs of the program or counseling on the person adjudicated delinquent.*

(b) For the purposes of this section, “cruelly chains” means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

(1) Exceeds 1/8 the body weight of the animal;

(2) Causes the animal to choke;

(3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;

(4) Is situated where it can become entangled;

(5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or

(6) Does not permit the animal to escape harm.

(c) For the purposes of this section, “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, mutilation, or protracted loss or impairment of the function of a bodily member or organ. Serious bodily injury includes, but is not limited to, broken bones, burns, internal injuries, severe malnutrition, severe lacerations or abrasions, and injuries resulting from untreated medical conditions.

(d) Except where the animal is an undomesticated and dangerous animal such as rats, bats, and snakes, and there is a reasonable apprehension of an imminent attack by such animal on that person or another, whoever commits any of the acts or omissions set forth in subsection (a) of this section with the intent to commit serious bodily injury or death to an animal, or whoever, under circumstances manifesting extreme indifference to animal life, commits any of the acts or omissions set forth in subsection (a) of this section which results in serious bodily injury or death to the animal, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment not exceeding 5 years, or by a fine not exceeding \$25,000, or both.

5. PROTECTIVE ORDERS

D.C. CODE ANN. § 16-1005 (2012).Hearing; evidence; protection order.

(a) Individuals served with notice in accordance with § 16-1004 shall appear at the hearing.

(a-1)

(1) In a case where the Attorney General files the petition on behalf of a petitioner pursuant to § 16-1003(c), the petitioner is not a required party.

(2) In a case where a parent, guardian, custodian, or other appropriate adult files a petition on behalf of a minor petitioner under the age of 12, the minor petitioner is not a required party.

(3) In a hearing under this section, if a parent, guardian, custodian, or other appropriate adult has petitioned for civil protection on behalf of a minor petitioner 12 years of age or older, the court shall consider the expressed wishes of the minor petitioner in deciding whether to issue an order pursuant to this section and in determining the contents of such an order.

(4) If a respondent is a minor, or if the petitioner is a minor and at least 12 years of age, and if the minor is not accompanied by a parent, guardian, custodian, other appropriate adult, or represented by an attorney, the court may appoint an attorney to represent the minor if such an appointment would not unduly delay the issuance or denial of a protection order. The court may promulgate rules for the appointment of attorneys.

(b) Notwithstanding section 14-306, in a hearing under this section, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, but testimony compelled over a claim of a privilege conferred by such section shall be inadmissible in evidence in a criminal trial over the objection of a spouse entitled to claim that privilege.

(c) If, after hearing, the judicial officer finds that there is good cause to believe the respondent has committed or threatened to commit a criminal offense against the petitioner or against petitioner's animal or an animal in petitioner's household, the judicial officer may issue a protection order that:

(1) Directs the respondent to refrain from committing or threatening to commit criminal offenses against the petitioner and other protected persons;

(2) Requires the respondent to stay away from or have no contact with the petitioner and any other protected persons or locations;

(3) Requires the respondent to participate in psychiatric or medical treatment or appropriate counseling programs;

(4) Directs the respondent to refrain from entering, or to vacate, the dwelling unit of the petitioner when the dwelling is:

(A) Marital property of the parties;

(B) Jointly owned, leased, or rented and occupied by both parties; provided, that joint occupancy shall not be required if the respondent's actions caused the petitioner to relinquish occupancy;

(C) Owned, leased, or rented by the petitioner individually; or

(D) Jointly owned, leased, or rented by the petitioner and a person other than the respondent;

(5) Directs the respondent to relinquish possession or use of certain personal property owned jointly by the parties or by the petitioner individually;

(6) Awards temporary custody of a minor child or children of the parties;

(7) Provides for visitation rights with appropriate restrictions to protect the safety of the petitioner;

(8) Awards costs and attorney fees;

(9) Orders the Metropolitan Police Department to take such action as the judicial officer deems necessary to enforce its orders;

(10) Directs the respondent to relinquish possession of any firearms;

(10A) Directs the care, custody, or control of a domestic animal that belongs to petitioner or respondent or lives in his or her household;

(11) Directs the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter; or

(12) Combines 2 or more of the preceding provisions.

(c-1) For the purposes of subsection (c)(6) and (7) of this section, if the judicial officer finds by a preponderance of evidence that a contestant for custody has committed an intrafamily offense, any determination that custody or visitation is to be granted to the abusive parent shall be supported by a written statement by the judicial officer specifying factors and findings which support that determination. In determining visitation arrangements, if the judicial officer finds

that an intrafamily offense has occurred, the judicial officer shall only award visitation if the judicial officer finds that the child and custodial parent can be adequately protected from harm inflicted by the other party. The party found to have committed an intrafamily offense has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development.

(d) A protection order issued pursuant to this section shall be effective for such period up to one year as the judicial officer may specify, but the judicial officer may, upon motion of any party to the original proceeding, extend, rescind, or modify the order for good cause shown.

(e) Any final order issued pursuant to this section and any order granting or denying extension, modification, or rescission of such order shall be appealable.

(f) Violation of any temporary or final order issued under this subchapter, or violation in the District of Columbia of any valid foreign protection order, as that term is defined in subchapter IV of this chapter, or respondent's failure to appear as required by subsection (a) of this section, shall be punishable as contempt. Upon conviction, criminal contempt shall be punished by a fine not exceeding \$1,000 or imprisonment for not more than 180 days, or both.

(g) Any person who violates any protection order issued under this subchapter, or any person who violates in the District of Columbia any valid foreign protection order, as that term is defined in subchapter IV of this chapter, shall be chargeable with a misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000 or by imprisonment for not more than 180 days, or both.

(g-1) Enforcement proceedings under subsections (f) and (g) of this section in which the respondent is a child as defined by § 16-2301(3) shall be governed by subchapter I of Chapter 23 of this title.

(h) For purposes of establishing a violation under subsections (f) and (g) of this section, an oral or written statement made by a person located outside the District of Columbia to a person located in the District of Columbia by means of telecommunication, mail, or any other method of communication shall be deemed to be made in the District of Columbia.

(i) Orders entered with the consent of the respondent but without an admission that the conduct occurred shall be punishable under subsection (f), (g), or (g-1) of this section.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

D.C. CODE ANN. § 22-1001 (2012). Definition and penalty.

(a)

(1) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding \$250, or by both.

(2) *The court may order a person convicted of cruelty to animals:*

(A) To obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the person convicted;

(B) To forfeit any rights in the animal or animals subjected to cruelty;

(C) *To repay the reasonable costs incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty; and*

(D) Not to own or possess an animal for a specified period of time.

(3) The court may order a child adjudicated delinquent for cruelty to animals to undergo psychiatric or psychological evaluation, or to participate in appropriate treatment programs or counseling, and may impose the costs of the program or counseling on the person adjudicated delinquent.

(b) For the purposes of this section, “cruelly chains” means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

(1) Exceeds 1/8 the body weight of the animal;

(2) Causes the animal to choke;

(3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;

(4) Is situated where it can become entangled;

(5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or

(6) Does not permit the animal to escape harm.

(c) For the purposes of this section, “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, mutilation, or protracted loss or impairment of the function of a bodily member or organ. Serious bodily injury includes, but is not limited to, broken bones, burns, internal injuries, severe malnutrition, severe lacerations or abrasions, and injuries resulting from untreated medical conditions.

(d) Except where the animal is an undomesticated and dangerous animal such as rats, bats, and snakes, and there is a reasonable apprehension of an imminent attack by such animal on that person or another, whoever commits any of the acts or omissions set forth in subsection (a) of this section with the intent to commit serious bodily injury or death to an animal, or whoever, under circumstances manifesting extreme indifference to animal life, commits any of the acts or omissions set forth in subsection (a) of this section which results in serious bodily injury or death to the animal, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment not exceeding 5 years, or by a fine not exceeding \$25,000, or both.

D.C. CODE ANN. § 22-1004 (2012). Arrests without warrant authorized; notice to owner.

(a) Any person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by § 44-1505 and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same; provided, the owner shall take charge of the same within 20 days from the date of said notice. *The person making the arrest or the humane officer taking possession of an animal shall have a lien on said animals for the expense of such care and provisions.*

(b)

(1) A humane officer of the Washington Humane Society may take possession of any animal to protect it from neglect or cruelty. The person taking possession of the animal or animals, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for the animals until the owner shall take charge of the animals; provided that, the owner shall take charge of the animals within 20 days from the date of the notice.

(2) If the owner or custodian of the animal or animals fails to respond after 20 days, the animal or animals shall become the property of the Washington Humane Society and the Washington Humane Society shall have the authority to:

(A) Place the animal or animals up for adoption in a suitable home;

(B) Retain the animal or animals, or

(C) Humanely destroy the animal or animals.

(c)

(1) The Mayor shall establish by rulemaking a notice and hearing process for the owner of the animal to contest the seizure, detention, and terms of release and treatment of the animal, the allegation of cruelty, abandonment, or neglect, and the imposition of the lien and costs assessed for caring and providing for the animal.

(2) Within 30 days of December 5, 2008, the proposed rules shall be submitted to the Council for a 45-day period of review, excluding weekends, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed rules, by resolution, within the 45-day review period, the rules shall be deemed approved.

D.C. CODE ANN. § 22-1006 (2012).Prosecution of offenders; disposition of fines.

It shall be the duty of all marshals, deputy marshals, police officers, or any humane officer of the Washington Humane Society, to prosecute all violations of the provisions of §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014 [repealed], which shall come to their notice or knowledge, *and fines and forfeitures collected upon or resulting from the complaint or information of any humane officer of the Washington Humane Society under §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014 [repealed] shall inure and be paid over to said association, in aid of the benevolent objects for which it was incorporated.*

D.C. CODE ANN. §22-1008 (2012). Relief of impounded animals.

In case any creature shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than 12 successive hours, it shall be lawful for any officer of the Washington Humane Society, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which such creature shall be so confined, and supply it with necessary food and water so long as it shall remain so confined; such person shall not be liable to any action for such entry, *and the reasonable cost for such food and water may be collected of the owner of such creature, and the said creature shall not be exempt from levy and sale upon execution issued upon a judgment thereof.*

D.C. CODE ANN. §22-1012 (2012). Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than \$10 nor more than \$250, or by imprisonment in jail not more than 180 days, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; *and all necessary expenses incurred in taking charge of such property shall be a lien thereon.*

(b) Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22- 1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

D.C. CODE ANN. §44-1506 (2012). Disposition of fines.

One half of all the fines collected through the instrumentality of the Society or its agents, for violations of such laws shall accrue to the benefit of said Society.

7. SEIZURE / ON-SITE SUPERVISION

D.C. CODE ANN. § 22-1004 (2012). Arrests without warrant authorized; notice to owner.

(a) Any person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by § 44-1505 and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same; provided, the owner shall take charge of the same within 20 days from the date of said notice. The person making the arrest or the humane officer taking possession of an animal shall have a lien on said animals for the expense of such care and provisions.

(b)

(1) A humane officer of the Washington Humane Society may take possession of any animal to protect it from neglect or cruelty. The person taking possession of the animal or animals, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for the animals until the owner shall take charge of the animals; provided that, the owner shall take charge of the animals within 20 days from the date of the notice.

(2) If the owner or custodian of the animal or animals fails to respond after 20 days, the animal or animals shall become the property of the Washington Humane Society and the Washington Humane Society shall have the authority to:

(A) Place the animal or animals up for adoption in a suitable home;

(B) Retain the animal or animals, or

(C) Humanely destroy the animal or animals.

(c)

(1) The Mayor shall establish by rulemaking a notice and hearing process for the owner of the animal to contest the seizure, detention, and terms of release and treatment of the animal, the allegation of cruelty, abandonment, or neglect, and the imposition of the lien and costs assessed for caring and providing for the animal.

(2) Within 30 days of December 5, 2008, the proposed rules shall be submitted to the Council for a 45-day period of review, excluding weekends, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed rules, by resolution, within the 45-day review period, the rules shall be deemed approved.

D.C. CODE ANN.§22-1005 (2012). Issuance of search warrants.

When complaint is made by any humane officer of the Washington Humane Society on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes, and has reasonable cause to believe, that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant, authorizing any marshal, deputy marshal, police officer, or any humane officer of the Washington Humane Society to search such building or place.

D.C. CODE ANN.§22-1008 (2012).Relief of impounded animals.

In case any creature shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than 12 successive hours, *it shall be lawful for any officer of the Washington Humane Society, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which such creature shall be so confined, and supply it with necessary food and water so long as it shall remain so confined;* such person shall not be liable to any action for such entry, and the reasonable cost for such food and water may be collected of the owner of such creature, and the said creature shall not be exempt from levy and sale upon execution issued upon a judgment thereof.

D.C. CODE ANN.§22-1012 (2012).Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than \$10 nor more than \$250, or by imprisonment in jail not more than 180 days, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any useful purpose. *When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.*

(b) Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22-1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

8. FORFEITURE / POSSESSION

D.C. CODE ANN. § 22-1001 (2012). Definition and penalty.

(a)

(1) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding \$250, or by both.

(2) *The court may order a person convicted of cruelty to animals:*

(A) To obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the person convicted;

(B) *To forfeit any rights in the animal or animals subjected to cruelty;*

(C) To repay the reasonable costs incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty; and

(D) *Not to own or possess an animal for a specified period of time.*

(3) The court may order a child adjudicated delinquent for cruelty to animals to undergo psychiatric or psychological evaluation, or to participate in appropriate treatment programs or counseling, and may impose the costs of the program or counseling on the person adjudicated delinquent.

(b) For the purposes of this section, “cruelly chains” means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

(1) Exceeds 1/8 the body weight of the animal;

(2) Causes the animal to choke;

(3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;

(4) Is situated where it can become entangled;

(5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or

(6) Does not permit the animal to escape harm.

(c) For the purposes of this section, “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, mutilation, or protracted loss or impairment of the function of a bodily member or organ. Serious bodily injury includes, but is not limited to, broken bones, burns, internal injuries, severe malnutrition, severe lacerations or abrasions, and injuries resulting from untreated medical conditions.

(d) Except where the animal is an undomesticated and dangerous animal such as rats, bats, and snakes, and there is a reasonable apprehension of an imminent attack by such animal on that person or another, whoever commits any of the acts or omissions set forth in subsection (a) of this section with the intent to commit serious bodily injury or death to an animal, or whoever, under circumstances manifesting extreme indifference to animal life, commits any of the acts or omissions set forth in subsection (a) of this section which results in serious bodily injury or death to the animal, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment not exceeding 5 years, or by a fine not exceeding \$25,000, or both.

D.C. CODE ANN. § 22-1004 (2012). Arrests without warrant authorized; notice to owner.

(a) Any person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by § 44-1505 and the person making an arrest, with or without a warrant, *shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same; provided, the owner shall take charge of the same within 20 days from the date of said notice.* The person making the arrest or the humane officer taking possession of an animal shall have a lien on said animals for the expense of such care and provisions.

(b)

(1) A humane officer of the Washington Humane Society may take possession of any animal to protect it from neglect or cruelty. The person taking possession of the animal or animals, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for the animals until the owner shall take charge of the animals; provided that, the owner shall take charge of the animals within 20 days from the date of the notice.

(2) If the owner or custodian of the animal or animals fails to respond after 20 days, the animal or animals shall become the property of the Washington Humane Society and the Washington Humane Society shall have the authority to:

(A) Place the animal or animals up for adoption in a suitable home;

(B) Retain the animal or animals, or

(C) Humanely destroy the animal or animals.

(c)

(1) The Mayor shall establish by rulemaking a notice and hearing process for the owner of the animal to contest the seizure, detention, and terms of release and treatment of the animal, the allegation of cruelty, abandonment, or neglect, and the imposition of the lien and costs assessed for caring and providing for the animal.

(2) Within 30 days of December 5, 2008, the proposed rules shall be submitted to the Council for a 45-day period of review, excluding weekends, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed rules, by resolution, within the 45-day review period, the rules shall be deemed approved.

D.C. CODE ANN. §22-1012 (2012). Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than \$10 nor more than \$250, or by imprisonment in jail not more than 180 days, or both. *Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any useful purpose.* When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

(b) Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22-1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

9. CROSS ENFORCEMENT / REPORTING

D.C. CODE ANN. § 4-1321.02 (2012). Persons required to make reports; procedure.

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in § 16-2301(9), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(a-1) A person specified in subsection (b) of this section shall report to the Child and Family Services Agency any child who is age 5 through 13 years and who has 10 or more days of unexcused absences within a school year, as that term is defined in § 38-201(4).

(a-2)

(1) Each public, independent, private, or parochial school shall report to the Child and Family Services Agency any child who is 5 through 13 years and who has 10 or more days of unexcused absences within a school year, as that term is defined in § 38-201(4); provided, that this provision shall not supersede section 2103.5 of Title 5 of the District of Columbia Municipal Regulations.

(2) A report made pursuant to this subsection shall not be considered a child abuse or neglect report as that term is defined in § 4-1301.02(17), requiring an investigation pursuant to part A of subchapter I of this chapter.

(3) This subsection shall expire upon the applicability of subsection (a-1) of this section, pursuant to section 4 of D.C. Law 18-242.

(b) Persons required to report such abuse or neglect shall include Child and Family Services Agency employees, agents, and contractors, and every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws, school official, teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager, social service worker, day care worker, human trafficking counselor as defined in §14-311(2), and domestic violence counselor as defined in § 14-310(a)(2), and mental health professional as defined in § 7-1201.01(11). Such persons are not required to report when employed by a lawyer who is providing representation in a criminal, civil, including family law, or delinquency matter and the basis for the suspicion arises solely in the course of that representation. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact

that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law-enforcement officer, [or] humane officer of any agency charged with the enforcement of animal cruelty laws, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law-enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of “sexual abuse” or “attempted sexual abuse” prohibited by § 22-3001 et seq.; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

(f) A health professional licensed pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code Section 3-1201.01 et seq.), who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a Fetal Alcohol Spectrum Disorder, shall immediately report or have a report made to the Child and Family Services Agency.

D.C. CODE ANN. § 7-1903 (2012). Reporting requirements.

(a)

(1) Except as provided in subsection (b) of this section, whenever a conservator, court-appointed mental retardation advocate, guardian, health-care administrator, licensed health professional, police officer, humane officer of any agency charged with the enforcement of animal cruelty laws, bank manager, financial manager, or social worker has as a result of his or her appointment, employment, or practice substantial cause to believe that an adult is in need of protective services because of abuse, neglect, or exploitation by another, he or she shall immediately report this belief in accordance with

subsection (c) of this section.

(2) Any person may voluntarily report an alleged case of abuse, neglect, self-neglect, or exploitation when he or she has reason to believe that an adult is in need of protective services. Voluntary reporting shall also be effected in accordance with subsection (c) of this section.

(b) The duty to report established by subsection (a)(1) of this section shall not apply to a social worker or licensed health professional who has as a client or patient, or is employed by a lawyer representing, a third person who is allegedly responsible for the abuse or neglect.

(c) A report made pursuant to this section may be either oral or written and shall be transmitted to the division within the Department designated by the Mayor to receive these reports. Each report shall include, if known: The name, age, physical description, and location of the adult alleged to be in need of protective services; the name and location of the person(s) allegedly responsible for the abuse, neglect, or exploitation; the nature and extent of the abuse, neglect, self-neglect, or exploitation; the basis of the reporter's knowledge; and any other information the reporter believes might be helpful to an investigation. A reporter may be required to identify himself or herself only when obliged to report under subsection (a)(1) of this section.

(d)

(1) The Department shall maintain a record of all reports received and be capable of receiving reports 24 hours a day, 7 days a week (including holidays). Except as provided in paragraph (4) of this subsection, the Department may release reports and investigative information acquired pursuant to this chapter only:

(A) To another public or private agency, or to the court-appointed representative of an adult in need of protective services, only to the minimal extent required to conduct an investigation, provide services under this chapter, or petition the court for appointment of a guardian of the person or conservatorship of the estate of the person (or a limited guardianship or conservatorship) under Chapter 20 of Title 21;

(B) To the Attorney General for the District of Columbia or United States Attorney if requested for an investigation, prosecution, or civil or administrative enforcement action;

(B-1) To the Metropolitan Police Department;

(C) If directed by court order; or

(D) For the purposes of and in accordance with Chapter 2A of this title.

(2) A recipient of a report or investigative information released pursuant to paragraph (1) of this subsection shall be subject to the same restrictions on disclosure applicable to the

Department under that paragraph.

(3) Any person possessing a report or investigative information acquired pursuant to this chapter shall take reasonable steps to prevent the disclosure of information that might reveal the reporter's identity to the person(s) allegedly responsible for the abuse, neglect, or exploitation.

(4) The Department may release statistics and other data acquired pursuant to this chapter for research, reporting, or educational purposes provided all identifying references to individuals are deleted.

(d-1) The Department may provide outreach and training on the requirements of this section to members of the public and to appropriate governmental personnel, including law enforcement officers, social services personnel, judicial officers, guardians and conservators for incapacitated adults, and others as may be determined by the Mayor.

(e) The Mayor shall widely publicize the phone number and mailing address of the division within the Department designated to receive reports under this section, and may conduct educational programs for those persons required to report under subsection (a)(1) of this section.

D.C. CODE ANN. § 22-1002.01 (2012).Reporting Requirements.

(a)

(1) Any law enforcement or child or protective services employee who knows of or has reasonable cause to suspect an animal has been the victim of cruelty, abandonment, or neglect, or observes an animal at the home of a person reasonably suspected of child, adult, or animal abuse, shall provide a report within 2 business days to the Mayor. If the health and welfare of the animal is in immediate danger, the report shall be made within 6 hours.

(2) The report shall include:

(A) The name, title, and contact information of the individual making the report;

(B) The name and contact information, if known, of the owner or custodian of the animal;

*(C) The location, along with a description, of where the animal was observed;
and*

(D) The basis for any suspicion of animal cruelty, abandonment, or neglect, including the date, time, and a description of the observation or incident which led the individual to make the report.

(b) When 2 or more law enforcement or child or protective services employees jointly suspect an animal has been the victim of cruelty, abandonment, or neglect, or jointly observe an animal at the home of a person reasonably suspected of child, adult, or animal abuse, a report may be made by one person by mutual agreement.

(c) No individual who in good faith reports a reasonable suspicion of abuse shall be liable in any civil or criminal action.

(d) Upon receipt of a report, any agency charged with the enforcement of animal cruelty laws shall make reasonable attempts to verify the welfare of the animal.

(e) For the purposes of this section, the terms “reasonable cause to suspect”, “suspect”, “reasonably suspected”, and “reasonable suspicion” mean a basis for reporting facts leading a person of ordinary care and prudence to believe and entertain a reasonable suspicion that criminal activity is occurring or has occurred.

D.C. CODE ANN. §44-1508 (2012). Authority to prevent cruelty to children.

The Washington Humane Society is authorized to extend its operations to the protection of children as well as animals from cruelty and abuse. In pursuance thereof the said Society may cause its proper officers or agents to prefer complaints, before any court in the District of Columbia having jurisdiction, for the violation of any law relating to or affecting the protection of children in said District, and by its proper attorney may aid in bringing the facts before such court in any proceeding taken.

D.C. CODE ANN. §44-1509 (2012). Enforcement of laws by Mayor—Protection of children.

The Mayor of the District of Columbia shall, by the police force of said District, aid the said Society, its officers and agents, in the enforcement of all laws relating to or affecting the protection of children; and the Mayor of the said District, and his successors, are authorized, in their discretion, to detail, from time to time, an officer or officers to aid specially in the work of said Society, or they may commission any duly appointed agents of said Society special police officers, without compensation; and such agents or officers shall have power to arrest, without warrant, all persons violating in their presence or sight any law relating to or affecting the protection of children, or other parties so offending by virtue of a warrant issued by the Family Division of the Superior Court, which offenders shall be taken by such agents or officers before the said Family Division of the Superior Court for trial. Said agents or officers are also hereby empowered to bring before the said Court any child who is subjected to cruel treatment, willful abuse, or neglect, or any child under 17 years of age found in a house of ill fame; and said Court may commit such child to an orphan asylum or other public charitable institution in the District of Columbia, with the consent of the constituted authorities of such asylum or institution, or make such other disposition thereof as provided by law in cases of vagrant, destitute, or abandoned children.

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

D.C. CODE ANN. § 22-1006 (2012).Prosecution of offenders; disposition of fines.

It shall be the duty of all marshals, deputy marshals, police officers, or any humane officer of the Washington Humane Society, to prosecute all violations of the provisions of §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014 [repealed], which shall come to their notice or knowledge, and fines and forfeitures collected upon or resulting from the complaint or information of any humane officer of the Washington Humane Society under §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014 [repealed] shall inure and be paid over to said association, in aid of the benevolent objects for which it was incorporated.

D.C. CODE ANN.§44-1505 (2012).Police to arrest law violators at request of member; evidence of membership.

Members of the Metropolitan Police force of the District of Columbia, upon application of a member of the Washington Humane Society who has viewed a violation of a law or regulation of the District for the prevention of cruelty to animals, shall arrest the offending party without a warrant, and take him before the Superior Court of the District of Columbia for trial. Proper evidence of membership to a police officer shall be the exhibition of a badge or certificate of membership in the Society.

D.C. CODE ANN.§44-1510 (2012).Enforcement of laws by Mayor—Cruelty to animals.

The Mayor of the District of Columbia is authorized, in his discretion, to detail from time to time 1 or more members of the Metropolitan Police force to aid the Washington Humane Society in the enforcement of laws relating to cruelty to animals as well as of the laws relating to cruelty to children.

12. SEXUAL ASSAULT

13. FIGHTING

D.C. CODE ANN. § 22-1009 (2012). Keeping or using place for fighting or baiting of fowls or animals; arrest without warrant.

Any person or persons who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purpose of fighting or baiting of fowls or animals, may be arrested without a warrant, as provided in § 44-1505, and for every such offense be punished in the same manner provided in § 22-1001.

D.C. CODE ANN. § 22-1015 (2012). Penalty for engaging in animal fighting.

(a) Any person who:

(1) organizes, sponsors, conducts, stages, promotes, is employed at, collects an admission fee for, or bets or wagers any money or other valuable consideration on the outcome of an exhibition between two or more animals of fighting, baiting, or causing injury to each other;

(2) any person who owns, trains, buys, sells, offers to buy or sell, steals, transports, or possesses any animal with the intent that it engage in any such exhibition;

(3) any person who knowingly allows any animal used for such fighting or baiting to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by him;

(4) any person who owns, manages, or operates any facility and knowingly allows that facility to be kept or used for the purpose of fighting or baiting any animal;

(5) any person who knowingly or recklessly permits any act described in this subsection, to be done on any premises under his or her ownership or control, or who aids or abets that act; or

(6) any person who is knowingly present as a spectator at any such exhibition, is guilty of a felony, punishable by a fine of not more than \$25,000, imprisonment not to exceed 5 years, or both. The court may also impose any penalties listed in § 22-1001(a).

(b) Repealed.

(c) *For the purposes of this section, the term:*

(1) *“Animal” means a vertebrate other than a human, including, but not limited to, dogs and cocks.*

(2) *“Baiting” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals.*

(3) *“Fighting” means an organized event wherein there is a display of combat between 2 or more animals in which the fighting, killing, maiming, or injuring of an animal is a significant feature, or main purpose, of the event.*

D.C. CODE ANN. §22-1310 (2012). Urging dogs to fight or create disorder.

It shall not be lawful for any person or persons to entice, induce, urge, or cause any dogs to engage in a fight in any street, alley, road, or highway, open space, or public square in the District of Columbia, or to urge, entice, or cause such dogs to continue or prolong such fight, under a penalty of not more than \$1,000 for each and every offense; and any person or persons who shall induce or cause any animal of the dog kind to run after, bark at, frighten, or bite any person, horse, or horses, cows, cattle of any kind, or other animals lawfully passing along or standing in or on any street, avenue, road, or highway, or alley in the District of Columbia, shall forfeit and pay for such offense a sum not exceeding \$1,000.

14. REFERENCED STATUTES

D.C. CODE ANN. § 4-1321.02 (2012). Persons required to make reports; procedure.

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in § 16-2301(9), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(a-1) A person specified in subsection (b) of this section shall report to the Child and Family Services Agency any child who is age 5 through 13 years and who has 10 or more days of unexcused absences within a school year, as that term is defined in § 38-201(4).

(a-2)

(1) Each public, independent, private, or parochial school shall report to the Child and Family Services Agency any child who is 5 through 13 years and who has 10 or more days of unexcused absences within a school year, as that term is defined in § 38-201(4); provided, that this provision shall not supersede section 2103.5 of Title 5 of the District of Columbia Municipal Regulations.

(2) A report made pursuant to this subsection shall not be considered a child abuse or neglect report as that term is defined in § 4-1301.02(17), requiring an investigation pursuant to part A of subchapter I of this chapter.

(3) This subsection shall expire upon the applicability of subsection (a-1) of this section, pursuant to section 4 of D.C. Law 18-242.

(b) Persons required to report such abuse or neglect shall include Child and Family Services Agency employees, agents, and contractors, and every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws, school official, teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager, social service worker, day care worker, human trafficking counselor as defined in §14-311(2), and domestic violence counselor as defined in § 14-310(a)(2), and mental health professional as defined in § 7-1201.01(11). Such persons are not required to report when employed by a lawyer who is providing representation in a criminal, civil, including family law, or delinquency matter and the basis for the suspicion arises solely in the course of that representation. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact

that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law-enforcement officer, [or] humane officer of any agency charged with the enforcement of animal cruelty laws, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law-enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of “sexual abuse” or “attempted sexual abuse” prohibited by § 22-3001 et seq.; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

(f) A health professional licensed pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code Section 3-1201.01 et seq.), who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a Fetal Alcohol Spectrum Disorder, shall immediately report or have a report made to the Child and Family Services Agency.

D.C. CODE ANN. § 7-1903 (2012). Reporting requirements.

(a)

(1) Except as provided in subsection (b) of this section, whenever a conservator, court-appointed mental retardation advocate, guardian, health-care administrator, licensed health professional, police officer, humane officer of any agency charged with the enforcement of animal cruelty laws, bank manager, financial manager, or social worker has as a result of his or her appointment, employment, or practice substantial cause to believe that an adult is in need of protective services because of abuse, neglect, or exploitation by another, he or she shall immediately report this belief in accordance with

subsection (c) of this section.

(2) Any person may voluntarily report an alleged case of abuse, neglect, self-neglect, or exploitation when he or she has reason to believe that an adult is in need of protective services. Voluntary reporting shall also be effected in accordance with subsection (c) of this section.

(b) The duty to report established by subsection (a)(1) of this section shall not apply to a social worker or licensed health professional who has as a client or patient, or is employed by a lawyer representing, a third person who is allegedly responsible for the abuse or neglect.

(c) A report made pursuant to this section may be either oral or written and shall be transmitted to the division within the Department designated by the Mayor to receive these reports. Each report shall include, if known: The name, age, physical description, and location of the adult alleged to be in need of protective services; the name and location of the person(s) allegedly responsible for the abuse, neglect, or exploitation; the nature and extent of the abuse, neglect, self-neglect, or exploitation; the basis of the reporter's knowledge; and any other information the reporter believes might be helpful to an investigation. A reporter may be required to identify himself or herself only when obliged to report under subsection (a)(1) of this section.

(d)

(1) The Department shall maintain a record of all reports received and be capable of receiving reports 24 hours a day, 7 days a week (including holidays). Except as provided in paragraph (4) of this subsection, the Department may release reports and investigative information acquired pursuant to this chapter only:

(A) To another public or private agency, or to the court-appointed representative of an adult in need of protective services, only to the minimal extent required to conduct an investigation, provide services under this chapter, or petition the court for appointment of a guardian of the person or conservatorship of the estate of the person (or a limited guardianship or conservatorship) under Chapter 20 of Title 21;

(B) To the Attorney General for the District of Columbia or United States Attorney if requested for an investigation, prosecution, or civil or administrative enforcement action;

(B-1) To the Metropolitan Police Department;

(C) If directed by court order; or

(D) For the purposes of and in accordance with Chapter 2A of this title.

(2) A recipient of a report or investigative information released pursuant to paragraph (1) of this subsection shall be subject to the same restrictions on disclosure applicable to the

Department under that paragraph.

(3) Any person possessing a report or investigative information acquired pursuant to this chapter shall take reasonable steps to prevent the disclosure of information that might reveal the reporter's identity to the person(s) allegedly responsible for the abuse, neglect, or exploitation.

(4) The Department may release statistics and other data acquired pursuant to this chapter for research, reporting, or educational purposes provided all identifying references to individuals are deleted.

(d-1) The Department may provide outreach and training on the requirements of this section to members of the public and to appropriate governmental personnel, including law enforcement officers, social services personnel, judicial officers, guardians and conservators for incapacitated adults, and others as may be determined by the Mayor.

(e) The Mayor shall widely publicize the phone number and mailing address of the division within the Department designated to receive reports under this section, and may conduct educational programs for those persons required to report under subsection (a)(1) of this section.

D.C. CODE ANN. § 16-1005 (2012).Hearing; evidence; protection order.

(a) Individuals served with notice in accordance with § 16-1004 shall appear at the hearing.

(a-1)

(1) In a case where the Attorney General files the petition on behalf of a petitioner pursuant to § 16-1003(c), the petitioner is not a required party.

(2) In a case where a parent, guardian, custodian, or other appropriate adult files a petition on behalf of a minor petitioner under the age of 12, the minor petitioner is not a required party.

(3) In a hearing under this section, if a parent, guardian, custodian, or other appropriate adult has petitioned for civil protection on behalf of a minor petitioner 12 years of age or older, the court shall consider the expressed wishes of the minor petitioner in deciding whether to issue an order pursuant to this section and in determining the contents of such an order.

(4) If a respondent is a minor, or if the petitioner is a minor and at least 12 years of age, and if the minor is not accompanied by a parent, guardian, custodian, other appropriate adult, or represented by an attorney, the court may appoint an attorney to represent the minor if such an appointment would not unduly delay the issuance or denial of a protection order. The court may promulgate rules for the appointment of attorneys.

(b) Notwithstanding section 14-306, in a hearing under this section, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, but testimony compelled over a claim of a privilege conferred by such section shall be inadmissible in evidence in a criminal trial over the objection of a spouse entitled to claim that privilege.

(c) If, after hearing, the judicial officer finds that there is good cause to believe the respondent has committed or threatened to commit a criminal offense against the petitioner or against petitioner's animal or an animal in petitioner's household, the judicial officer may issue a protection order that:

(1) Directs the respondent to refrain from committing or threatening to commit criminal offenses against the petitioner and other protected persons;

(2) Requires the respondent to stay away from or have no contact with the petitioner and any other protected persons or locations;

(3) Requires the respondent to participate in psychiatric or medical treatment or appropriate counseling programs;

(4) Directs the respondent to refrain from entering, or to vacate, the dwelling unit of the petitioner when the dwelling is:

(A) Marital property of the parties;

(B) Jointly owned, leased, or rented and occupied by both parties; provided, that joint occupancy shall not be required if the respondent's actions caused the petitioner to relinquish occupancy;

(C) Owned, leased, or rented by the petitioner individually; or

(D) Jointly owned, leased, or rented by the petitioner and a person other than the respondent;

(5) Directs the respondent to relinquish possession or use of certain personal property owned jointly by the parties or by the petitioner individually;

(6) Awards temporary custody of a minor child or children of the parties;

(7) Provides for visitation rights with appropriate restrictions to protect the safety of the petitioner;

(8) Awards costs and attorney fees;

(9) Orders the Metropolitan Police Department to take such action as the judicial officer

deems necessary to enforce its orders;

(10) Directs the respondent to relinquish possession of any firearms;

(10A) Directs the care, custody, or control of a domestic animal that belongs to petitioner or respondent or lives in his or her household;

(11) Directs the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter; or

(12) Combines 2 or more of the preceding provisions.

(c-1) For the purposes of subsection (c)(6) and (7) of this section, if the judicial officer finds by a preponderance of evidence that a contestant for custody has committed an intrafamily offense, any determination that custody or visitation is to be granted to the abusive parent shall be supported by a written statement by the judicial officer specifying factors and findings which support that determination. In determining visitation arrangements, if the judicial officer finds that an intrafamily offense has occurred, the judicial officer shall only award visitation if the judicial officer finds that the child and custodial parent can be adequately protected from harm inflicted by the other party. The party found to have committed an intrafamily offense has the burden of proving that visitation will not endanger the child or significantly impair the child's emotional development.

(d) A protection order issued pursuant to this section shall be effective for such period up to one year as the judicial officer may specify, but the judicial officer may, upon motion of any party to the original proceeding, extend, rescind, or modify the order for good cause shown.

(e) Any final order issued pursuant to this section and any order granting or denying extension, modification, or rescission of such order shall be appealable.

(f) Violation of any temporary or final order issued under this subchapter, or violation in the District of Columbia of any valid foreign protection order, as that term is defined in subchapter IV of this chapter, or respondent's failure to appear as required by subsection (a) of this section, shall be punishable as contempt. Upon conviction, criminal contempt shall be punished by a fine not exceeding \$1,000 or imprisonment for not more than 180 days, or both.

(g) Any person who violates any protection order issued under this subchapter, or any person who violates in the District of Columbia any valid foreign protection order, as that term is defined in subchapter IV of this chapter, shall be chargeable with a misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000 or by imprisonment for not more than 180 days, or both.

(g-1) Enforcement proceedings under subsections (f) and (g) of this section in which the respondent is a child as defined by § 16-2301(3) shall be governed by subchapter I of Chapter 23 of this title.

(h) For purposes of establishing a violation under subsections (f) and (g) of this section, an oral or written statement made by a person located outside the District of Columbia to a person located in the District of Columbia by means of telecommunication, mail, or any other method of communication shall be deemed to be made in the District of Columbia.

(i) Orders entered with the consent of the respondent but without an admission that the conduct occurred shall be punishable under subsection (f), (g), or (g-1) of this section.

D.C. CODE ANN. §22-1001 (2012). Definition and penalty.

(a)

(1) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding \$250, or by both.

(2) The court may order a person convicted of cruelty to animals:

(A) To obtain psychological counseling, psychiatric or psychological evaluation, or to participate in an animal cruelty prevention or education program, and may impose the costs of the program or counseling on the person convicted;

(B) To forfeit any rights in the animal or animals subjected to cruelty;

(C) To repay the reasonable costs incurred prior to judgment by any agency caring for the animal or animals subjected to cruelty; and

(D) Not to own or possess an animal for a specified period of time.

(3) The court may order a child adjudicated delinquent for cruelty to animals to undergo psychiatric or psychological evaluation, or to participate in appropriate treatment programs or counseling, and may impose the costs of the program or counseling on the person adjudicated delinquent.

(b) For the purposes of this section, “cruelly chains” means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

- (1) Exceeds 1/8 the body weight of the animal;
- (2) Causes the animal to choke;
- (3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;
- (4) Is situated where it can become entangled;
- (5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or
- (6) Does not permit the animal to escape harm.

(c) For the purposes of this section, “serious bodily injury” means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, mutilation, or protracted loss or impairment of the function of a bodily member or organ. Serious bodily injury includes, but is not limited to, broken bones, burns, internal injuries, severe malnutrition, severe lacerations or abrasions, and injuries resulting from untreated medical conditions.

(d) Except where the animal is an undomesticated and dangerous animal such as rats, bats, and snakes, and there is a reasonable apprehension of an imminent attack by such animal on that person or another, whoever commits any of the acts or omissions set forth in subsection (a) of this section with the intent to commit serious bodily injury or death to an animal, or whoever, under circumstances manifesting extreme indifference to animal life, commits any of the acts or omissions set forth in subsection (a) of this section which results in serious bodily injury or death to the animal, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment not exceeding 5 years, or by a fine not exceeding \$25,000, or both.

D.C. CODE ANN. § 22-1002 (2012). Other cruelties to animals.

Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in or upon any vehicle, or otherwise, in an unnecessarily cruel or inhuman manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind, shall be punished for every such offense in the manner provided in § 22-1001.

D.C. CODE ANN. § 22-1002.01 (2012).Reporting Requirements.

(a)

(1) Any law enforcement or child or protective services employee who knows of or has reasonable cause to suspect an animal has been the victim of cruelty, abandonment, or neglect, or observes an animal at the home of a person reasonably suspected of child, adult, or animal abuse, shall provide a report within 2 business days to the Mayor. If the health and welfare of the animal is in immediate danger, the report shall be made within 6 hours.

(2) The report shall include:

(A) The name, title, and contact information of the individual making the report;

(B) The name and contact information, if known, of the owner or custodian of the animal;

(C) The location, along with a description, of where the animal was observed; and

(D) The basis for any suspicion of animal cruelty, abandonment, or neglect, including the date, time, and a description of the observation or incident which led the individual to make the report.

(b) When 2 or more law enforcement or child or protective services employees jointly suspect an animal has been the victim of cruelty, abandonment, or neglect, or jointly observe an animal at the home of a person reasonably suspected of child, adult, or animal abuse, a report may be made by one person by mutual agreement.

(c) No individual who in good faith reports a reasonable suspicion of abuse shall be liable in any civil or criminal action.

(d) Upon receipt of a report, any agency charged with the enforcement of animal cruelty laws shall make reasonable attempts to verify the welfare of the animal.

(e) For the purposes of this section, the terms “reasonable cause to suspect”, “suspect”, “reasonably suspected”, and “reasonable suspicion” mean a basis for reporting facts leading a person of ordinary care and prudence to believe and entertain a reasonable suspicion that criminal activity is occurring or has occurred.

D.C. CODE ANN. § 22-1004 (2012). Arrests without warrant authorized; notice to owner.

(a) Any person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by § 44-1505 and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same; provided, the owner shall take charge of the same within 20 days from the date of said notice. The person making the arrest or the humane officer taking possession of an animal shall have a lien on said animals for the expense of such care and provisions.

(b)

(1) A humane officer of the Washington Humane Society may take possession of any animal to protect it from neglect or cruelty. The person taking possession of the animal or animals, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for the animals until the owner shall take charge of the animals; provided that, the owner shall take charge of the animals within 20 days from the date of the notice.

(2) If the owner or custodian of the animal or animals fails to respond after 20 days, the animal or animals shall become the property of the Washington Humane Society and the Washington Humane Society shall have the authority to:

(A) Place the animal or animals up for adoption in a suitable home;

(B) Retain the animal or animals, or

(C) Humanely destroy the animal or animals.

(c)

(1) The Mayor shall establish by rulemaking a notice and hearing process for the owner of the animal to contest the seizure, detention, and terms of release and treatment of the animal, the allegation of cruelty, abandonment, or neglect, and the imposition of the lien and costs assessed for caring and providing for the animal.

(2) Within 30 days of December 5, 2008, the proposed rules shall be submitted to the Council for a 45-day period of review, excluding weekends, legal holidays, and days of Council recess. If the Council does not approve or disapprove of the proposed rules, by resolution, within the 45-day review period, the rules shall be deemed approved.

D.C. CODE ANN. § 22-1005 (2012). Issuance of search warrants.

When complaint is made by any humane officer of the Washington Humane Society on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes, and has reasonable cause to believe, that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant, authorizing any marshal, deputy marshal, police officer, or any humane officer of the Washington Humane Society to search such building or place.

D.C. CODE ANN. § 22-1006 (2012). Prosecution of offenders; disposition of fines.

It shall be the duty of all marshals, deputy marshals, police officers, or any humane officer of the Washington Humane Society, to prosecute all violations of the provisions of §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014 [repealed], which shall come to their notice or knowledge, and fines and forfeitures collected upon or resulting from the complaint or information of any humane officer of the Washington Humane Society under §§ 22-1001 to 22-1009 and §§ 22-1011, 22-1013, and 22-1014 [repealed] shall inure and be paid over to said association, in aid of the benevolent objects for which it was incorporated.

D.C. CODE ANN. § 22-1007 (2012). Impounded animals to be supplied with food and water.

Any person who shall impound, or cause to be impounded in any pound, any creature, shall supply the same, during such confinement, with a sufficient quantity of good and wholesome food and water; and in default thereof shall, upon conviction, be punished for every such offense in the same manner provided in § 22-1001.

D.C. CODE ANN. § 22-1008 (2012). Relief of impounded animals.

In case any creature shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than 12 successive hours, it shall be lawful for any officer of the Washington Humane Society, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which such creature shall be so confined, and supply it with necessary food and water so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost for such food and water may be collected of the owner of such creature, and the said creature shall not be exempt from levy and sale upon execution issued upon a judgment thereof.

D.C. CODE ANN. § 22-1009 (2012). Keeping or using place for fighting or baiting of fowls or animals; arrest without warrant.

Any person or persons who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purpose of fighting or baiting of fowls or animals, may be arrested without a warrant, as provided in § 44-1505, and for every such offense be punished in the same manner provided in § 22-1001.

D.C. CODE ANN. § 22-1011 (2012). Neglect of sick or disabled animals.

If any maimed, sick, infirm, or disabled animal shall fail to receive proper food or shelter from said owner or person in charge of the same for more than 5 consecutive hours, such person shall, for every such offense, be punished in the same manner provided in § 22-1001.

D.C. CODE ANN. § 22-1012 (2012). Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than \$10 nor more than \$250, or by imprisonment in jail not more than 180 days, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

(b) Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22-1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

D.C. CODE ANN. § 22-1013 (2012). Definitions.

In §§ 22-1001 to 22-1009, inclusive, and § 22-1011, the word “animals” or “animal” shall be held to include all living and sentient creatures (human beings excepted), and the words “owner,” “persons,” and “whoever” shall be held to include corporations and incorporated companies as well as individuals.

D.C. CODE ANN. § 22-1015 (2012). Penalty for engaging in animal fighting.

(a) Any person who:

(1) organizes, sponsors, conducts, stages, promotes, is employed at, collects an admission fee for, or bets or wagers any money or other valuable consideration on the outcome of an exhibition between two or more animals of fighting, baiting, or causing injury to each other;

(2) any person who owns, trains, buys, sells, offers to buy or sell, steals, transports, or possesses any animal with the intent that it engage in any such exhibition;

(3) any person who knowingly allows any animal used for such fighting or baiting to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by him;

(4) any person who owns, manages, or operates any facility and knowingly allows that facility to be kept or used for the purpose of fighting or baiting any animal;

(5) any person who knowingly or recklessly permits any act described in this subsection, to be done on any premises under his or her ownership or control, or who aids or abets that act; or

(6) any person who is knowingly present as a spectator at any such exhibition, is guilty of a felony, punishable by a fine of not more than \$25,000, imprisonment not to exceed 5 years, or both. The court may also impose any penalties listed in § 22-1001(a).

(b) Repealed.

(c) For the purposes of this section, the term:

(1) “Animal” means a vertebrate other than a human, including, but not limited to, dogs and cocks.

(2) “Baiting” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals.

(3) "Fighting" means an organized event wherein there is a display of combat between 2 or more animals in which the fighting, killing, maiming, or injuring of an animal is a significant feature, or main purpose, of the event.

D.C. CODE ANN.§22-1310 (2012). Urging dogs to fight or create disorder.

It shall not be lawful for any person or persons to entice, induce, urge, or cause any dogs to engage in a fight in any street, alley, road, or highway, open space, or public square in the District of Columbia, or to urge, entice, or cause such dogs to continue or prolong such fight, under a penalty of not more than \$1,000 for each and every offense; and any person or persons who shall induce or cause any animal of the dog kind to run after, bark at, frighten, or bite any person, horse, or horses, cows, cattle of any kind, or other animals lawfully passing along or standing in or on any street, avenue, road, or highway, or alley in the District of Columbia, shall forfeit and pay for such offense a sum not exceeding \$1,000.

D.C. CODE ANN.§44-1505 (2012).Police to arrest law violators at request of member; evidence of membership.

Members of the Metropolitan Police force of the District of Columbia, upon application of a member of the Washington Humane Society who has viewed a violation of a law or regulation of the District for the prevention of cruelty to animals, shall arrest the offending party without a warrant, and take him before the Superior Court of the District of Columbia for trial. Proper evidence of membership to a police officer shall be the exhibition of a badge or certificate of membership in the Society.

D.C. CODE ANN.§44-1506 (2012).Disposition of fines.

One half of all the fines collected through the instrumentality of the Society or its agents, for violations of such laws shall accrue to the benefit of said Society.

D.C. CODE ANN.§44-1508 (2012).Authority to prevent cruelty to children.

The Washington Humane Society is authorized to extend its operations to the protection of children as well as animals from cruelty and abuse. In pursuance thereof the said Society may cause its proper officers or agents to prefer complaints, before any court in the District of Columbia having jurisdiction, for the violation of any law relating to or affecting the protection of children in said District, and by its proper attorney may aid in bringing the facts before such court in any proceeding taken.

D.C. CODE ANN.§44-1509 (2012).Enforcement of laws by Mayor—Protection of children.

The Mayor of the District of Columbia shall, by the police force of said District, aid the said Society, its officers and agents, in the enforcement of all laws relating to or affecting the protection of children; and the Mayor of the said District, and his successors, are authorized, in their discretion, to detail, from time to time, an officer or officers to aid specially in the work of said Society, or they may commission any duly appointed agents of said Society special police officers, without compensation; and such agents or officers shall have power to arrest, without warrant, all persons violating in their presence or sight any law relating to or affecting the protection of children, or other parties so offending by virtue of a warrant issued by the Family Division of the Superior Court, which offenders shall be taken by such agents or officers before the said Family Division of the Superior Court for trial. Said agents or officers are also hereby empowered to bring before the said Court any child who is subjected to cruel treatment, willful abuse, or neglect, or any child under 17 years of age found in a house of ill fame; and said Court may commit such child to an orphan asylum or other public charitable institution in the District of Columbia, with the consent of the constituted authorities of such asylum or institution, or make such other disposition thereof as provided by law in cases of vagrant, destitute, or abandoned children.

D.C. CODE ANN.§44-1510 (2012).Enforcement of laws by Mayor—Cruelty to animals.

The Mayor of the District of Columbia is authorized, in his discretion, to detail from time to time 1 or more members of the Metropolitan Police force to aid the Washington Humane Society in the enforcement of laws relating to cruelty to animals as well as of the laws relating to cruelty to children.

ANIMAL PROTECTION LAWS OF DELAWARE

1. GENERAL PROHIBITIONS
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12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Delaware's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Delaware may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

DELAWARE

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) General cruelty to animals DEL. CODE ANN.tit. 11, § 1325(b)</p> <p>(2) Cruelly or unnecessarily killing or injuring an animal DEL. CODE ANN.tit. 11, § 1325(b)(4)</p>
<p><i>Animals Covered in Definition</i></p>	<p>“Animal” does not include fish, crustacea, or molluska DEL. CODE ANN.tit. 11, § 1325(a)(11)</p>
<p><i>Classification of Crimes</i></p>	<p>(1) Class A misdemeanor</p> <p>(2) Class F felony</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1) 1 year incarceration <i>and/or</i> \$2,300 fine, restitution, or other conditions DEL. CODE ANN. tit. 11, § 4206</p> <p>(2) 3 years imprisonment <i>and</i> fine determined by court DEL. CODE ANN. tit. 11, § 4205</p>
<p>3. EXEMPTIONS***</p>	<p>1, 2, 5, 9 DEL. CODE ANN.tit. 11, § 1325(b)</p> <p>3 DEL. CODE ANN.tit. 11, § 1325(f)</p>

DELAWARE <i>continued</i>	
4. COUNSELING / EVALUATIONS[†]	Psychological evaluation required for pardon or commutation of sentence. DEL. CODE ANN. tit. 11, § 4362
5. PROTECTIVE ORDERS[†]	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>All fines, penalties and forfeitures, imposed and collected for cruelty to animals offenses, in cases instituted and conducted by the Kent County Society for the Prevention of Cruelty to Animals and The Delaware Society for the Prevention of Cruelty to Animals, shall enure to them in aid of the purposes for which they were incorporated. DEL. CODE ANN. tit. 3, § 7903</p> <p>Upon a finding of probable cause that an offense occurred, defendant shall be required to pay costs of care for impounded animal or lose ownership rights. DEL. CODE ANN. tit. 3, § 7905(c)</p> <p>After a conviction, owner or custodian must reimburse costs of care and any veterinary fees in order to repossess animal when repossession is allowed by court. DEL. CODE ANN. tit. 3, § 7905(d)</p> <p>Court may order restitution for misdemeanors. DEL. CODE ANN. tit. 11, § 4206</p>
7. SEIZURE / ON-SITE SUPERVISION	Humane agents may impound cruelly mistreated or neglected animals. DEL. CODE ANN. tit. 3, § 7905, DEL. CODE ANN. tit. 11, § 1325(e)

DELAWARE <i>continued</i>	
8. FORFEITURE / POSSESSION[†]	<p>Defendant's failure to pay costs of care for seized animal within 30 days results in transfer of ownership to state or appropriate humane society. DEL. CODE ANN.tit. 3, § 7905(c)</p> <p>Court makes final decision on disposition of animal upon conviction. DEL. CODE ANN.tit. 3, § 7905(b)</p> <p>Court shall prohibit owning or possessing any animal (other than those involved in some commercial operations) for five years for a misdemeanor conviction, DEL. CODE ANN.tit. 11, § 1325(c), and for 15 years for a felony conviction DEL. CODE ANN.tit. 11, § 1325(d).</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	<p>Constables and police shall assist in the enforcement of cruelty statutes. DEL. CODE ANN. tit. 3, § 7902</p> <p>Humane agents may be issued arrest warrants. DEL. CODE ANN. tit. 3, § 7904</p>
12. SEXUAL ASSAULT	Intentionally engaging in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causing another person to engage in any such sexual act with an animal for purposes of sexual gratification is a Class D felony.

	DEL. CODE ANN. tit. 11, §775
DELAWARE <i>continued</i>	
13. FIGHTING	Various animal fighting activities are Class E felonies; being at premises where an animal fighting exhibit is being prepared is a Class F felony. Upon conviction, animals, equipment, devices and proceeds are forfeited. Offender is prohibited from owning any animal for fifteen years. DEL. CODE ANN. tit. 11, §1326
<i>Other Felony Provisions Affecting Animals</i> ^{††}	Maintaining a dangerous animal DEL. CODE ANN. tit. 11, §1327

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

†† This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

DEL. CODE ANN. tit.11, § 1325 (2012). Cruelty to animals; class A misdemeanor; class F felony.

(a) *For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:*

(1) *“Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.*

(2) *“Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.*

(3) *“Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.*

(4) *“Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.*

(5) *“Person” includes any individual, partnership, corporation or association living and/or doing business in the State.*

(6) *“Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.*

(7) *“Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not.*

(8) *“Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.*

(9) *“Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.*

(10) “Proper veterinary care” includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) “Animal” shall not include fish, crustacea or molluska.

(12) “Serious injury” shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in the person’s custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal whether belonging to the actor or another. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal’s suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or

(5) Captures, detains, transports, removes or delivers any animal known to be a domestic farm animal, pet or companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal.

Paragraphs (1), (2) and (4) of this subsection are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (4) of this subsection or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (5), in which case it is a class F felony.

(c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(e) Any agent of the Delaware Society for the Prevention of Cruelty to Animals, or, in Kent County of this State, of the Kent County Society for the Prevention of Cruelty to Animals, may impound an animal owned or possessed in apparent violation of this section, consistent with 3 Del. C. § 7904.

(f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.

2. PENALTIES

DEL. CODE ANN. tit.11, § 1325 (2012). Cruelty to animals; class A misdemeanor; class F felony.

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(1) “Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(2) “Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) “Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.

(4) “Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.

(5) “Person” includes any individual, partnership, corporation or association living and/or doing business in the State.

(6) “Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.

(7) “Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not.

(8) “Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(9) “Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(10) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) "Animal" shall not include fish, crustacea or molluska.

(12) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in the person's custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal whether belonging to the actor or another. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or

(5) Captures, detains, transports, removes or delivers any animal known to be a domestic farm animal, pet or companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal.

Paragraphs (1), (2) and (4) of this subsection are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (4) of this subsection or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (5), in which case it is a class F felony.

(c) *Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.*

A violation of this subsection is subject to a fine in the amount of \$1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(d) *Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.*

A violation of this subsection is subject to a fine in the amount of \$5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(e) Any agent of the Delaware Society for the Prevention of Cruelty to Animals, or, in Kent County of this State, of the Kent County Society for the Prevention of Cruelty to Animals, may impound an animal owned or possessed in apparent violation of this section, consistent with 3 Del. C. § 7904.

(f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.

DEL. CODE ANN. tit.11, § 4205 (2012).Sentence for felonies.

(a) *A sentence of incarceration for a felony shall be a definite sentence.*

(b) *The term of incarceration which the court may impose for a felony is fixed as follows:*

(1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.

(2) For a class B felony not less than 2 years up to 25 years to be served at Level V.

(3) For a class C felony up to 15 years to be served at Level V.

(4) *For a class D felony up to 8 years to be served at Level V.*

(5) *For a class E felony up to 5 years to be served at Level V.*

(6) *For a class F felony up to 3 years to be served at Level V.*

(7) *For a class G felony up to 2 years to be served at Level V.*

(c) *In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.*

(d) *Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.*

(e) *Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.*

(f) *Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.*

(g) *No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.*

(h) *The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.*

(i) *The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.*

(j) *No sentence to Level V incarceration imposed pursuant to this section is subject to parole.*

(k) *In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.*

(l) *In all sentences for less than 1 year the Court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.*

DEL. CODE ANN. tit.11, § 4206 (2012).Sentence for misdemeanors.

(a) *The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate.*

(b) The sentence for a class B misdemeanor may include up to 6 months incarceration at Level V and such fine up to \$1,150, restitution or other conditions as the court deems appropriate.

(c) The sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to \$575, restitution or other conditions as the court deems appropriate. Notwithstanding the foregoing, in any municipality with a population greater than 50,000 people, any offense under the building, housing, health or sanitation code which is classified therein as a misdemeanor, the sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:

(1) For the 1st conviction: no less than \$250, nor more than \$1,000;

(2) For the 2nd conviction for the same offense; no less than \$500, nor more than \$2,500;
and

(3) For all subsequent convictions for the same offense: no less than \$1,000 nor more than \$5,000.

In any municipality with a population greater than 50,000 people, a conviction for a misdemeanor offense, which is defined as a “continuing” or “ongoing” violation, shall be considered a single conviction for the purposes of subdivisions (1)-(3) of this subsection. For all convictions subsequent to the 2nd, the minimum fines required herein shall not be suspended, but such amounts imposed over the minimum may be suspended or subject to such other conditions as the court deems appropriate. The provisions of this subsection relating to municipalities with a population greater than 50,000 people shall not apply to offenses or convictions involving single family residences that are occupied by an owner of the property.

(d) *The court may suspend any sentence imposed under this section for probation or any of the other sanctions set forth in § 4204 of this title.*

(e) *Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.*

(f) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(g) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(h) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(i) Any sentence for issuing a worthless check pursuant to § 900 of this title shall require restitution to the person to whom the check was given. For the purposes of this subsection, restitution shall mean the amount for which the check was written plus a service fee of \$30 for processing a worthless check, or a fee of \$50 if more than 1 check by same person was processed.

(j) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

3. EXEMPTIONS

DEL. CODE ANN. tit.11, § 1325 (2012). Cruelty to animals; class A misdemeanor; class F felony.

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(1) “Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(2) “Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) “Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.

(4) “Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.

(5) “Person” includes any individual, partnership, corporation or association living and/or doing business in the State.

(6) “Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.

(7) “Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not.

(8) “Proper feed” includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(9) “Proper shelter” includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(10) “Proper veterinary care” includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) “Animal” shall not include fish, crustacea or molluska.

(12) “Serious injury” shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in the person’s custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal whether belonging to the actor or another. *This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal’s suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal;* or

(5) Captures, detains, transports, removes or delivers any animal known to be a domestic farm animal, pet or companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal.

Paragraphs (1), (2) and (4) of this subsection are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (4) of this subsection or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (5), in which case it is a class F felony.

(c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(e) Any agent of the Delaware Society for the Prevention of Cruelty to Animals, or, in Kent County of this State, of the Kent County Society for the Prevention of Cruelty to Animals, may impound an animal owned or possessed in apparent violation of this section, consistent with 3 Del. C. § 7904.

(f) *This section shall not apply to the lawful hunting or trapping of animals as provided by law.*

4. COUNSELING / EVALUATIONS

DEL. CODE ANN. tit.11, § 4362 (2012). Psychiatric examinations.

(a) When the Board of Pardons considers for recommendation to the Governor, for pardon or commutation of sentence, any person who has been convicted of an act causing death (subpart B of subchapter II of Chapter 5 of this title); sexual offenses (subpart D of subchapter II of Chapter 5 of this title); kidnapping and related offenses (subpart E of subchapter II of Chapter 5 of this title); arson and related offenses (subpart A of subchapter III of Chapter 5 of this title); burglary in the first degree; burglary in the second degree; robbery (subpart C of subchapter III of Chapter 5 of this title); offenses relating to children and incompetents (subchapter V of Chapter 5 of this title); cruelty to animals; abusing a corpse; unlawful use of an incendiary device, bomb or other explosive device; abuse of children (Chapter 9 of Title 16); and distribution of a controlled substance to a person under age 18 (§ 4761 of Title 16); or for an attempt as provided by statute to commit any of these crimes, there shall be furnished to each member of the Board of Pardons and to the Governor, in case recommendation for a pardon or commutation of sentence be made, a copy of the report of the psychiatrist and/or psychologist who have examined such person, as provided in subsection (b) of this section.

(b) Prior to consideration by the Board of Pardons of any application for a pardon or a commutation of sentence made by any person who has been incarcerated for any of the crimes stated in subsection (a) of this section, such person shall be examined by a psychiatrist or by a psychologist within a 12-month period immediately preceding consideration of such person's case by the Board of Pardons. The Commissioner of the Department of Correction or the Commissioner's designee may request the Director of the Delaware Psychiatric Center to cause examination and studies to be made.

(c) Any psychiatrist or psychologist who, pursuant to subsection (b) of this section, examines any applicant for a pardon or a commutation of sentence shall furnish to each member of the Board of Pardons a report containing their respective findings, opinions as to the mental and emotional health of the applicant, and opinions as to the probability of the applicant again committing any crime if released. If the Board of Pardons recommends a pardon or a commutation of sentence, a copy of any report submitted to the Board by any psychiatrist or psychologist shall be provided to the Governor.

(d) If examination and clinical studies as provided in this section cannot be made at the correctional institution, the prisoner may be transferred, under adequate security safeguards, to the Delaware Psychiatric Center for such examination and studies.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

DEL. CODE ANN. tit.3, § 7903(2012).Fines and penalties in certain cases; disposition.

All fines, penalties and forfeitures, imposed and collected in any county of the State under every act relating to or affecting cruelty to animals, in every case where the prosecution shall be instituted and conducted by the Kent County Society for the Prevention of Cruelty to Animals and The Delaware Society for the Prevention of Cruelty to Animals, shall enure to such Society in aid of the purposes for which they were incorporated.

DEL. CODE ANN. tit. 3, § 7905(2012).Impoundment.

(a) Any agent in Sussex and New Castle Counties of this State, so appointed by the Delaware Society for the Prevention of Cruelty to Animals, or in Kent County of this State, so appointed by the Kent County Society for the Prevention of Cruelty to Animals, or any law enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty and as provided for by the laws of Delaware relating to seizure of property, impound in the appropriate S.P.C.A. shelter or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. Societies for the prevention of cruelty to animals shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.

(b) An animal impounded under this section shall not remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals pending the outcome of the action. If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.

(c) *Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State and/or the appropriate Society for the Prevention of Cruelty to Animals shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Each month, the State or appropriate Society for the Prevention of Cruelty to Animals shall submit a detailed billing to the owner or custodian of the animal, listing the accrued monthly costs of boarding, veterinary and other costs incurred.* Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of the receipt of a detailed monthly billing will result in ownership of the animal reverting to the State or to the appropriate Society for the Prevention of Cruelty to Animals. The provisions of this paragraph shall be applicable notwithstanding the final disposition of the criminal charges.

(d) *An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the appropriate Society for the Prevention of Cruelty to Animals its regular standard fees charged for the care of animals while in the Society's custody plus any veterinary fees incurred for the animal during the period of impoundment.* Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the appropriate S.P.C.A.. The S.P.C.A. may then dispose of the animal in accord with its procedures for such disposition.

(e) Should an animal which has been impounded under this section expire while in the custody of the Society for the Prevention of Cruelty to Animals, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including autopsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

DEL. CODE ANN. tit.11, § 4206 (2012).Sentence for misdemeanors.

(a) *The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate.*

(b) *The sentence for a class B misdemeanor may include up to 6 months incarceration at Level V and such fine up to \$1,150, restitution or other conditions as the court deems appropriate.*

(c) The sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to \$575, restitution or other conditions as the court deems appropriate. Notwithstanding the foregoing, in any municipality with a population greater than 50,000 people, any offense under the building, housing, health or sanitation code which is classified therein as a misdemeanor, the sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:

(1) For the 1st conviction: no less than \$250, nor more than \$1,000;

(2) For the 2nd conviction for the same offense; no less than \$500, nor more than \$2,500;
and

(3) For all subsequent convictions for the same offense: no less than \$1,000 nor more than \$5,000.

In any municipality with a population greater than 50,000 people, a conviction for a misdemeanor offense, which is defined as a “continuing” or “ongoing” violation, shall be considered a single conviction for the purposes of subdivisions (1)-(3) of this subsection. For all convictions subsequent to the 2nd, the minimum fines required herein shall not be suspended, but such amounts imposed over the minimum may be suspended or subject to such other conditions as the court deems appropriate. The provisions of this subsection relating to municipalities with a population greater than 50,000 people shall not apply to offenses or convictions involving single family residences that are occupied by an owner of the property.

(d) The court may suspend any sentence imposed under this section for probation or any of the other sanctions set forth in § 4204 of this title.

(e) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.

(f) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(g) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(h) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(i) Any sentence for issuing a worthless check pursuant to § 900 of this title shall require restitution to the person to whom the check was given. For the purposes of this subsection, restitution shall mean the amount for which the check was written plus a service fee of \$30 for processing a worthless check, or a fee of \$50 if more than 1 check by same person was processed.

(j) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

7. SEIZURE /ON-SITE SUPERVISION

DEL. CODE ANN. tit. 3, § 7905(2012).Impoundment.

(a) Any agent in Sussex and New Castle Counties of this State, so appointed by the Delaware Society for the Prevention of Cruelty to Animals, or in Kent County of this State, so appointed by the Kent County Society for the Prevention of Cruelty to Animals, or any law enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty and as provided for by the laws of Delaware relating to seizure of property, impound in the appropriate S.P.C.A. shelter or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. Societies for the prevention of cruelty to animals shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.

(b) An animal impounded under this section shall not remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals pending the outcome of the action. If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.

(c) Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State and/or the appropriate Society for the Prevention of Cruelty to Animals shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Each month, the State or appropriate Society for the Prevention of Cruelty to Animals shall submit a detailed billing to the owner or custodian of the animal, listing the accrued monthly costs of boarding, veterinary and other costs incurred. Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of the receipt of a detailed monthly billing will result in ownership of the animal reverting to the State or to the appropriate Society for the Prevention of Cruelty to Animals. The provisions of this paragraph shall be applicable notwithstanding the final disposition of the criminal charges.

(d) An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the appropriate Society for the Prevention of Cruelty to Animals its regular standard fees charged for the care of animals while in the Society's custody plus any veterinary fees incurred for the animal during the period of impoundment. Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the appropriate S.P.C.A.. The S.P.C.A. may then dispose of the animal in accord with its procedures for such disposition.

(e) Should an animal which has been impounded under this section expire while in the custody of the Society for the Prevention of Cruelty to Animals, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including autopsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

DEL. CODE ANN. tit.11, § 1325 (2012). Cruelty to animals; class A misdemeanor; class F felony.

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(1) "Cruel" includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(2) "Cruel mistreatment" includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) "Cruel neglect" includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal's own excrement is not removed from the animal's living area and/or other living conditions which are injurious to the animal's health.

(4) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.

(5) "Person" includes any individual, partnership, corporation or association living and/or doing business in the State.

(6) "Abandonment" includes completely forsaking or deserting an animal originally under one's custody without making reasonable arrangements for custody of that animal to be assumed by another person.

(7) "Custody" includes the responsibility for the welfare of an animal subject to one's care and control whether one owns it or not.

(8) "Proper feed" includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(9) "Proper shelter" includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(10) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) "Animal" shall not include fish, crustacea or molluska.

(12) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in the person's custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal whether belonging to the actor or another. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or

(5) Captures, detains, transports, removes or delivers any animal known to be a domestic farm animal, pet or companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal.

Paragraphs (1), (2) and (4) of this subsection are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (4) of this subsection or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (5), in which case it is a class F felony.

(c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(e) Any agent of the Delaware Society for the Prevention of Cruelty to Animals, or, in Kent County of this State, of the Kent County Society for the Prevention of Cruelty to Animals, may impound an animal owned or possessed in apparent violation of this section, consistent with 3 Del. C. § 7904.

(f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.

8. FORFEITURE / POSSESSION

DEL. CODE ANN. tit. 3, § 7905(2012).Impoundment.

(a) Any agent in Sussex and New Castle Counties of this State, so appointed by the Delaware Society for the Prevention of Cruelty to Animals, or in Kent County of this State, so appointed by the Kent County Society for the Prevention of Cruelty to Animals, or any law enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty and as provided for by the laws of Delaware relating to seizure of property, impound in the appropriate S.P.C.A. shelter or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. Societies for the prevention of cruelty to animals shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.

(b) An animal impounded under this section shall not remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals pending the outcome of the action. *If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal.* Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.

(c) Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State and/or the appropriate Society for the Prevention of Cruelty to Animals shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Each month, the State or appropriate Society for the Prevention of Cruelty to Animals shall submit a detailed billing to the owner or custodian of the animal, listing the accrued monthly costs of boarding, veterinary and other costs incurred. *Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of the receipt of a detailed monthly billing will result in ownership of the animal reverting to the State or to the appropriate Society for the Prevention of Cruelty to Animals. The provisions of this paragraph shall be applicable notwithstanding the final disposition of the criminal charges.*

(d) An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the appropriate Society for the Prevention of Cruelty to Animals its regular standard fees charged for the care of animals while in the Society's custody plus any veterinary fees incurred for the animal during the period of impoundment. *Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the appropriate S.P.C.A.. The S.P.C.A. may then dispose of the animal in accord with its procedures for such disposition.*

(e) Should an animal which has been impounded under this section expire while in the custody of the Society for the Prevention of Cruelty to Animals, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including autopsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

DEL. CODE ANN. tit.11, § 1325 (2012). Cruelty to animals; class A misdemeanor; class F felony.

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(3) "Cruel neglect" includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal's own excrement is not removed from the animal's living area and/or other living conditions which are injurious to the animal's health.

(4) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.

(5) "Person" includes any individual, partnership, corporation or association living and/or doing business in the State.

(6) "Abandonment" includes completely forsaking or deserting an animal originally under one's custody without making reasonable arrangements for custody of that animal to be assumed by another person.

(7) "Custody" includes the responsibility for the welfare of an animal subject to one's care and control whether one owns it or not.

(8) "Proper feed" includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

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(10) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) "Animal" shall not include fish, crustacea or molluska.

(12) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in the person's custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal whether belonging to the actor or another. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or

(5) Captures, detains, transports, removes or delivers any animal known to be a domestic farm animal, pet or companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal.

Paragraphs (1), (2) and (4) of this subsection are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (4) of this subsection or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (5), in which case it is a class F felony.

(c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(e) Any agent of the Delaware Society for the Prevention of Cruelty to Animals, or, in Kent County of this State, of the Kent County Society for the Prevention of Cruelty to Animals, may impound an animal owned or possessed in apparent violation of this section, consistent with 3 Del. C. § 7904.

(f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

DEL. CODE ANN. tit.3, § 7902(2012).Enforcement of laws for protection of animals.

The constables of the several counties of this State, and the police force of the City of Wilmington, as well as all other places in the State where police organizations exist, shall, as occasion requires, assist the Kent County Society for the Prevention of Cruelty to Animals or The Delaware Society for the Prevention of Cruelty to Animals, their members or agents, in the enforcement of all laws which are enacted for the protection of dumb animals.

DEL. CODE ANN. tit.3, § 7904(2012).Service of process.

Any warrant of arrest, or other process, issued under or by virtue of the several laws in relation to cruelty to animals may be directed to and executed by any agent so appointed by either the Delaware or Kent County Society for the Prevention of Cruelty to Animals of this state. No compensation shall be paid to the agent except by the Societies.

12. SEXUAL ASSAULT

DEL. CODE ANN. tit.11, §775(2012).Bestiality.

A person is guilty of bestiality when the person intentionally engages in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causes another person to engage in any such sexual act with an animal for purposes of sexual gratification.

Bestiality is a class D felony.

13. FIGHTING

DEL. CODE ANN. tit.11, § 1326(2012). Animals; fighting and baiting prohibited; class E felony.

(a) A person who owns, possesses, keeps, trains, or uses a bull, bear, dog, cock, or other animal or fowl for the purpose of fighting or baiting; or a person who is a party to or who causes the fighting or baiting of a bull, bear, dog, cock, or other animal or fowl; or a person who rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting an animal or fowl; or a person who knowingly suffers or permits the use of a building, shed, room, yard, ground, or premises belonging to the person, or that is under the person's control, for any of the purposes described in this section, is guilty of a class E felony.

(b) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition prohibited by subsection (a) of this section, and who knows that the exhibition is taking place or is about to take place, is guilty of a class F felony.

(c) A person who gambles on the outcome of an exhibition prohibited by subsection (a) of this section is guilty of a class F felony.

(d) All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be disposed of in a humane manner.

(e) Prosecution for any offense under this section may not be commenced after five (5) years from the commission of the offense.

(f) A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.

(g) A fine issued as a result of a violation of this section may not be suspended.

(h) In addition to the penalties provided under this section, the court may require a person convicted of violating this section to attend and participate in an appropriate treatment program or to obtain appropriate psychiatric or psychological counseling, or both. The court may impose the costs of any treatment program or counseling upon the person convicted.

14. REFERENCED STATUTES

DEL. CODE ANN. tit.3, § 7902(2012).Enforcement of laws for protection of animals.

The constables of the several counties of this State, and the police force of the City of Wilmington, as well as all other places in the State where police organizations exist, shall, as occasion requires, assist the Kent County Society for the Prevention of Cruelty to Animals or The Delaware Society for the Prevention of Cruelty to Animals, their members or agents, in the enforcement of all laws which are enacted for the protection of dumb animals.

DEL. CODE ANN. tit.3, § 7903(2012).Fines and penalties in certain cases; disposition.

All fines, penalties and forfeitures, imposed and collected in any county of the State under every act relating to or affecting cruelty to animals, in every case where the prosecution shall be instituted and conducted by the Kent County Society for the Prevention of Cruelty to Animals and The Delaware Society for the Prevention of Cruelty to Animals, shall enure to such Society in aid of the purposes for which they were incorporated.

DEL. CODE ANN. tit.3, § 7904(2012).Service of process.

Any warrant of arrest, or other process, issued under or by virtue of the several laws in relation to cruelty to animals may be directed to and executed by any agent so appointed by either the Delaware or Kent County Society for the Prevention of Cruelty to Animals of this state. No compensation shall be paid to the agent except by the Societies.

DEL. CODE ANN. tit. 3, § 7905(2012).Impoundment.

(a) Any agent in Sussex and New Castle Counties of this State, so appointed by the Delaware Society for the Prevention of Cruelty to Animals, or in Kent County of this State, so appointed by the Kent County Society for the Prevention of Cruelty to Animals, or any law enforcement officer as defined in § 222 of Title 11, may, in instances of alleged acts of animal cruelty and as provided for by the laws of Delaware relating to seizure of property, impound in the appropriate S.P.C.A. shelter or, if required, in an appropriate veterinarian facility, any animal subjected to cruel mistreatment or cruel neglect. Should the owner or custodian of an animal not be available at or near the premises where the animal is located, upon taking an animal under this section the agent shall leave in an appropriate place written notice to the animal's owner or custodian of such action. Societies for the prevention of cruelty to animals shall take all reasonable action to insure that owners or custodians of an animal, impounded under this section, shall have received notice of such action as soon as possible and no later than 24 hours after the impoundment.

(b) An animal impounded under this section shall not remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals longer than 48 hours and shall be returned to its owner or custodian unless a complaint is filed within the 48-hour period in the appropriate court under the animal cruelty laws against the owner or custodian, except that upon good cause shown a court may permit a reasonable extension of the 48-hour period not to exceed 30 days. When a complaint is filed in the appropriate court, the impounded animal shall remain in the custody of the appropriate Society for the Prevention of Cruelty to Animals pending the outcome of the action. If the owner or custodian is found to be in violation of the animal cruelty laws the court shall make a final determination as to the disposition of the animal. Should the complaint be withdrawn, prior to a court hearing, the animal shall be immediately made available to its owner or custodian.

(c) Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State and/or the appropriate Society for the Prevention of Cruelty to Animals shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Each month, the State or appropriate Society for the Prevention of Cruelty to Animals shall submit a detailed billing to the owner or custodian of the animal, listing the accrued monthly costs of boarding, veterinary and other costs incurred. Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of the receipt of a detailed monthly billing will result in ownership of the animal reverting to the State or to the appropriate Society for the Prevention of Cruelty to Animals. The provisions of this paragraph shall be applicable notwithstanding the final disposition of the criminal charges.

(d) An owner or custodian of an animal impounded under this section who is found guilty of cruelty to the animal, and the court orders the animal returned to such owner or custodian, shall, prior to taking the animal, reimburse the appropriate Society for the Prevention of Cruelty to Animals its regular standard fees charged for the care of animals while in the Society's custody plus any veterinary fees incurred for the animal during the period of impoundment. Failure of the animal's owner or custodian to pay such fees within 5 days after a finding of guilty will result in ownership of the animal reverting to the appropriate S.P.C.A.. The S.P.C.A. may then dispose of the animal in accord with its procedures for such disposition.

(e) Should an animal which has been impounded under this section expire while in the custody of the Society for the Prevention of Cruelty to Animals, the animal shall, as soon as possible, be turned over to the State Veterinarian at the Department of Agriculture. The State Veterinarian shall take whatever action necessary, including autopsy if required, to determine cause of the animal's death and shall record such cause. The cause of death shall, if requested, be furnished to the animal's owner and to the court handling the complaint relative to the animal. Disposition of the animal's remains shall be coordinated with the animal's owner and, provided a complaint has been filed, with the court handling the complaint.

DEL. CODE ANN. tit.11, §775(2012).Bestiality.

A person is guilty of bestiality when the person intentionally engages in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causes another person to engage in any such sexual act with an animal for purposes of sexual gratification.

Bestiality is a class D felony.

DEL. CODE ANN. tit.11, § 1325 (2012). Cruelty to animals; class A misdemeanor; class F felony.

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(1) “Cruel” includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(2) “Cruel mistreatment” includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) “Cruel neglect” includes neglect of an animal, which is under the care and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.

(4) “Cruelty to animals” includes mistreatment of any animal or neglect of any animal under the care and control of the neglecter, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.

(5) “Person” includes any individual, partnership, corporation or association living and/or doing business in the State.

(6) “Abandonment” includes completely forsaking or deserting an animal originally under one’s custody without making reasonable arrangements for custody of that animal to be assumed by another person.

(7) “Custody” includes the responsibility for the welfare of an animal subject to one’s care and control whether one owns it or not.

(8) "Proper feed" includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(9) "Proper shelter" includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(10) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(11) "Animal" shall not include fish, crustacea or molluska.

(12) "Serious injury" shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(b) A person is guilty of cruelty to animals when the person intentionally or recklessly:

(1) Subjects any animal to cruel mistreatment; or

(2) Subjects any animal in the person's custody to cruel neglect; or

(3) Kills or injures any animal belonging to another person without legal privilege or consent of the owner; or

(4) Cruelly or unnecessarily kills or injures any animal whether belonging to the actor or another. This section does not apply to the killing of any animal normally or commonly raised as food for human consumption, provided that such killing is not cruel. A person acts unnecessarily if the act is not required to terminate an animal's suffering, to protect the life or property of the actor or another person or if other means of disposing of an animal exist which would not impair the health or well-being of that animal; or

(5) Captures, detains, transports, removes or delivers any animal known to be a domestic farm animal, pet or companion animal, or any other animal of scientific, environmental, economic or cultural value, under false pretenses to any public or private animal shelter, veterinary clinic or other facility, or otherwise causes the same through acts of deception or misrepresentation of the circumstances and disposition of any such animal.

Paragraphs (1), (2) and (4) of this subsection are inapplicable to accepted veterinary practices and activities carried on for scientific research.

Cruelty to animals is a class A misdemeanor, unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (4) of this subsection or unless the animal is killed or seriously injured as a result of any action prohibited by paragraph (5), in which case it is a class F felony.

(c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent misdemeanor violation of this section shall be prohibited from owning or possessing any animal for 5 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$1,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction, except for animals grown, raised or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least 25 percent of the person's annual gross income from such sale or resale. Any person convicted of a second or subsequent felony violation of this section shall be prohibited from owning or possessing any animal for 15 years after said conviction without exception.

A violation of this subsection is subject to a fine in the amount of \$5,000 in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7904.

(e) Any agent of the Delaware Society for the Prevention of Cruelty to Animals, or, in Kent County of this State, of the Kent County Society for the Prevention of Cruelty to Animals, may impound an animal owned or possessed in apparent violation of this section, consistent with 3 Del. C. § 7904.

(f) This section shall not apply to the lawful hunting or trapping of animals as provided by law.

DEL. CODE ANN. tit.11, § 1326(2012). Animals; fighting and baiting prohibited; class E felony.

(a) A person who owns, possesses, keeps, trains, or uses a bull, bear, dog, cock, or other animal or fowl for the purpose of fighting or baiting; or a person who is a party to or who causes the fighting or baiting of a bull, bear, dog, cock, or other animal or fowl; or a person who rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purpose of fighting or baiting an animal or fowl; or a person who knowingly suffers or permits the use of a building, shed, room, yard, ground, or premises belonging to the person, or that is under the person's control, for any of the purposes described in this section, is guilty of a class E felony.

(b) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition prohibited by subsection (a) of this section, and who knows that the exhibition is taking place or is about to take place, is guilty of a class F felony.

(c) A person who gambles on the outcome of an exhibition prohibited by subsection (a) of this section is guilty of a class F felony.

(d) All animals, equipment, devices, and money involved in a violation of this section must be forfeited to the State. Animals so forfeited must be disposed of in a humane manner.

(e) Prosecution for any offense under this section may not be commenced after five (5) years from the commission of the offense.

(f) A person convicted of a violation of this section is prohibited from owning or possessing any animal or fowl for 15 years after conviction.

(g) A fine issued as a result of a violation of this section may not be suspended.

(h) In addition to the penalties provided under this section, the court may require a person convicted of violating this section to attend and participate in an appropriate treatment program or to obtain appropriate psychiatric or psychological counseling, or both. The court may impose the costs of any treatment program or counseling upon the person convicted.

DEL. CODE ANN. tit.11, § 4205 (2012).Sentence for felonies.

- (a) A sentence of incarceration for a felony shall be a definite sentence.
- (b) The term of incarceration which the court may impose for a felony is fixed as follows:
- (1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.
 - (2) For a class B felony not less than 2 years up to 25 years to be served at Level V.
 - (3) For a class C felony up to 15 years to be served at Level V.
 - (4) For a class D felony up to 8 years to be served at Level V.
 - (5) For a class E felony up to 5 years to be served at Level V.
 - (6) For a class F felony up to 3 years to be served at Level V.
 - (7) For a class G felony up to 2 years to be served at Level V.
- (c) In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.
- (d) Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.
- (e) Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.
- (f) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.
- (g) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(h) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(i) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(j) No sentence to Level V incarceration imposed pursuant to this section is subject to parole.

(k) In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than 1 year the Court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

DEL. CODE ANN. tit.11, § 4206 (2012).Sentence for misdemeanors.

(a) The sentence for a class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate.

(b) The sentence for a class B misdemeanor may include up to 6 months incarceration at Level V and such fine up to \$1,150, restitution or other conditions as the court deems appropriate.

(c) The sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to \$575, restitution or other conditions as the court deems appropriate. Notwithstanding the foregoing, in any municipality with a population greater than 50,000 people, any offense under the building, housing, health or sanitation code which is classified therein as a misdemeanor, the sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:

(1) For the 1st conviction: no less than \$250, nor more than \$1,000;

(2) For the 2nd conviction for the same offense; no less than \$500, nor more than \$2,500;
and

(3) For all subsequent convictions for the same offense: no less than \$1,000 nor more than \$5,000.

In any municipality with a population greater than 50,000 people, a conviction for a misdemeanor offense, which is defined as a “continuing” or “ongoing” violation, shall be considered a single conviction for the purposes of subdivisions (1)-(3) of this subsection. For all convictions subsequent to the 2nd, the minimum fines required herein shall not be suspended, but such amounts imposed over the minimum may be suspended or subject to such other conditions as the court deems appropriate. The provisions of this subsection relating to municipalities with a population greater than 50,000 people shall not apply to offenses or convictions involving single family residences that are occupied by an owner of the property.

(d) The court may suspend any sentence imposed under this section for probation or any of the other sanctions set forth in § 4204 of this title.

(e) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned “good time” as set forth in § 4381 of this title.

(f) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.

(g) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.

(h) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(i) Any sentence for issuing a worthless check pursuant to § 900 of this title shall require restitution to the person to whom the check was given. For the purposes of this subsection, restitution shall mean the amount for which the check was written plus a service fee of \$30 for processing a worthless check, or a fee of \$50 if more than 1 check by same person was processed.

(j) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

DEL. CODE ANN. tit.11, § 4362 (2012). Psychiatric examinations.

(a) When the Board of Pardons considers for recommendation to the Governor, for pardon or commutation of sentence, any person who has been convicted of an act causing death (subpart B of subchapter II of Chapter 5 of this title); sexual offenses (subpart D of subchapter II of Chapter 5 of this title); kidnapping and related offenses (subpart E of subchapter II of Chapter 5 of this title); arson and related offenses (subpart A of subchapter III of Chapter 5 of this title); burglary in the first degree; burglary in the second degree; robbery (subpart C of subchapter III of Chapter 5 of this title); offenses relating to children and incompetents (subchapter V of Chapter 5 of this title); cruelty to animals; abusing a corpse; unlawful use of an incendiary device, bomb or other explosive device; abuse of children (Chapter 9 of Title 16); and distribution of a controlled substance to a person under age 18 (§ 4761 of Title 16); or for an attempt as provided by statute to commit any of these crimes, there shall be furnished to each member of the Board of Pardons and to the Governor, in case recommendation for a pardon or commutation of sentence be made, a copy of the report of the psychiatrist and/or psychologist who have examined such person, as provided in subsection (b) of this section.

(b) Prior to consideration by the Board of Pardons of any application for a pardon or a commutation of sentence made by any person who has been incarcerated for any of the crimes stated in subsection (a) of this section, such person shall be examined by a psychiatrist or by a psychologist within a 12-month period immediately preceding consideration of such person's case by the Board of Pardons. The Commissioner of the Department of Correction or the Commissioner's designee may request the Director of the Delaware Psychiatric Center to cause examination and studies to be made.

(c) Any psychiatrist or psychologist who, pursuant to subsection (b) of this section, examines any applicant for a pardon or a commutation of sentence shall furnish to each member of the Board of Pardons a report containing their respective findings, opinions as to the mental and emotional health of the applicant, and opinions as to the probability of the applicant again committing any crime if released. If the Board of Pardons recommends a pardon or a commutation of sentence, a copy of any report submitted to the Board by any psychiatrist or psychologist shall be provided to the Governor.

(d) If examination and clinical studies as provided in this section cannot be made at the correctional institution, the prisoner may be transferred, under adequate security safeguards, to the Delaware Psychiatric Center for such examination and studies.

ANIMAL PROTECTION LAWS OF FLORIDA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Florida's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Florida may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

FLORIDA

1. GENERAL PROHIBITIONS*	(1) Leaving poison on property not owned by such person FLA. STAT. ANN. §828.08 (2) Cruelty to animals FLA. STAT. ANN. §828.12 (3) Confinement/abandonment of animals FLA. STAT. ANN. § 828.13
<i>Animals Covered in Definition</i>	“[E]very living dumb creature” FLA. STAT. ANN. § 828.02
<i>Classification of Crimes</i>	(1) 1st degree misdemeanor (2) [General cruelty]: 1st degree misdemeanor [Cruelty resulting in death or excessive suffering]: 3rd degree felony ----- (3) 1st degree misdemeanor

FLORIDA*continued*

2. MAXIMUM PENALTIES ^{**}	<p>(1) 1 year imprisonment <i>and/or</i> \$5,000 fine FLA. STAT. ANN. § 828.08</p> <p>(2) [General cruelty]: 1 year imprisonment <i>and/or</i> \$5,000 fine FLA. STAT. ANN. § 828.12(1)</p> <p>[Cruelty resulting in death or excessive suffering]: 5 years imprisonment <i>and/or</i> \$10,000 fine FLA. STAT. ANN. § 828.12(2)</p> <p>-----</p> <p>(3) 1 year imprisonment <i>and/or</i> \$5,000 fine FLA. STAT. ANN. § 828.13</p>
3. EXEMPTIONS ^{***}	<p>1 FLA. STAT. ANN. § 828.12(3)</p> <p>2 FLA. STAT. ANN. § 828.02</p> <p>4 FLA. STAT. ANN. § 828.125</p>

FLORIDA*continued*

4. COUNSELING / EVALUATIONS[†]	Anyone convicted of a felony animal cruelty offense which includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal shall be ordered to undergo psychological counseling or complete an anger management treatment program. FLA. STAT. ANN. § 828.12(2)(a)
5. PROTECTIVE ORDERS[†]	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	Court may require reimbursement for expenses while animal is in care of officer. FLA. STAT. ANN. § 828.073(4)(c)(2) If animal is sold, proceeds go toward costs of care. FLA. STAT. ANN. § 828.073(7)
7. SEIZURE / ON-SITE SUPERVISION	Law enforcement officers and appointed humane agents may seize neglected or cruelly treated animals. FLA. STAT. ANN. § 828.073 Law enforcement officers and appointed humane agents may order owner to provide certain care without removing neglected or cruelly treated animals from present location. FLA. STAT. ANN. §§ 828.073(1)(b),(2)(b)

FLORIDA*continued*

8. FORFEITURE / POSSESSION[†]	Court may, after finding owner is unable or unfit to adequately provide for animals, order other animals seized and enjoin owner from further possession or custody of other animals. FLA. STAT. ANN. § 828.073(4)(c) Court has final determination over disposition of the animal. FLA. STAT. ANN. §§ 828.073(4),(5),(6)
9. CROSS ENFORCEMENT / REPORTING	Approved agencies for cruelty prevention regarding animals or children may investigate crimes against animals or children. FLA. STAT. ANN. § 828.03
10. VETERINARIAN REPORTING/ IMMUNITY	Veterinarians are immune from lawsuits for investigations of cruelty. FLA. STAT. ANN. § 828.12(3)
11. LAW ENFORCEMENT POLICIES	Public nuisances may be abated by any private citizen, as well as government attorneys. FLA. STAT. ANN. § 60.05 Any location where any state law is being violated is a public nuisance, and anyone causing such violation is guilty of making a public nuisance. FLA. STAT. ANN. § 823.05 Appointed agents may investigate violations. FLA. STAT. ANN. § 828.03 Sheriffs or peace officers may arrest without a warrant. FLA. STAT. ANN. § 828.17

FLORIDA*continued*

<p>12. SEXUAL ASSAULT</p>	<p>Sexual assault of an animal is a misdemeanor of the first degree. FLA. STAT. ANN. § 828.126</p>
<p>13. FIGHTING</p>	<p>Engaging in a simulated or bloodless bullfighting exhibition is a misdemeanor. FLA. STAT. ANN. §828.121</p> <p>Various animal fighting activities (including being a spectator at a fight) are third degree felonies. FLA. STAT. ANN. §828.122</p>
<p><i>Other Felony Provisions Affecting Animals</i>[‡]</p>	<p>Killing or maiming registered horses and cattle is a second degree felony. FLA. STAT. ANN. § 828.125</p> <p>Tripping horses is a third degree felony. FLA. STAT. ANN. § 828.12(4)</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 †This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 ‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

FLA. STAT. ANN. § 828.02 (2012). Definitions.

In this chapter, and in every law of the state relating to or in any way affecting animals, the word “animal” shall be held to include every living dumb creature; the words “torture,” “torment,” and “cruelty” shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief; and the words “owner” and “person” shall be held to include corporations, and the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.

FLA. STAT. ANN. § 828.08 (2012). Penalty for exposing poison.

Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane, or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

FLA. STAT. ANN. § 828.12 (2012). Cruelty to animals.

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.

(a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.

(b) Any person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person shall be released only upon expiration of sentence, shall not be eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

(3) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.

(4) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport shall be guilty of a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, “trip” means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and “horse” means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. The provisions of this subsection shall not apply when tripping is used:

(a) To control a horse that is posing an immediate threat to other livestock or human beings;

(b) For the purpose of identifying ownership of the horse when its ownership is unknown; or

(c) For the purpose of administering veterinary care to the horse.

FLA. STAT. ANN. § 828.13 (2012). Confinement of animals without sufficient food, water, or exercise; abandonment of animals.

(1) *As used in this section:*

(a) *“Abandon” means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.*

(b) *“Owner” includes any owner, custodian, or other person in charge of an animal.*

(2) *Whoever:*

(a) *Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,*

*(b) Keeps any animals in any enclosure without wholesome exercise and change of air,
or*

*(c) Abandons to die any animal that is maimed, sick, infirm, or diseased, is guilty of a
misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not
more than \$5,000, or by both imprisonment and a fine.*

*(3) Any person who is the owner or possessor, or has charge or custody, of any animal who
abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road,
or public place without providing for the care, sustenance, protection, and shelter of such animal
is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of
not more than \$5,000, or by both imprisonment and a fine.*

2. PENALTIES

FLA. STAT. ANN. § 828.08 (2012). Penalty for exposing poison.

Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane, or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person, *shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

FLA. STAT. ANN. § 828.12 (2012). Cruelty to animals.

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, *punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.*

(2) A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree, *punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.*

(a) *A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.*

(b) *Any person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person shall be released only upon expiration of sentence, shall not be eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.*

(3) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.

(4) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport shall be guilty of a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, “trip” means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and “horse” means any animal of any registered breed of the genus Equus, or any recognized hybrid thereof. The provisions of this subsection shall not apply when tripping is used:

- (a) To control a horse that is posing an immediate threat to other livestock or human beings;
- (b) For the purpose of identifying ownership of the horse when its ownership is unknown; or
- (c) For the purpose of administering veterinary care to the horse.

FLA. STAT. ANN. § 828.13 (2012). Confinement of animals without sufficient food, water, or exercise; abandonment of animals.

(1) As used in this section:

- (a) “Abandon” means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.
- (b) “Owner” includes any owner, custodian, or other person in charge of an animal.

(2) Whoever:

- (a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,
- (b) Keeps any animals in any enclosure without wholesome exercise and change of air, or
- (c) Abandons to die any animal that is maimed, sick, infirm, or diseased, is guilty of a misdemeanor of the first degree, *punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.*

(3) Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a misdemeanor of the first degree, *punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.*

3. EXEMPTIONS

FLA. STAT. ANN. § 828.02 (2012). Definitions.

In this chapter, and in every law of the state relating to or in any way affecting animals, the word “animal” shall be held to include every living dumb creature; the words “torture,” “torment,” and “cruelty” shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, *except when done in the interest of medical science*, permitted, or allowed to continue when there is reasonable remedy or relief; and the words “owner” and “person” shall be held to include corporations, and the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.

FLA. STAT. ANN. § 828.12 (2012). Cruelty to animals.

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.

(a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.

(b) Any person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person shall be released only upon expiration of sentence, shall not be eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

(3) *A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.*

(4) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport shall be guilty of a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, “trip” means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and “horse” means any animal of any registered breed of the genus Equus, or any recognized hybrid thereof. The provisions of this subsection shall not apply when tripping is used:

(a) To control a horse that is posing an immediate threat to other livestock or human beings;

(b) For the purpose of identifying ownership of the horse when its ownership is unknown; or

(c) For the purpose of administering veterinary care to the horse.

FLA. STAT. ANN. § 828.125 (2012). Killing or aggravated abuse of registered breed horses or cattle; offenses; penalties.

Any other provisions of this chapter to the contrary notwithstanding:

(1) Any person who willfully and unlawfully, by any means whatsoever, kills, maims, mutilates, or causes great bodily harm or permanent breeding disability to any animal of the genus Equus (horse) or any animal of any registered breed or recognized registered hybrid of the genus Bos (cattle) commits a felony of the second degree, punishable as provided by s. 775.082, s. 775.083, or s. 775.084, except that any person who commits a violation of this subsection shall be sentenced to a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of 1 year.

(2) Any person who individually attempts or solicits, or jointly agrees, conspires, combines, or confederates with another person to commit, any act prohibited by subsection (1) and does an act in furtherance of said attempt, solicitation, or conspiracy shall be guilty of a felony of the second degree and is punishable as if the person or persons had actually committed such prohibited act as enumerated in subsection (1), notwithstanding any provisions found in s. 777.04. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

(3) Any person who verbally or in writing threatens to commit any act prohibited by subsection (1) and has the apparent ability to carry out such threat and places the owner or custodian of said animal in fear that such an act as described in subsection (1) is about to take place shall be guilty of a felony of the third degree, punishable as provided by s. 775.082, s. 775.083 or s. 775.084.

(4) In addition to any other fines or penalties authorized by law, a person found guilty of violating any provision of subsection (1), subsection (2), or subsection (3) may be ordered by the court to make restitution to the aggrieved party in an amount not to exceed twice the gross fair market value of the said Equus or Bos killed or abused in an aggravated manner, or up to twice the gross loss caused, whichever is greater, plus attorney's fees and any and all related costs. Upon notice the court shall hold a hearing to determine the amount of fines, restitution, or costs to be imposed under this section, if not agreed upon by the parties.

(5) This section shall not be construed to abridge, impede, prohibit, or otherwise interfere in any way with the application, implementation, or conduct of recognized livestock husbandry practices or techniques by or at the direction of the owner of the livestock so husbanded; nor shall any person be held culpable for any act prohibited by this chapter which results from weather conditions or other acts of God, providing that the person is in compliance with recognized livestock husbandry practices.

4. COUNSELING / EVALUATIONS

FLA. STAT. ANN. § 828.12(2012). Cruelty to animals.

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.

(a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.

(b) Any person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person shall be released only upon expiration of sentence, shall not be eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

(3) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.

(4) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport shall be guilty of a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and "horse" means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. The provisions of this subsection shall not apply when tripping is used:

(a) To control a horse that is posing an immediate threat to other livestock or human beings;

(b) For the purpose of identifying ownership of the horse when its ownership is unknown;
or

(c) For the purpose of administering veterinary care to the horse.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

FLA. STAT. ANN. § 828.073 (2012). Animals found in distress; when agent may take charge; hearing; disposition; sale.

(1) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(a) Removed from its present custody, or

(b) Made the subject of an order to provide care, issued to its owner by the county court, any law enforcement officer, or any agent of the county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and given protection and an appropriate and humane disposition made.

(2) Any law enforcement officer or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under the provisions of s. 828.03 may:

(a) Lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location, or

(b) Order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall file petition seeking relief under this section the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court shall schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced. The timeframes set forth in this subsection are not jurisdictional. However, if a failure to meet such timeframes is attributable to the officer or agent, the owner is not required to pay the officer or agent for care of the animal during any period of delay caused by the officer or agent. A fee may not be charged for filing the petition. This subsection does not require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(3) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of any animal pursuant to the provisions of this section shall have written notice served, at least 3 days before the hearing scheduled under subsection (2), upon the owner of the animal, if he or she is known and is residing in the county where the animal was taken, in conformance with the provisions of chapter 48 relating to service of process. The sheriff of the county shall not charge a fee for service of such notice.

(4)

(a) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of an animal as provided for in this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment by the owner for the care and provision for the animal while in the agent's or officer's custody; or

2. The animal is turned over to the officer or agent as provided in paragraph (c) and a humane disposition of the animal is made.

(b) If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the order shall provide that the animal in the possession of the officer or agent be claimed and removed by the owner within 7 days after the date of the order.

(c) Upon the court's judgment that the owner of the animal is unable or unfit to adequately provide for the animal:

1. The court may:

A. Order that the animal be sold by the sheriff at public auction, that the current owner have no further custody of the animal, and that any animal not bid upon be remanded to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit; or

B. Order that the animal be destroyed or remanded directly to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit.

2. The court, upon proof of costs incurred by the officer or agent, may require that the owner pay for the care of the animal while in the custody of the officer or agent. A separate hearing may be held.

3. The court may order that other animals that are in the custody of the owner and that were not seized by the officer or agent be turned over to the officer or agent, if the court determines that the owner is unable or unfit to adequately provide for the animals. The court may enjoin the owner's further possession or custody of other animals.

(5) In determining the person's fitness to have custody of an animal under the provisions of this act, the court may consider, among other matters:

- (a) Testimony from the agent or officer who seized the animal and other witnesses as to the condition of the animal when seized and as to the conditions under which the animal was kept.
- (b) Testimony and evidence as to the veterinary care provided to the animal.
- (c) Testimony and evidence as to the type and amount of care provided to the animal.
- (d) Expert testimony as to the community standards for proper and reasonable care of the same type of animal.
- (e) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.
- (f) The owner's past record of judgments under the provisions of this chapter.
- (g) Convictions under the statutes prohibiting cruelty to animals.
- (h) Any other evidence the court considers to be material or relevant.

(6) If the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he or she is able and fit to have custody of and provide adequately for the animal.

(7) In any case in which an animal is offered for auction under the provisions of this section, the proceeds shall be:

- (a) Applied, first, to the cost of the sale.
- (b) Applied, secondly, to the care and provision for the animal by the officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge.*
- (c) Applied, thirdly, to the payment of the owner for the sale of the animal.
- (d) Paid over to the court if the owner is not known.

7. SEIZURE / ON-SITE SUPERVISION

FLA. STAT. ANN. § 828.073 (2012). Animals found in distress; when agent may take charge; hearing; disposition; sale.

(1) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(a) Removed from its present custody, or

(b) Made the subject of an order to provide care, issued to its owner by the county court, any law enforcement officer, or any agent of the county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and given protection and an appropriate and humane disposition made.

(2) Any law enforcement officer or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under the provisions of s. 828.03 may:

(a) Lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location, or

(b) Order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall file petition seeking relief under this section the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court shall schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced. The timeframes set forth in this subsection are not jurisdictional. However, if a failure to meet such timeframes is attributable to the officer or agent, the owner is not required to pay the officer or agent for care of the animal during any period of delay caused by the officer or agent. A fee may not be charged for filing the petition. This subsection does not require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(3) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of any animal pursuant to the provisions of this section shall have written notice served, at least 3 days before the hearing scheduled under subsection (2), upon the owner of the animal, if he or she is known and is residing in the county where the animal was taken, in conformance with the provisions of chapter 48 relating to service of process. The sheriff of the county shall not charge a fee for service of such notice.

(4)

(a) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of an animal as provided for in this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment by the owner for the care and provision for the animal while in the agent's or officer's custody; or

2. The animal is turned over to the officer or agent as provided in paragraph (c) and a humane disposition of the animal is made.

(b) If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the order shall provide that the animal in the possession of the officer or agent be claimed and removed by the owner within 7 days after the date of the order.

(c) Upon the court's judgment that the owner of the animal is unable or unfit to adequately provide for the animal:

1. The court may:

A. Order that the animal be sold by the sheriff at public auction, that the current owner have no further custody of the animal, and that any animal not bid upon be remanded to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit; or

B. Order that the animal be destroyed or remanded directly to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit.

2. The court, upon proof of costs incurred by the officer or agent, may require that the owner pay for the care of the animal while in the custody of the officer or agent. A separate hearing may be held.

3. The court may order that other animals that are in the custody of the owner and that were not seized by the officer or agent be turned over to the officer or agent, if the court determines that the owner is unable or unfit to adequately provide for the animals. The court may enjoin the owner's further possession or custody of other animals.

(5) In determining the person's fitness to have custody of an animal under the provisions of this act, the court may consider, among other matters:

- (a) Testimony from the agent or officer who seized the animal and other witnesses as to the condition of the animal when seized and as to the conditions under which the animal was kept.
- (b) Testimony and evidence as to the veterinary care provided to the animal.
- (c) Testimony and evidence as to the type and amount of care provided to the animal.
- (d) Expert testimony as to the community standards for proper and reasonable care of the same type of animal.
- (e) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.
- (f) The owner's past record of judgments under the provisions of this chapter.
- (g) Convictions under the statutes prohibiting cruelty to animals.
- (h) Any other evidence the court considers to be material or relevant.

(6) If the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he or she is able and fit to have custody of and provide adequately for the animal.

(7) In any case in which an animal is offered for auction under the provisions of this section, the proceeds shall be:

- (a) Applied, first, to the cost of the sale.
- (b) Applied, secondly, to the care and provision for the animal by the officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge.
- (c) Applied, thirdly, to the payment of the owner for the sale of the animal.
- (d) Paid over to the court if the owner is not known.

8. FORFEITURE / POSSESSION

FLA. STAT. ANN. § 828.073 (2012). Animals found in distress; when agent may take charge; hearing; disposition; sale.

(1) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(a) Removed from its present custody, or

(b) Made the subject of an order to provide care, issued to its owner by the county court, any law enforcement officer, or any agent of the county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and given protection and an appropriate and humane disposition made.

(2) Any law enforcement officer or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under the provisions of s. 828.03 may:

(a) Lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location, or

(b) Order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall file petition seeking relief under this section the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court shall schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced. The timeframes set forth in this subsection are not jurisdictional. However, if a failure to meet such timeframes is attributable to the officer or agent, the owner is not required to pay the officer or agent for care of the animal during any period of delay caused by the officer or agent. A fee may not be charged for filing the petition. This subsection does not require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(3) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of any animal pursuant to the provisions of this section shall have written notice served, at least 3 days before the hearing scheduled under subsection (2), upon the owner of the animal, if he or she is known and is residing in the county where the animal was taken, in conformance with the provisions of chapter 48 relating to service of process. The sheriff of the county shall not charge a fee for service of such notice.

(4)

(a) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of an animal as provided for in this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment by the owner for the care and provision for the animal while in the agent's or officer's custody; or

2. The animal is turned over to the officer or agent as provided in paragraph (c) and a humane disposition of the animal is made.

(b) If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the order shall provide that the animal in the possession of the officer or agent be claimed and removed by the owner within 7 days after the date of the order.

(c) Upon the court's judgment that the owner of the animal is unable or unfit to adequately provide for the animal:

1. The court may:

A. Order that the animal be sold by the sheriff at public auction, that the current owner have no further custody of the animal, and that any animal not bid upon be remanded to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit; or

B. Order that the animal be destroyed or remanded directly to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit.

2. The court, upon proof of costs incurred by the officer or agent, may require that the owner pay for the care of the animal while in the custody of the officer or agent. A separate hearing may be held.

3. The court may order that other animals that are in the custody of the owner and that were not seized by the officer or agent be turned over to the officer or agent, if the court determines that the owner is unable or unfit to adequately provide for the animals. The court may enjoin the owner's further possession or custody of other animals.

(5) *In determining the person's fitness to have custody of an animal under the provisions of this act, the court may consider, among other matters:*

(a) Testimony from the agent or officer who seized the animal and other witnesses as to the condition of the animal when seized and as to the conditions under which the animal was kept.

(b) Testimony and evidence as to the veterinary care provided to the animal.

(c) Testimony and evidence as to the type and amount of care provided to the animal.

(d) Expert testimony as to the community standards for proper and reasonable care of the same type of animal.

(e) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(f) The owner's past record of judgments under the provisions of this chapter.

(g) Convictions under the statutes prohibiting cruelty to animals.

(h) Any other evidence the court considers to be material or relevant.

(6) If the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he or she is able and fit to have custody of and provide adequately for the animal.

(7) In any case in which an animal is offered for auction under the provisions of this section, the proceeds shall be:

(a) Applied, first, to the cost of the sale.

(b) Applied, secondly, to the care and provision for the animal by the officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge.

(c) Applied, thirdly, to the payment of the owner for the sale of the animal.

(d) Paid over to the court if the owner is not known.

9. CROSS ENFORCEMENT / REPORTING

FLA. STAT. ANN. § 828.03 (2012). Agents of counties, societies, etc., may prosecute violators.

(1) Any county or any society or association for the prevention of cruelty to children or animals, organized under the laws of this state, may appoint agents for the purpose of investigating violations of any of the provisions of this chapter or any other law of the state for the purpose of protecting children and animals or preventing any act of cruelty thereto.

(2) All appointments of such agents by such societies or corporations must have the approval of the mayor of the city in which the society or association exists, and if the society or association exists or works outside of any city, the appointment must be approved by the county court judge or the judge of the circuit court for the county, and the mayor or judge shall keep a record of such appointment. The approval of the appointment of any agent by a county for either the incorporated or unincorporated areas of such county shall be by the county commission.

10. VETERINARIAN REPORTING / IMMUNITY

FLA. STAT. ANN. § 828.12(2012). Cruelty to animals.

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.

(a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.

(b) Any person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person shall be released only upon expiration of sentence, shall not be eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

(3) *A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.*

(4) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport shall be guilty of a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, “trip” means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and “horse” means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. The provisions of this subsection shall not apply when tripping is used:

(a) To control a horse that is posing an immediate threat to other livestock or human beings;

(b) For the purpose of identifying ownership of the horse when its ownership is unknown;
or

(c) For the purpose of administering veterinary care to the horse.

11. LAW ENFORCEMENT POLICIES

FLA. STAT. ANN. § 60.05(2012). Abatement of nuisances.

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should issue, the court, pending the determination on final hearing, may enjoin:

(a) The maintaining of a nuisance;

(b) The operating and maintaining of the place or premises where the nuisance is maintained;

(c) The owner or agent of the building or ground upon which the nuisance exists;

(d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.

The injunction shall specify the activities enjoined and shall not preclude the operation of any lawful business not conducive to the maintenance of the nuisance complained of. At least 3 days' notice in writing shall be given defendant of the time and place of application for the temporary injunction.

(3) Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of the nuisance. No action filed by a citizen shall be dismissed unless the court is satisfied that it should be dismissed. Otherwise the action shall continue and the state attorney notified to proceed with it. If the action is brought by a citizen and the court finds that there was no reasonable ground for the action, the costs shall be taxed against the citizen.

(4) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. No lien shall attach to the real estate of any other than said persons unless 5 days' written notice has been given to the owner or his or her agent who fails to begin to abate the nuisance within said 5 days. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893 or s. 796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the

premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.

(5) If the action was brought by the Attorney General, a state attorney, or any other officer or agency of state government; if the court finds either before or after trial that there was no reasonable ground for the action; and if judgment is rendered for the defendant, the costs and reasonable attorney's fees shall be taxed against the state.

FLA. STAT. ANN. § 823.05(2012). Places and groups engaged in criminal gang-related activity declared a nuisance; may be abated and enjoined.

(1) Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people as described in s. 823.01, or any house or place of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures, and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(2)

(a) As used in this subsection, the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” have the same meanings as provided in s. 874.03.

(b) A criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. Any and all such persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(c) The use of a location on two or more occasions by a criminal gang, criminal gang members, or criminal gang associates for the purpose of engaging in criminal gang-related activity is a public nuisance. Such use of a location as a public nuisance shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(d) Nothing in this subsection shall prevent a local governing body from adopting and enforcing laws consistent with this chapter relating to criminal gangs and gang violence. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not as preempting the field.

(e) The state, through the Department of Legal Affairs or any state attorney, or any of the state's agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of this chapter may institute civil proceedings under this subsection. In any action brought under this subsection, the circuit court shall proceed as soon as practicable to the hearing and determination. Pending final

determination, the circuit court may at any time enter such injunctions, prohibitions, or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

FLA. STAT. ANN. § 828.03 (2012). Agents of counties, societies, etc., may prosecute violators.

(1) Any county or any society or association for the prevention of cruelty to children or animals, organized under the laws of this state, may appoint agents for the purpose of investigating violations of any of the provisions of this chapter or any other law of the state for the purpose of protecting children and animals or preventing any act of cruelty thereto.

(2) All appointments of such agents by such societies or corporations must have the approval of the mayor of the city in which the society or association exists, and if the society or association exists or works outside of any city, the appointment must be approved by the county court judge or the judge of the circuit court for the county, and the mayor or judge shall keep a record of such appointment. The approval of the appointment of any agent by a county for either the incorporated or unincorporated areas of such county shall be by the county commission.

FLA. STAT. ANN. § 828.17 (2012). Officer to arrest without warrant.

Any sheriff or any other peace officer of the state, or any police officer of any city or town of the state, shall arrest without warrant any person found violating any of the provisions of ss. 828.08, 828.12, and 828.13-828.16, and the officer making the arrest shall hold the offender until a warrant can be procured, and he or she shall use proper diligence to procure such warrant.

12. SEXUAL ASSAULT

FLA. STAT. ANN. §828.126(2012).Sexual activities involving animals.

(1) *As used in this section, the term:*

(a) *“Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.*

(b) *“Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.*

(2) *A person may not:*

(a) *Knowingly engage in any sexual conduct or sexual contact with an animal;*

(b) *Knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal;*

(c) *Knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control; or*

(d) *Knowingly organize, promote, conduct, advertise, aid, abet, participate in as an observer, or perform any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.*

(3) *A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(4) *This section does not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medical practices.*

13. FIGHTING

FLA. STAT. ANN. §828.121(2012). Conduct of simulated bullfighting exhibitions.

It shall be unlawful, and punishable as a misdemeanor, for any person to conduct or engage in a simulated or bloodless bullfighting exhibition.

FLA. STAT. ANN. §828.122(2012). Fighting or baiting animals; offenses; penalties.

(1) This act may be cited as “The Animal Fighting Act.”

(2) *As used in this section, the term:*

(a) *“Animal fighting” means fighting between roosters or other birds or between dogs, bears, or other animals.*

(b) *“Baiting” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, “baiting” means the use of live animals in the training of racing greyhounds.*

(c) *“Person” means every natural person, firm, copartnership, association, or corporation.*

(3) *Any person who knowingly commits any of the following acts commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:*

(a) *Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;*

(b) *Owning, possessing, or selling equipment for use in any activity described in paragraph (a);*

(c) *Owning, leasing, managing, operating, or having control of any property kept or used for any activity described in paragraph (a) or paragraph (b);*

(d) *Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals;*

(e) *Performing any service or act to facilitate animal fighting or baiting, including, but not limited to, providing security, refereeing, or handling or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting;*

(f) Removing or facilitating the removal of any animal impounded under this section from an agency where the animal is impounded or from a location designated by the court under subsection (4), subsection (5), or subsection (7), without the prior authorization of the court;

(g) Betting or wagering any money or other valuable consideration on the fighting or baiting of animals; or

(h) Attending the fighting or baiting of animals.

Notwithstanding any provision of this subsection to the contrary, possession of the animal alone does not constitute a violation of this section.

(4) If a court finds probable cause to believe that a violation of this section or s. 828.12 has occurred, the court shall order the seizure of any animals and equipment used in committing the violation and shall provide for appropriate and humane care or disposition of the animals. This subsection is not a limitation on the power to seize animals as evidence at the time of arrest.

(5) If an animal shelter or other location is unavailable, a court may order the animal to be impounded on the property of its owner or possessor and shall order such person to provide all necessary care for the animal and to allow regular inspections of the animal by a person designated by the court.

(6) If a veterinarian finds that an animal kept or used in violation of this section is suffering from an injury or a disease severe enough that it is not possible to humanely house and care for the animal pending completion of a hearing held under s. 828.073(2), final disposition of the criminal charges, or court-ordered forfeiture, the veterinarian may euthanize the animal as specified in s. 828.058. A veterinarian licensed to practice in this state shall be held harmless from criminal or civil liability for any decisions made or services rendered under this subsection.

(7) If an animal can be housed in a humane manner, the provisions of s. 828.073 shall apply. For the purpose of a hearing provided pursuant to s. 828.073(2), any animal baited, bred, trained, transported, sold, owned, possessed, or used for the purpose of animal fighting or baiting shall be considered mistreated.

(8) In addition to other penalties prescribed by law, the court may issue an order prohibiting a person who is convicted of a violation of this section from owning, possessing, keeping, harboring, or having custody or control over any animals within the species that are the subject of the conviction, or any animals kept for the purpose of fighting or baiting, for a period of time determined by the court.

(9) *This section shall not apply to:*

(a) *Any person simulating a fight for the purpose of using the simulated fight as part of a motion picture which will be used on television or in a motion picture, provided s. 828.12 is not violated.*

(b) *Any person using animals to pursue or take wildlife or to participate in any hunting regulated or subject to being regulated by the rules and regulations of the Fish and Wildlife Conservation Commission.*

(c) *Any person using animals to work livestock for agricultural purposes.*

(d) *Any person violating s. 828.121.*

(e) *Any person using dogs to hunt wild hogs or to retrieve domestic hogs pursuant to customary hunting or agricultural practices.*

(10) *This section shall not prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.*

14. REFERENCED STATUTES

FLA. STAT. ANN. § 60.05(2012). Abatement of nuisances.

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or affidavit that a temporary injunction should issue, the court, pending the determination on final hearing, may enjoin:

- (a) The maintaining of a nuisance;
- (b) The operating and maintaining of the place or premises where the nuisance is maintained;
- (c) The owner or agent of the building or ground upon which the nuisance exists;
- (d) The conduct, operation, or maintenance of any business or activity operated or maintained in the building or on the premises in connection with or incident to the maintenance of the nuisance.

The injunction shall specify the activities enjoined and shall not preclude the operation of any lawful business not conducive to the maintenance of the nuisance complained of. At least 3 days' notice in writing shall be given defendant of the time and place of application for the temporary injunction.

(3) Evidence of the general reputation of the alleged nuisance and place is admissible to prove the existence of the nuisance. No action filed by a citizen shall be dismissed unless the court is satisfied that it should be dismissed. Otherwise the action shall continue and the state attorney notified to proceed with it. If the action is brought by a citizen and the court finds that there was no reasonable ground for the action, the costs shall be taxed against the citizen.

(4) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. No lien shall attach to the real estate of any other than said persons unless 5 days' written notice has been given to the owner or his or her agent who fails to begin to abate the nuisance within said 5 days. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893 or s. 796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the

premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.

(5) If the action was brought by the Attorney General, a state attorney, or any other officer or agency of state government; if the court finds either before or after trial that there was no reasonable ground for the action; and if judgment is rendered for the defendant, the costs and reasonable attorney's fees shall be taxed against the state.

FLA. STAT. ANN. § 823.05(2012). Places and groups engaged in criminal gang-related activity declared a nuisance; may be abated and enjoined.

(1) Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people as described in s. 823.01, or any house or place of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures, and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(2)

(a) As used in this subsection, the terms "criminal gang," "criminal gang member," "criminal gang associate," and "criminal gang-related activity" have the same meanings as provided in s. 874.03.

(b) A criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. Any and all such persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(c) The use of a location on two or more occasions by a criminal gang, criminal gang members, or criminal gang associates for the purpose of engaging in criminal gang-related activity is a public nuisance. Such use of a location as a public nuisance shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(d) Nothing in this subsection shall prevent a local governing body from adopting and enforcing laws consistent with this chapter relating to criminal gangs and gang violence. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not as preempting the field.

(e) The state, through the Department of Legal Affairs or any state attorney, or any of the state's agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of this chapter may institute civil proceedings under this subsection. In any action brought under this subsection, the circuit court shall proceed as soon as practicable to the hearing and determination. Pending final

determination, the circuit court may at any time enter such injunctions, prohibitions, or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

FLA. STAT. ANN. § 828.02 (2012). Definitions.

In this chapter, and in every law of the state relating to or in any way affecting animals, the word “animal” shall be held to include every living dumb creature; the words “torture,” “torment,” and “cruelty” shall be held to include every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief; and the words “owner” and “person” shall be held to include corporations, and the knowledge and acts of agents and employees of corporations in regard to animals transported, owned, employed by or in the custody of a corporation, shall be held to be the knowledge and act of such corporation.

FLA. STAT. ANN. § 828.03 (2012). Agents of counties, societies, etc., may prosecute violators.

(1) Any county or any society or association for the prevention of cruelty to children or animals, organized under the laws of this state, may appoint agents for the purpose of investigating violations of any of the provisions of this chapter or any other law of the state for the purpose of protecting children and animals or preventing any act of cruelty thereto.

(2) All appointments of such agents by such societies or corporations must have the approval of the mayor of the city in which the society or association exists, and if the society or association exists or works outside of any city, the appointment must be approved by the county court judge or the judge of the circuit court for the county, and the mayor or judge shall keep a record of such appointment. The approval of the appointment of any agent by a county for either the incorporated or unincorporated areas of such county shall be by the county commission.

FLA. STAT. ANN. § 828.073 (2012). Animals found in distress; when agent may take charge; hearing; disposition; sale.

(1) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(a) Removed from its present custody, or

(b) Made the subject of an order to provide care, issued to its owner by the county court, any law enforcement officer, or any agent of the county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03, and given protection and an appropriate and humane disposition made.

(2) Any law enforcement officer or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under the provisions of s. 828.03 may:

(a) Lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location, or

(b) Order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall file petition seeking relief under this section the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court shall schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced. The timeframes set forth in this subsection are not jurisdictional. However, if a failure to meet such timeframes is attributable to the officer or agent, the owner is not required to pay the officer or agent for care of the animal during any period of delay caused by the officer or agent. A fee may not be charged for filing the petition. This subsection does not require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(3) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of any animal pursuant to the provisions of this section shall have written notice served, at least 3 days before the hearing scheduled under subsection (2), upon the owner of the animal, if he or she is known and is residing in the county where the animal was taken, in conformance with the provisions of chapter 48 relating to service of process. The sheriff of the county shall not charge a fee for service of such notice.

(4)

(a) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of an animal as provided for in this section shall provide for the animal until either:

1. The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment by the owner for the care and provision for the animal while in the agent's or officer's custody; or

2. The animal is turned over to the officer or agent as provided in paragraph (c) and a humane disposition of the animal is made.

(b) If the court determines that the owner is able to provide adequately for, and have custody of, the animal, the order shall provide that the animal in the possession of the officer or agent be claimed and removed by the owner within 7 days after the date of the

order.

(c) Upon the court's judgment that the owner of the animal is unable or unfit to adequately provide for the animal:

1. The court may:

A. Order that the animal be sold by the sheriff at public auction, that the current owner have no further custody of the animal, and that any animal not bid upon be remanded to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit; or

B. Order that the animal be destroyed or remanded directly to the custody of the Society for the Prevention of Cruelty to Animals, the Humane Society, the county, or any agency or person the judge deems appropriate, to be disposed of as the agency or person sees fit.

2. The court, upon proof of costs incurred by the officer or agent, may require that the owner pay for the care of the animal while in the custody of the officer or agent. A separate hearing may be held.

3. The court may order that other animals that are in the custody of the owner and that were not seized by the officer or agent be turned over to the officer or agent, if the court determines that the owner is unable or unfit to adequately provide for the animals. The court may enjoin the owner's further possession or custody of other animals.

(5) In determining the person's fitness to have custody of an animal under the provisions of this act, the court may consider, among other matters:

(a) Testimony from the agent or officer who seized the animal and other witnesses as to the condition of the animal when seized and as to the conditions under which the animal was kept.

(b) Testimony and evidence as to the veterinary care provided to the animal.

(c) Testimony and evidence as to the type and amount of care provided to the animal.

(d) Expert testimony as to the community standards for proper and reasonable care of the same type of animal.

(e) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(f) The owner's past record of judgments under the provisions of this chapter.

(g) Convictions under the statutes prohibiting cruelty to animals.

(h) Any other evidence the court considers to be material or relevant.

(6) If the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he or she is able and fit to have custody of and provide adequately for the animal.

(7) In any case in which an animal is offered for auction under the provisions of this section, the proceeds shall be:

(a) Applied, first, to the cost of the sale.

(b) Applied, secondly, to the care and provision for the animal by the officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge.

(c) Applied, thirdly, to the payment of the owner for the sale of the animal.

(d) Paid over to the court if the owner is not known.

FLA. STAT. ANN. § 828.08 (2012). Penalty for exposing poison.

Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane, or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

FLA. STAT. ANN. § 828.12 (2012). Cruelty to animals.

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.

(a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.

(b) Any person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person shall be released only upon expiration of sentence, shall not be eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

(3) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.

(4) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport shall be guilty of a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, “trip” means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and “horse” means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. The provisions of this subsection shall not apply when tripping is used:

(a) To control a horse that is posing an immediate threat to other livestock or human beings;

(b) For the purpose of identifying ownership of the horse when its ownership is unknown;
or

(c) For the purpose of administering veterinary care to the horse.

FLA. STAT. ANN. §28.121(2012). Conduct of simulated bullfighting exhibitions.

It shall be unlawful, and punishable as a misdemeanor, for any person to conduct or engage in a simulated or bloodless bullfighting exhibition.

FLA. STAT. ANN. § 828.122 (2012). Fighting or baiting animals; offenses; penalties.

(1) This act may be cited as “The Animal Fighting Act.”

(2) As used in this section, the term:

(a) “Animal fighting” means fighting between roosters or other birds or between dogs, bears, or other animals.

(b) “Baiting” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, “baiting” means the use of live animals in the training of racing greyhounds.

(c) “Person” means every natural person, firm, copartnership, association, or corporation.

(3) Any person who knowingly commits any of the following acts commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;

(b) Owning, possessing, or selling equipment for use in any activity described in paragraph (a);

(c) Owning, leasing, managing, operating, or having control of any property kept or used for any activity described in paragraph (a) or paragraph (b);

(d) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two or more animals;

(e) Performing any service or act to facilitate animal fighting or baiting, including, but not limited to, providing security, refereeing, or handling or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting;

(f) Removing or facilitating the removal of any animal impounded under this section from an agency where the animal is impounded or from a location designated by the court under subsection (4), subsection (5), or subsection (7), without the prior authorization of the court;

(g) Betting or wagering any money or other valuable consideration on the fighting or baiting of animals; or

(h) Attending the fighting or baiting of animals.

Notwithstanding any provision of this subsection to the contrary, possession of the animal alone does not constitute a violation of this section.

(4) If a court finds probable cause to believe that a violation of this section or s. 828.12 has occurred, the court shall order the seizure of any animals and equipment used in committing the violation and shall provide for appropriate and humane care or disposition of the animals. This subsection is not a limitation on the power to seize animals as evidence at the time of arrest.

(5) If an animal shelter or other location is unavailable, a court may order the animal to be impounded on the property of its owner or possessor and shall order such person to provide all necessary care for the animal and to allow regular inspections of the animal by a person designated by the court.

(6) If a veterinarian finds that an animal kept or used in violation of this section is suffering from an injury or a disease severe enough that it is not possible to humanely house and care for the animal pending completion of a hearing held under s. 828.073(2), final disposition of the criminal charges, or court-ordered forfeiture, the veterinarian may euthanize the animal as specified in s. 828.058. A veterinarian licensed to practice in this state shall be held harmless from criminal or civil liability for any decisions made or services rendered under this subsection.

(7) If an animal can be housed in a humane manner, the provisions of s. 828.073 shall apply. For the purpose of a hearing provided pursuant to s. 828.073(2), any animal baited, bred, trained, transported, sold, owned, possessed, or used for the purpose of animal fighting or baiting shall be considered mistreated.

(8) In addition to other penalties prescribed by law, the court may issue an order prohibiting a person who is convicted of a violation of this section from owning, possessing, keeping, harboring, or having custody or control over any animals within the species that are the subject of the conviction, or any animals kept for the purpose of fighting or baiting, for a period of time determined by the court.

(9) This section shall not apply to:

(a) Any person simulating a fight for the purpose of using the simulated fight as part of a motion picture which will be used on television or in a motion picture, provided s. 828.12 is not violated.

(b) Any person using animals to pursue or take wildlife or to participate in any hunting regulated or subject to being regulated by the rules and regulations of the Fish and Wildlife Conservation Commission.

(c) Any person using animals to work livestock for agricultural purposes.

(d) Any person violating s. 828.121.

(e) Any person using dogs to hunt wild hogs or to retrieve domestic hogs pursuant to customary hunting or agricultural practices.

(10) This section shall not prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.

FLA. STAT. ANN. § 828.125 (2012). Killing or aggravated abuse of registered breed horses or cattle; offenses; penalties.

Any other provisions of this chapter to the contrary notwithstanding:

(1) Any person who willfully and unlawfully, by any means whatsoever, kills, maims, mutilates, or causes great bodily harm or permanent breeding disability to any animal of the genus *Equus* (horse) or any animal of any registered breed or recognized registered hybrid of the genus *Bos* (cattle) commits a felony of the second degree, punishable as provided by s. 775.082, s. 775.083, or s. 775.084, except that any person who commits a violation of this subsection shall be sentenced to a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of 1 year.

(2) Any person who individually attempts or solicits, or jointly agrees, conspires, combines, or confederates with another person to commit, any act prohibited by subsection (1) and does an act in furtherance of said attempt, solicitation, or conspiracy shall be guilty of a felony of the second degree and is punishable as if the person or persons had actually committed such prohibited act as enumerated in subsection (1), notwithstanding any provisions found in s. 777.04. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

(3) Any person who verbally or in writing threatens to commit any act prohibited by subsection (1) and has the apparent ability to carry out such threat and places the owner or custodian of said animal in fear that such an act as described in subsection (1) is about to take place shall be guilty of a felony of the third degree, punishable as provided by s. 775.082, s. 775.083 or s. 775.084.

(4) In addition to any other fines or penalties authorized by law, a person found guilty of violating any provision of subsection (1), subsection (2), or subsection (3) may be ordered by the court to make restitution to the aggrieved party in an amount not to exceed twice the gross fair market value of the said *Equus* or *Bos* killed or abused in an aggravated manner, or up to twice the gross loss caused, whichever is greater, plus attorney's fees and any and all related costs. Upon notice the court shall hold a hearing to determine the amount of fines, restitution, or costs to be imposed under this section, if not agreed upon by the parties.

(5) This section shall not be construed to abridge, impede, prohibit, or otherwise interfere in any way with the application, implementation, or conduct of recognized livestock husbandry practices or techniques by or at the direction of the owner of the livestock so husbanded; nor shall any person be held culpable for any act prohibited by this chapter which results from weather conditions or other acts of God, providing that the person is in compliance with recognized livestock husbandry practices.

FLA. STAT. ANN. §828.126(2012).Sexual activities involving animals.

(1) As used in this section, the term:

(a) “Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal for the purpose of sexual gratification or arousal of the person.

(b) “Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any penetration, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any penetration of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or sexual arousal of the person.

(2) A person may not:

(a) Knowingly engage in any sexual conduct or sexual contact with an animal;

(b) Knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control; or

(d) Knowingly organize, promote, conduct, advertise, aid, abet, participate in as an observer, or perform any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(3) A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) This section does not apply to accepted animal husbandry practices, conformation judging practices, or accepted veterinary medical practices.

FLA. STAT. ANN. § 828.13 (2012). Confinement of animals without sufficient food, water, or exercise; abandonment of animals.

(1) As used in this section:

(a) “Abandon” means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

(b) “Owner” includes any owner, custodian, or other person in charge of an animal.

(2) Whoever:

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

(c) Abandons to die any animal that is maimed, sick, infirm, or diseased, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.

(3) Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.

FLA. STAT. ANN. § 828.17 (2012). Officer to arrest without warrant.

Any sheriff or any other peace officer of the state, or any police officer of any city or town of the state, shall arrest without warrant any person found violating any of the provisions of ss. 828.08, 828.12, and 828.13-828.16, and the officer making the arrest shall hold the offender until a warrant can be procured, and he or she shall use proper diligence to procure such warrant.

ANIMAL PROTECTION LAWS OF GEORGIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Georgia's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Georgia may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

GEORGIA

1. GENERAL PROHIBITIONS*	(1) Abandoning domesticated animals GA. CODE ANN. § 4-11-15.1 (2) Cruelty to animals GA. CODE ANN. §16-12-4(b) (3) Aggravated cruelty to animals GA. CODE ANN. §16-12-4(c)
<i>Animals Covered in Definition</i>	“‘Animal’ shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.” GA. CODE ANN. §16-12-4(a)(1)
<i>Classification of Crimes</i>	(1) Misdemeanor (2) [1 st & subsequent offenses]: Misdemeanor [Subsequent offenses (for causing death of an animal)]: High and aggravated misdemeanor (3) [1 st offense & subsequent offenses]: Felony

GEORGIA*continued*

2. MAXIMUM PENALTIES**

(1)
1 year prison or county jail
and/or
\$1,000 fine
GA. CODE ANN. §17-10-3(a)

(2)
[1st offense]:
1 year prison or county jail
and/or
\$1,000 fine
GA. CODE ANN. §17-10-3(a)

[2nd and subsequent offenses (for causing unjustifiable pain or suffering)]:
1 year prison
and/or
\$5,000 fine
GA. CODE ANN. §16-12-4(b)(1)

[2nd and subsequent offenses (for causing death of animal)]:
1 year prison
and/or
\$10,000 fine
(punishment cannot be suspended, probated or withheld)
GA. CODE ANN. §16-12-4(b)(2)

GEORGIA*continued*

<p>2. MAXIMUM PENALTIES <i>continued</i>**</p>	<p>(3) [1st offense]: 5 years prison <i>and/or</i> \$15,000 fine GA. CODEANN.§16-12-4(c)</p> <p>[2nd and subsequent offenses]: 5 years prison <i>and/or</i> \$100,000 fine GA. CODE ANN. §16-12-4(c)</p>
<p>3. EXEMPTIONS ***</p>	<p>1, 2, 3, 4, 5, 6, 9 GA. CODEANN.§ 16-12-4(e),(f)</p> <p>2 GA. CODEANN.§ 4-11-9.2</p> <p>4, 5 GA. CODEANN.§4-11-13</p> <p>9 GA. CODE ANN. § 4-8-5</p>
<p>4. COUNSELING / EVALUATIONS†</p>	<p>Before sentencing, court may require a psychological evaluation. GA. CODE ANN. § 16-12-4(d)</p>
<p>5. PROTECTIVE ORDERS†</p>	<p>-----</p>

GEORGIA*continued*

**6. RESTITUTION / REIMBURSEMENT
OF COSTS / BONDING & LIENS[†]**

Any person impounding or providing care for an impounded animal shall have a lien on such animal for reasonable costs of care.
GA. CODE ANN. § 4-11-9.3(b)

In certain circumstances, upon payment of all costs of impoundment and care, and fulfillment of other set conditions, an impounder is authorized to return animal.
GA. CODE ANN. § 4-11-9.3(c),(d)

If an animal was improperly impounded, the costs of care and treatment shall be paid by impounding agency.
GA. CODE ANN. § 4-11-9.5(b)(5)

If animal is lawfully impounded and the owner is not found to have committed any offenses relating to the impoundment, upon payment of all costs of impoundment and care, the animal may be returned.
GA. CODE ANN. § 4-11-9.5(b)(6)

Any proceeds from sale of an impounded animal shall first be used to pay the costs of impoundment and costs of care.
GA. CODE ANN. § 4-11-9.6(b)

GEORGIA <i>continued</i>	
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Upon probable cause to believe that certain violations have occurred, the Commissioner, a designated agent, or state or local government animal control officer may apply for an inspection warrant. GA. CODE ANN. §4-11-9.2(a)</p> <p>The Commissioner, a designated agent, a state or local government animal control officer, or any sheriff, or other peace officer may impound any animal being mistreated or used in violation of the law, or if a court order is being violated. GA. CODE ANN. § 4-11-9.2(c)</p> <p>Any person impounding an animal shall make arrangements for the animal’s care. GA. CODE ANN. § 4-11-9.3(a)</p> <p>Any person impounding an animal shall notify the owner immediately. GA. CODE ANN. § 4-11-9.4</p>
<p>8. FORFEITURE / POSSESSION[†]</p>	<p>If an owner of a lawfully impounded animal is not found to have committed any offenses relating to the impoundment, the animal may be returned under certain circumstances. GA. CODE ANN. § 4-11-9.3</p> <p>If a seized animal was the object of a crime, the court may order the animal’s disposal prior to the trial of the criminal case. GA. CODE ANN. § 4-11-9.3</p> <p>Provisions governing hearings relating to the disposal of impounded animals GA. CODE ANN. § 4-11-9.5</p> <p>Procedure for disposal of an impounded</p>

	<p>animal GA. CODE ANN. § 4-11-9.6</p>
<p>GEORGIA<i>continued</i></p>	
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>Veterinarians and veterinary technicians may report suspected cases of animal cruelty and dogfighting and shall be immune from any civil or criminal liability if done in good faith. GA. CODE ANN. §4-11-17</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Upon probable cause of certain violations, the Commissioner, designated agents, or state or local government animal control officers may apply for inspection warrants and may impound animals found being treated in violation of the laws or of court orders. GA. CODEANN.§4-11-9.2(a),(c)</p> <p>Any sheriff or other peace officer shall have the authority to enforce certain animal protection statutes. GA. CODE ANN. § 4-11-9.2(b)</p>
<p>12. SEXUAL ASSAULT</p>	<p>Sexually assaulting an animal is a felony. GA. CODE ANN. §16-6-6</p>
<p>13. FIGHTING</p>	<p>Various dogfighting activities are felonies; spectatorship is a felony on second and subsequent offenses. GA. CODE ANN. §16-12-37</p> <p><i>See Editor's note regarding cockfighting in Section 13.</i></p>
<p>NOTES</p>	<p>There are specific statutes pertaining to dogs, GA. CODE ANN. § 4-8-5, and to horses GA. CODE ANN. § 4-13-3.</p> <p>In addition to criminal prosecutions or other</p>

	remedies, injunctive relief and restraining orders are also available. GA. CODE ANN. § 4-11-15 <i>Available in Section 14 “Referenced Statutes”</i>
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*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

†This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

GA. CODE ANN. §4-11-2(2012). Definitions.

As used in this article, the term:

(1) *“Adequate food and water” means food and water which is sufficient in an amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal’s health from a lack of food or water.*

(1.1) “Animal control officer” means an individual authorized by local law or by the governing authority of a county or municipality to carry out the duties imposed by this article or imposed by local ordinance.

(2) “Animal shelter” means any facility operated by or under contract for the state, a county, a municipal corporation, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes; and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(3) “Equine” means any member of the Equidae species, including horses, mules, and asses.

(4) *“Humane care” of animals means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal’s size, species, and breed.*

(5) “Kennel” means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training, or similar purposes for a fee or compensation.

(6) “Person” means any person, firm, corporation, partnership, association, or other legal entity, any public or private institution, the State of Georgia, or any county, municipal corporation, or political subdivision of the state.

(7) “Pet dealer” or “pet dealership” means any person who sells, offers to sell, exchanges, or offers for adoption dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets in this state. However, a person who sells only animals that he or she has produced and raised, not to exceed 30 animals a year, shall not be considered a pet dealer under this article unless such person is licensed for a business by a local government or has a Georgia sales tax number. The Commissioner may with respect to any breed of animals decrease the 30 animal per year exception in the foregoing sentence to a lesser number of any animals for any species that is commonly bred and sold for commercial purposes in lesser quantities. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute the veterinarian as a pet dealer, kennel, or stable under this article.

(8) “Secretary of Agriculture” means the secretary of the United States Department of Agriculture.

(9) “Stable” means any building, structure, pasture, or other enclosure where equines are maintained for boarding, holding, training, breeding, riding, pulling vehicles, or other similar purposes and a fee is charged for maintaining such equines or for the use of such equines.

GA. CODE ANN. §4-11-15.1(2012).Unlawful to abandon domestic animal.

Notwithstanding the provisions of Code Section 4-11-13, it shall be unlawful for any person knowingly and intentionally to abandon any domesticated animal upon any public or private property or public right of way. This Code section shall not be construed as amending or otherwise affecting the provisions of Chapter 3 of this title, relating to livestock running at large or straying.

GA. CODE ANN. §16-12-4(2012).Cruelty to animals.

(a) *As used in this Code section, the term:*

(1) *“Animal” shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.*

(2) *“Conviction” shall include pleas of guilty or nolocontendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolocontendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.*

(3) *“Willful neglect” means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.*

(b) *A person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect.* Any person convicted of a violation of this subsection shall be guilty of a misdemeanor; provided, however, that:

(1) Any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or both; and

(2) Any person who is convicted of a second or subsequent violation of this subsection which results in the death of an animal shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by imprisonment for not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated, or withheld.

(c) *A person commits the offense of aggravated cruelty to animals when he or she knowingly and maliciously causes death or physical harm to an animal by rendering a part of such animal's body useless or by seriously disfiguring such animal.* A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.

(d) Before sentencing a defendant for any conviction under this Code section, the sentencing judge may require psychological evaluation of the offender and shall consider the entire criminal record of the offender.

(e) The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

(f)

(1) Nothing in this Code section shall be construed as prohibiting a person from:

(A) Defending his or her person or property, or the person or property of another, from injury or damage being caused by an animal; or

(B) Injuring or killing an animal reasonably believed to constitute a threat for injury or damage to any property, livestock, or poultry.

(2) The method used to injure or kill such animal shall be designed to be as humane as is possible under the circumstances. A person who humanely injures or kills an animal under the circumstances indicated in this subsection shall incur no civil or criminal liability for such injury or death.

2. PENALTIES

GA. CODE ANN. §4-11-16 (2012).Penalties for violation.

(a) *Except as otherwise provided in Code Section 16-12-4 or 16-12-37, any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3; provided, however, that if such offense is committed by a corporation, such corporation shall be punished by a fine not to exceed \$1,000.00 for each such violation, community service of not less than 200 hours nor more than 500 hours, or both.*

(b) *Each violation of this article shall constitute a separate offense.*

GA. CODE ANN. §16-12-4(2012).Cruelty to animals.

(a) As used in this Code section, the term:

(1) “Animal” shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

(2) “Conviction” shall include pleas of guilty or nolocontendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolocontendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.

(3) “Willful neglect” means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.

(b) A person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor; provided, however, that:

(1) Any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or both; and

(2) Any person who is convicted of a second or subsequent violation of this subsection which results in the death of an animal shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by imprisonment for not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated, or withheld.

(c) A person commits the offense of aggravated cruelty to animals when he or she knowingly and maliciously causes death or physical harm to an animal by rendering a part of such animal's body useless or by seriously disfiguring such animal. *A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.*

(d) Before sentencing a defendant for any conviction under this Code section, the sentencing judge may require psychological evaluation of the offender and shall consider the entire criminal record of the offender.

(e) The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

(f)

(1) Nothing in this Code section shall be construed as prohibiting a person from:

(A) Defending his or her person or property, or the person or property of another, from injury or damage being caused by an animal; or

(B) Injuring or killing an animal reasonably believed to constitute a threat for injury or damage to any property, livestock, or poultry.

(2) The method used to injure or kill such animal shall be designed to be as humane as is possible under the circumstances. A person who humanely injures or kills an animal under the circumstances indicated in this subsection shall incur no civil or criminal liability for such injury or death.

GA. CODE ANN. §17-10-3 (2012). Misdemeanors, how punished.

(a) Except as otherwise provided by law, every crime declared to be a misdemeanor shall be punished as follows:

(1) By a fine not to exceed \$1,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a total term not to exceed 12 months, or both;

(2) By confinement under the jurisdiction of the Board of Corrections in a state probation detention center or diversion center pursuant to Code Sections 42-8-35.4 and 42-8-35.5, for a determinate term of months which shall not exceed a total term of 12 months; or

(3) If the crime was committed by an inmate within the confines of a state correctional institution, by confinement under the jurisdiction of the Board of Corrections in a state correctional institution or such other institution as the Department of Corrections may direct for a term which shall not exceed 12 months.

(b) Either the punishment provided in paragraph (1) or (2) of subsection (a) of this Code section, but not both, may be imposed in the discretion of the sentencing judge. Misdemeanor punishment imposed under either paragraph may be subject to suspension or probation. The sentencing courts shall retain jurisdiction to amend, modify, alter, suspend, or probate sentences under paragraph (1) of subsection (a) of this Code section at any time, but in no instance shall any sentence under the paragraph be modified in a manner to place a county inmate under the jurisdiction of the Board of Corrections, except as provided in paragraph (2) of subsection (a) of this Code section.

(c) In all misdemeanor cases in which, upon conviction, a six-month sentence or less is imposed, it is within the authority and discretion of the sentencing judge to allow the sentence to be served on weekends by weekend confinement or during the nonworking hours of the defendant. A weekend shall commence and shall end in the discretion of the sentencing judge, and the nonworking hours of the defendant shall be determined in the discretion of the sentencing judge; provided, however, that the judge shall retain plenary control of the defendant at all times during the sentence period. A weekend term shall be counted as serving two days of the full sentence. Confinement during the nonworking hours of a defendant during any day may be counted as serving a full day of the sentence.

(d) In addition to or instead of any other penalty provided for the punishment of a misdemeanor involving a traffic offense, or punishment of a municipal ordinance involving a traffic offense, with the exception of habitual offenders sentenced under Code Section 17-10-7, a judge may impose any one or more of the following sentences:

(1) Reexamination by the Department of Driver Services when the judge has good cause to believe that the convicted licensed driver is incompetent or otherwise not qualified to be licensed;

(2) Attendance at, and satisfactory completion of, a driver improvement course meeting standards approved by the court;

(3) Within the limits of the authority of the charter powers of a municipality or the punishment prescribed by law in other courts, imprisonment at times specified by the court or release from imprisonment upon such conditions and at such times as may be specified; or

(4) Probation or suspension of all or any part of a penalty upon such terms and conditions as may be prescribed by the judge. The conditions may include driving with no further motor vehicle violations during a specified time unless the driving privileges have been or will be otherwise suspended or revoked by law; reporting periodically to the court or a specified agency; and performing, or refraining from performing, such acts as may be ordered by the judge.

(e) Any sentence imposed under subsection (d) of this Code section shall be reported to the Department of Driver Services as prescribed by law.

(f) The Department of Corrections shall lack jurisdiction to supervise misdemeanor offenders, except when the sentence is made concurrent to a probated felony sentence or when the sentence is accepted pursuant to Code Section 42-9-71. Except as provided in this subsection, the Department of Corrections shall lack jurisdiction to confine misdemeanor offenders.

(g) This Code section will have no effect upon any offender convicted of a misdemeanor offense prior January 1, 2001, and sentenced to confinement under the jurisdiction of the Board of Corrections or to the supervision of the Department of Corrections.

3. EXEMPTIONS

GA. CODE ANN. § 4-8-5 (2012). Cruelty to dogs; authorized killing of dogs.

(a) No person shall perform a cruel act on any dog; nor shall any person harm, maim, or kill any dog, or attempt to do so, *except that a person may:*

(1) Defend his or her person or property, or the person or property of another, from injury or damage being caused by a dog; or

(2) Kill any dog causing injury or damage to any livestock, poultry, or pet animal.

(b) The method used for killing the dog shall be designed to be as humane as is possible under the circumstances. *A person who humanely kills a dog under the circumstances indicated in subsection (a) of this Code section shall incur no liability for such death.*

(c) This Code section shall not be construed to limit in any way the authority or duty of any law enforcement officer, dog or rabies control officer, humane society, or veterinarian.

GA. CODE ANN. §4-11-9.2(2012). Inspection warrants; impounding of animals.

(a) At any time there is probable cause to believe that a violation of this article or any rule or regulation adopted pursuant to this article has occurred, the Commissioner, his or her designated agent, or an animal control officer who is an employee of state or local government may apply to the appropriate court in the county in which the animal is located for an inspection warrant under the provisions of Code Section 2-2-11.

(b) Any sheriff, deputy sheriff, or other peace officer shall have the authority to enforce the provisions of this article and Code Sections 16-12- 4 and 16-12-37.

(c) The Commissioner, his or her designated agent, an animal control officer who is an employee of state or local government, or any sheriff, deputy sheriff, or other peace officer is authorized to impound any animal:

(1) That has not received humane care;

(2) That has been subjected to cruelty in violation of Code Section 16-12-4;

(3) That is used or intended for use in any violation of Code Section 16-12-37; or

(4) If it is determined that a consent order or other order concerning the treatment of animals issued pursuant to this article is being violated.

(d) Prior to an animal being impounded pursuant to paragraph (1), (2), or (3) of subsection (c) of this Code section, a licensed accredited veterinarian approved by the Commissioner or a veterinarian employed by a state or federal government and approved by the Commissioner, shall, at the request of the Commissioner, his or her designee, an animal control officer, a sheriff, a deputy sheriff, or other peace officer, examine and determine the condition or treatment of the animal.

(e) The provisions of this Code section and Code Sections 4-11-9.3 to 4-11-9.6 shall not apply to scientific experiments or investigations conducted by or at an accredited college or university in this state or research facility registered with the Commissioner or the United States Department of Agriculture.

GA. CODE ANN. §4-11-13(2012). Article not applicable to persons raising animals for human consumption.

The provisions of this article shall not apply to any person who raises, keeps, or maintains animals solely for the purposes of human consumption.

GA. CODE ANN. §16-12-4(2012).Cruelty to animals.

(a) As used in this Code section, the term:

(1) “Animal” shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

(2) “Conviction” shall include pleas of guilty or nolocontendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolocontendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.

(3) “Willful neglect” means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.

(b) A person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor; provided, however, that:

(1) Any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or both; and

(2) Any person who is convicted of a second or subsequent violation of this subsection which results in the death of an animal shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by imprisonment for not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated, or withheld.

(c) A person commits the offense of aggravated cruelty to animals when he or she knowingly and maliciously causes death or physical harm to an animal by rendering a part of such animal's body useless or by seriously disfiguring such animal. A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.

(d) Before sentencing a defendant for any conviction under this Code section, the sentencing judge may require psychological evaluation of the offender and shall consider the entire criminal record of the offender.

(e) The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

(f)

(1) Nothing in this Code section shall be construed as prohibiting a person from:

(A) Defending his or her person or property, or the person or property of another, from injury or damage being caused by an animal; or

(B) Injuring or killing an animal reasonably believed to constitute a threat for injury or damage to any property, livestock, or poultry.

(2) The method used to injure or kill such animal shall be designed to be as humane as is possible under the circumstances. A person who humanely injures or kills an animal under the circumstances indicated in this subsection shall incur no civil or criminal liability for such injury or death.

4. COUNSELING / EVALUATIONS

GA. CODE ANN. §16-12-4(2012).Cruelty to animals.

(a) As used in this Code section, the term:

(1) “Animal” shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

(2) “Conviction” shall include pleas of guilty or nolocontendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolocontendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.

(3) “Willful neglect” means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.

(b) A person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor; provided, however, that:

(1) Any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or both; and

(2) Any person who is convicted of a second or subsequent violation of this subsection which results in the death of an animal shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by imprisonment for not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated, or withheld.

(c) A person commits the offense of aggravated cruelty to animals when he or she knowingly and maliciously causes death or physical harm to an animal by rendering a part of such animal’s body useless or by seriously disfiguring such animal. A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.

(d) *Before sentencing a defendant for any conviction under this Code section, the sentencing judge may require psychological evaluation of the offender and shall consider the entire criminal record of the offender.*

(e) The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

(f)

(1) Nothing in this Code section shall be construed as prohibiting a person from:

(A) Defending his or her person or property, or the person or property of another, from injury or damage being caused by an animal; or

(B) Injuring or killing an animal reasonably believed to constitute a threat for injury or damage to any property, livestock, or poultry.

(2) The method used to injure or kill such animal shall be designed to be as humane as is possible under the circumstances. A person who humanely injures or kills an animal under the circumstances indicated in this subsection shall incur no civil or criminal liability for such injury or death.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

GA. CODE ANN. § 4-11-9.3(2012). Duty to make arrangements for care of impounded animal; lien for cost of care; return of animal to owner.

(a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.

(b) Any person impounding an animal under this article or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any court that is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.

(c) Any person impounding an animal under this article shall be authorized to return such animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner, in a prior administrative or legal action in this state or any other state, was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:

(1) Such animal shall be given humane care and adequate and necessary veterinary services;

(2) Such animal shall not be subjected to cruelty; and

(3) The owner shall comply with this article.

(d) The provisions of subsection (c) of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner without the approval of the prosecuting attorney. An agency having custody of an animal that was seized as an object or instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the court having jurisdiction over the offense for an order authorizing such agency to dispose of the animal prior to trial of the criminal case as provided by law.

GA. CODE ANN. §4-11-9.5(2012). Hearing on impoundment of animal.

(a) If the owner of an animal impounded pursuant to this article fails to respond in writing within five business days of the date the notice of impoundment was served, or, if the owner is unknown or could not be found within 30 days of publication of the notice of impoundment, the impounded animal may be disposed of pursuant to Code Section 4-11-9.6.

(b)

(1) If the owner of an animal impounded pursuant to this article refuses to enter into a consent agreement with the government agency having custody of the animal that such animal will be given humane care and adequate and necessary veterinary care, the owner may request, in writing, a hearing within five business days of the date the notice of impoundment was served on such owner, or, if the owner is unknown or could not be found, within 30 days of the date of publication of the notice of impoundment. Such request for hearing shall be served upon the government agency having custody of the animal. If no hearing is requested within the time limits specified in this paragraph and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the owner, the right to a hearing shall have been waived.

(2) Within 30 days after receiving a written request for a hearing, the government agency having custody of the animal shall hold a hearing as is provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If the animal is in the custody of an agency of local government which has, by local law or ordinance, established a procedure for hearing such matters, the body designated in such local law or ordinance shall conduct the hearing required by this Code section. If the local government does not have a hearing procedure, the government agency having custody of the animal may refer the matter to the Office of State Administrative Hearings. If the animal is in the custody of the Department of Agriculture, the Commissioner or his or her designee shall conduct the hearing. The hearing shall be public and all testimony shall be received under oath. A record of the proceedings at such hearing shall be made and maintained by the hearing officer as provided in Code Section 50-13-13.

(3) The scope of the hearing shall be limited to whether the impounding of the animal was authorized by subsection (c) of Code Section 4-11-9.2.

(4) The hearing officer shall, within five business days after such hearing, forward a decision to the person who impounded the animal and the government agency having custody of the animal.

(5) If the hearing officer finds that the animal was improperly impounded, the animal shall be returned to the owner and the cost incurred in providing reasonable care and treatment for the animal from the date of impoundment to the date of the order shall be paid by the impounding agency.

(6) *If the hearing officer finds that the animal was lawfully impounded, the hearing officer may:*

(A) Recommend that the government agency having custody of the animal dispose of the animal as provided in Code Section 4-11-9.6; or

(B) Unless, in a prior administrative or legal action in this state or any other state, the owner has been found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the government agency having custody of the animal. Such conditions may include, but are not limited to, the following, that:

(i) Such animal shall be given humane care and adequate and necessary veterinary services;

(ii) Such animal shall not be subjected to mistreatment; and

(iii) The owner shall comply with this article.

(c) The provisions of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner or disposed of without the approval of the prosecuting attorney.

GA. CODE ANN. §4-11-9.6(2012).Disposal of impounded animal.

(a) The government agency having custody of an animal impounded pursuant to this article which is not returned to the owner as provided in Code Sections 4- 11-9.3 and 4-11-9.5 may dispose of the animal through sale by any commercially feasible means, at a public auction or by sealed bids, or, if in the opinion of a licensed accredited veterinarian or a veterinarian employed by a state or federal government and approved by the Commissioner such animal has a temperament or condition such that euthanasia is the only reasonable course of action, by humanely disposing of the animal.

(b) Any proceeds from the sale of such animal shall be used first to pay the costs associated with the impoundment, including, but not limited to, removal of the animal from the premises, shelter and care of the animal, notice, hearing, and disposition of the animal. Any funds remaining shall:

(1) If the owner is unknown or cannot be found, be paid into the state treasury if the animal was impounded by the Commissioner or his or her designated agent or into the treasury of the local government if the animal was impounded by the sheriff, a deputy sheriff, another law enforcement officer, or an animal control officer; or

(2) If the owner is known, be paid to the owner.

(c) The government agency responsible for conducting the sale shall keep a record of all sales, disbursements, and distributions made under this article.

7. SEIZURE / ON-SITE SUPERVISION

GA. CODE ANN. §4-11-9.2(2012). Inspection warrants; impounding of animals.

(a) *At any time there is probable cause to believe that a violation of this article or any rule or regulation adopted pursuant to this article has occurred, the Commissioner, his or her designated agent, or an animal control officer who is an employee of state or local government may apply to the appropriate court in the county in which the animal is located for an inspection warrant under the provisions of Code Section 2-2-11.*

(b) Any sheriff, deputy sheriff, or other peace officer shall have the authority to enforce the provisions of this article and Code Sections 16-12- 4 and 16-12-37.

(c) *The Commissioner, his or her designated agent, an animal control officer who is an employee of state or local government, or any sheriff, deputy sheriff, or other peace officer is authorized to impound any animal:*

(1) That has not received humane care;

(2) That has been subjected to cruelty in violation of Code Section 16-12-4;

(3) That is used or intended for use in any violation of Code Section 16-12-37; or

(4) If it is determined that a consent order or other order concerning the treatment of animals issued pursuant to this article is being violated.

(d) *Prior to an animal being impounded pursuant to paragraph (1), (2), or (3) of subsection (c) of this Code section, a licensed accredited veterinarian approved by the Commissioner or a veterinarian employed by a state or federal government and approved by the Commissioner, shall, at the request of the Commissioner, his or her designee, an animal control officer, a sheriff, a deputy sheriff, or other peace officer, examine and determine the condition or treatment of the animal.*

(e) The provisions of this Code section and Code Sections 4-11-9.3 to 4- 11-9.6 shall not apply to scientific experiments or investigations conducted by or at an accredited college or university in this state or research facility registered with the Commissioner or the United States Department of Agriculture.

GA. CODE ANN. § 4-11-9.3(2012). Duty to make arrangements for care of impounded animal; lien for cost of care; return of animal to owner.

(a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.

(b) Any person impounding an animal under this article or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any court that is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.

(c) Any person impounding an animal under this article shall be authorized to return such animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner, in a prior administrative or legal action in this state or any other state, was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:

(1) Such animal shall be given humane care and adequate and necessary veterinary services;

(2) Such animal shall not be subjected to cruelty; and

(3) The owner shall comply with this article.

(d) The provisions of subsection (c) of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner without the approval of the prosecuting attorney. An agency having custody of an animal that was seized as an object or instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the court having jurisdiction over the offense for an order authorizing such agency to dispose of the animal prior to trial of the criminal case as provided by law.

GA. CODE ANN. §4-11-9.4(2012).Notification to owner of impoundment of animal.

(a) It shall be the duty of any person impounding an animal under this article to notify the owner of such animal immediately upon impoundment. Such notice shall state the name and business address of the person impounding the animal, the name and address of the state or local government agency having custody of the animal, a description of the animal, the reason why the animal was impounded, and a statement of the time limits for the owner to respond and request a hearing as provided in Code Section 4-11-9.5. The notice shall be provided by personal service or by registered mail, certified mail, or statutory overnight delivery sent to the last known address of the owner. Service of the notice which complies with subsection (b) of Code Section 9-11-5 shall in all cases be sufficient. If the owner of such animal is unknown or cannot be found, service of the notice on the owner shall be made by posting the notice in a conspicuous place at the location where the animal was impounded and by publishing a notice once in a newspaper of general circulation in the county where the animal was impounded.

(b) An animal impounded pursuant to this article is deemed to be in the custody of the state or local government agency responsible for enforcement of this article within said county or municipality.

8. FORFEITURE / POSSESSION

GA. CODE ANN. § 4-11-9.3(2012). Duty to make arrangements for care of impounded animal; lien for cost of care; return of animal to owner.

(a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.

(b) Any person impounding an animal under this article or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any court that is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.

(c) Any person impounding an animal under this article shall be authorized to return such animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner, in a prior administrative or legal action in this state or any other state, was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:

(1) Such animal shall be given humane care and adequate and necessary veterinary services;

(2) Such animal shall not be subjected to cruelty; and

(3) The owner shall comply with this article.

(d) The provisions of subsection (c) of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner without the approval of the prosecuting attorney. An agency having custody of an animal that was seized as an object or instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the court having jurisdiction over the offense for an order authorizing such agency to dispose of the animal prior to trial of the criminal case as provided by law.

GA. CODE ANN. §4-11-9.5(2012). Hearing on impoundment of animal.

(a) If the owner of an animal impounded pursuant to this article fails to respond in writing within five business days of the date the notice of impoundment was served, or, if the owner is unknown or could not be found within 30 days of publication of the notice of impoundment, the impounded animal may be disposed of pursuant to Code Section 4-11-9.6.

(b)

(1) If the owner of an animal impounded pursuant to this article refuses to enter into a consent agreement with the government agency having custody of the animal that such animal will be given humane care and adequate and necessary veterinary care, the owner may request, in writing, a hearing within five business days of the date the notice of impoundment was served on such owner, or, if the owner is unknown or could not be found, within 30 days of the date of publication of the notice of impoundment. Such request for hearing shall be served upon the government agency having custody of the animal. If no hearing is requested within the time limits specified in this paragraph and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the owner, the right to a hearing shall have been waived.

(2) Within 30 days after receiving a written request for a hearing, the government agency having custody of the animal shall hold a hearing as is provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If the animal is in the custody of an agency of local government which has, by local law or ordinance, established a procedure for hearing such matters, the body designated in such local law or ordinance shall conduct the hearing required by this Code section. If the local government does not have a hearing procedure, the government agency having custody of the animal may refer the matter to the Office of State Administrative Hearings. If the animal is in the custody of the Department of Agriculture, the Commissioner or his or her designee shall conduct the hearing. The hearing shall be public and all testimony shall be received under oath. A record of the proceedings at such hearing shall be made and maintained by the hearing officer as provided in Code Section 50-13-13.

(3) The scope of the hearing shall be limited to whether the impounding of the animal was authorized by subsection (c) of Code Section 4-11-9.2.

(4) The hearing officer shall, within five business days after such hearing, forward a decision to the person who impounded the animal and the government agency having custody of the animal.

(5) If the hearing officer finds that the animal was improperly impounded, the animal shall be returned to the owner and the cost incurred in providing reasonable care and treatment for the animal from the date of impoundment to the date of the order shall be paid by the impounding agency.

(6) If the hearing officer finds that the animal was lawfully impounded, the hearing officer may:

(A) Recommend that the government agency having custody of the animal dispose of the animal as provided in Code Section 4-11-9.6; or

(B) Unless, in a prior administrative or legal action in this state or any other state, the owner has been found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the government agency having custody of the animal. Such conditions may include, but are not limited to, the following, that:

(i) Such animal shall be given humane care and adequate and necessary veterinary services;

(ii) Such animal shall not be subjected to mistreatment; and

(iii) The owner shall comply with this article.

(c) The provisions of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner or disposed of without the approval of the prosecuting attorney.

GA. CODE ANN. §4-11-9.6(2012).Disposal of impounded animal.

(a) The government agency having custody of an animal impounded pursuant to this article which is not returned to the owner as provided in Code Sections 4- 11-9.3 and 4-11-9.5 may dispose of the animal through sale by any commercially feasible means, at a public auction or by sealed bids, or, if in the opinion of a licensed accredited veterinarian or a veterinarian employed by a state or federal government and approved by the Commissioner such animal has a temperament or condition such that euthanasia is the only reasonable course of action, by humanely disposing of the animal.

(b) Any proceeds from the sale of such animal shall be used first to pay the costs associated with the impoundment, including, but not limited to, removal of the animal from the premises, shelter and care of the animal, notice, hearing, and disposition of the animal. Any funds remaining shall:

(1) If the owner is unknown or cannot be found, be paid into the state treasury if the animal was impounded by the Commissioner or his or her designated agent or into the treasury of the local government if the animal was impounded by the sheriff, a deputy sheriff, another law enforcement officer, or an animal control officer; or

(2) If the owner is known, be paid to the owner.

(c) The government agency responsible for conducting the sale shall keep a record of all sales, disbursements, and distributions made under this article.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

GA. CODE ANN. §4-11-17 (2012). Reports of animal cruelty or dog fighting by veterinarians or veterinary technicians; immunity from civil or criminal liability.

(a) Notwithstanding Code Section 24-9-29 or any other provision of law to the contrary, any licensed veterinarian or veterinary technician having reasonable cause to believe that an animal has been subjected to animal cruelty in violation of Code Section 16-12-4 or an act prohibited under Code Section 16-12-37 may make or cause to be made a report of such violation to the Commissioner, his or her designee, an animal control officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in any judicial or administrative proceeding concerning the care of an animal.

(b) Any person participating in the making of a report pursuant to this Code section or participating in any administrative or judicial proceeding pursuant to this article or Title 16 shall, in so doing, be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided such participation pursuant to this Code section or any other law is made in good faith.

11. LAW ENFORCEMENT POLICIES

GA. CODE ANN. §4-11-9.2(2012). Inspection warrants; impounding of animals.

(a) *At any time there is probable cause to believe that a violation of this article or any rule or regulation adopted pursuant to this article has occurred, the Commissioner, his or her designated agent, or an animal control officer who is an employee of state or local government may apply to the appropriate court in the county in which the animal is located for an inspection warrant under the provisions of Code Section 2-2-11.*

(b) *Any sheriff, deputy sheriff, or other peace officer shall have the authority to enforce the provisions of this article and Code Sections 16-12- 4 and 16-12-37.*

(c) *The Commissioner, his or her designated agent, an animal control officer who is an employee of state or local government, or any sheriff, deputy sheriff, or other peace officer is authorized to impound any animal:*

(1) That has not received humane care;

(2) That has been subjected to cruelty in violation of Code Section 16-12-4;

(3) That is used or intended for use in any violation of Code Section 16-12-37; or

(4) If it is determined that a consent order or other order concerning the treatment of animals issued pursuant to this article is being violated.

(d) Prior to an animal being impounded pursuant to paragraph (1), (2), or (3) of subsection (c) of this Code section, a licensed accredited veterinarian approved by the Commissioner or a veterinarian employed by a state or federal government and approved by the Commissioner, shall, at the request of the Commissioner, his or her designee, an animal control officer, a sheriff, a deputy sheriff, or other peace officer, examine and determine the condition or treatment of the animal.

(e) The provisions of this Code section and Code Sections 4-11-9.3 to 4- 11-9.6 shall not apply to scientific experiments or investigations conducted by or at an accredited college or university in this state or research facility registered with the Commissioner or the United States Department of Agriculture.

12. SEXUAL ASSAULT

GA. CODE ANN. §16-6-6 (2012). Bestiality.

(a) A person commits the offense of bestiality when he performs or submits to any sexual act with an animal involving the sex organs of the one and the mouth, anus, penis, or vagina of the other.

(b) A person convicted of the offense of bestiality shall be punished by imprisonment for not less than one nor more than five years.

13. FIGHTING

GA. CODE ANN. §16-12-37 (2012).Dogfighting.

(a) As used in this Code section, the term “dog” means any domestic canine.

(b) Any person who:

(1) Owns, possesses, trains, transports, or sells any dog with the intent that such dog shall be engaged in fighting with another dog;

(2) For amusement or gain, causes any dog to fight with another dog or for amusement or gain, causes any dogs to injure each other;

(3) Wagers money or anything of value on the result of such dogfighting;

(4) Knowingly permits any act in violation of paragraph (1) or (2) of this subsection on any premises under the ownership or control of such person or knowingly aids or abets any such act; or

(5) Knowingly promotes or advertises an exhibition of fighting with another dog

shall be guilty of a felony and, upon the first conviction thereof, shall be punished by imprisonment of not less than one nor more than five years, a fine of not less than \$5,000.00, or both such fine and imprisonment. On a second or subsequent conviction, such person shall be punished by imprisonment of not less than one nor more than ten years, a fine of not less than \$15,000.00, or both such fine and imprisonment. Each act or omission in violation of this subsection shall constitute a separate offense.

(c) Any person who is knowingly present only as a spectator at any place for the fighting of dogs shall, upon a first conviction thereof, be guilty of a misdemeanor of a high and aggravated nature. On a second conviction, such person shall be guilty of a felony and shall be punished by imprisonment of not less than one nor more than five years, a fine of not less than \$5,000.00, or both such fine and imprisonment. On a third or subsequent conviction, such person shall be punished by imprisonment of not less than one nor more than ten years, a fine of not less than \$15,000.00, or both such fine and imprisonment. Each act in violation of this subsection shall constitute a separate offense.

(d) Any dog subject to fighting may be impounded pursuant to the provisions of Code Sections 4-11-9.2 through 4-11-9.6.

(e) This Code section shall not prohibit, impede, or otherwise interfere with animal husbandry, training techniques, competition, events, shows, or practices not otherwise specifically prohibited by law and shall not apply to the following activities:

(1) Owning, using, breeding, training, or equipping any animal to pursue, take, hunt, or recover wildlife or any animal lawfully hunted under Title 27 or participating in hunting or fishing in accordance with the provisions of Title 27 and rules and regulations promulgated pursuant thereto as such rules and regulations existed on the date specified in Code Section 27-1-39;

(2) Owning, using, breeding, training, or equipping dogs to work livestock for agricultural purposes in accordance with the rules and regulations of the Commissioner of Agriculture as such rules and regulations existed on January 1, 2008;

*(3) Owning, using, breeding, training, or equipping dogs for law enforcement purposes;
or*

(4) Owning, using, breeding, training, or equipping any animal to control damage from nuisance or pest species in and around structures or agricultural operations.

Editor's note: *Cockfighting (and presumably other types of animal fighting) is "cruelty to animals."* Morgan v. State, 195 Ga.App.52, 392 S.E.2d 715 (1990).

14. REFERENCED STATUTES

GA. CODE ANN. § 4-8-5 (2012). Cruelty to dogs; authorized killing of dogs.

(a) No person shall perform a cruel act on any dog; nor shall any person harm, maim, or kill any dog, or attempt to do so, except that a person may:

(1) Defend his or her person or property, or the person or property of another, from injury or damage being caused by a dog; or

(2) Kill any dog causing injury or damage to any livestock, poultry, or pet animal.

(b) The method used for killing the dog shall be designed to be as humane as is possible under the circumstances. A person who humanely kills a dog under the circumstances indicated in subsection (a) of this Code section shall incur no liability for such death.

(c) This Code section shall not be construed to limit in any way the authority or duty of any law enforcement officer, dog or rabies control officer, humane society, or veterinarian.

GA. CODE ANN. §4-11-2(2012). Definitions.

As used in this article, the term:

(1) “Adequate food and water” means food and water which is sufficient in an amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal’s health from a lack of food or water.

(1.1) “Animal control officer” means an individual authorized by local law or by the governing authority of a county or municipality to carry out the duties imposed by this article or imposed by local ordinance.

(2) “Animal shelter” means any facility operated by or under contract for the state, a county, a municipal corporation, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes; and any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(3) “Equine” means any member of the Equidae species, including horses, mules, and asses.

(4) “Humane care” of animals means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal’s size, species, and breed.

(5) “Kennel” means any establishment, other than an animal shelter, where dogs or cats are maintained for boarding, holding, training, or similar purposes for a fee or compensation.

(6) “Person” means any person, firm, corporation, partnership, association, or other legal entity, any public or private institution, the State of Georgia, or any county, municipal corporation, or political subdivision of the state.

(7) “Pet dealer” or “pet dealership” means any person who sells, offers to sell, exchanges, or offers for adoption dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets in this state. However, a person who sells only animals that he or she has produced and raised, not to exceed 30 animals a year, shall not be considered a pet dealer under this article unless such person is licensed for a business by a local government or has a Georgia sales tax number. The Commissioner may with respect to any breed of animals decrease the 30 animal per year exception in the foregoing sentence to a lesser number of any animals for any species that is commonly bred and sold for commercial purposes in lesser quantities. Operation of a veterinary hospital or clinic by a licensed veterinarian shall not constitute the veterinarian as a pet dealer, kennel, or stable under this article.

(8) “Secretary of Agriculture” means the secretary of the United States Department of Agriculture.

(9) “Stable” means any building, structure, pasture, or other enclosure where equines are maintained for boarding, holding, training, breeding, riding, pulling vehicles, or other similar purposes and a fee is charged for maintaining such equines or for the use of such equines.

GA. CODE ANN. §4-11-9.2(2012). Inspection warrants; impounding of animals.

(a) At any time there is probable cause to believe that a violation of this article or any rule or regulation adopted pursuant to this article has occurred, the Commissioner, his or her designated agent, or an animal control officer who is an employee of state or local government may apply to the appropriate court in the county in which the animal is located for an inspection warrant under the provisions of Code Section 2-2-11.

(b) Any sheriff, deputy sheriff, or other peace officer shall have the authority to enforce the provisions of this article and Code Sections 16-12- 4 and 16-12-37.

(c) The Commissioner, his or her designated agent, an animal control officer who is an employee of state or local government, or any sheriff, deputy sheriff, or other peace officer is authorized to impound any animal:

- (1) That has not received humane care;
- (2) That has been subjected to cruelty in violation of Code Section 16-12-4;
- (3) That is used or intended for use in any violation of Code Section 16-12-37; or
- (4) If it is determined that a consent order or other order concerning the treatment of animals issued pursuant to this article is being violated.

(d) Prior to an animal being impounded pursuant to paragraph (1), (2), or (3) of subsection (c) of this Code section, a licensed accredited veterinarian approved by the Commissioner or a veterinarian employed by a state or federal government and approved by the Commissioner, shall, at the request of the Commissioner, his or her designee, an animal control officer, a sheriff, a deputy sheriff, or other peace officer, examine and determine the condition or treatment of the animal.

(e) The provisions of this Code section and Code Sections 4-11-9.3 to 4-11-9.6 shall not apply to scientific experiments or investigations conducted by or at an accredited college or university in this state or research facility registered with the Commissioner or the United States Department of Agriculture.

GA. CODE ANN. §4-11-9.3(2012). Duty to make arrangements for care of impounded animal; lien for cost of care; return of animal to owner.

(a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.

(b) Any person impounding an animal under this article or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any court that is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.

(c) Any person impounding an animal under this article shall be authorized to return such animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner, in a prior administrative or legal action in this state or any other state, was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:

(1) Such animal shall be given humane care and adequate and necessary veterinary services;

(2) Such animal shall not be subjected to cruelty; and

(3) The owner shall comply with this article.

(d) The provisions of subsection (c) of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner without the approval of the prosecuting attorney. An agency having custody of an animal that was seized as an object or instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the court having jurisdiction over the offense for an order authorizing such agency to dispose of the animal prior to trial of the criminal case as provided by law.

GA. CODE ANN. §4-11-9.4(2012).Notification to owner of impoundment of animal.

(a) It shall be the duty of any person impounding an animal under this article to notify the owner of such animal immediately upon impoundment. Such notice shall state the name and business address of the person impounding the animal, the name and address of the state or local government agency having custody of the animal, a description of the animal, the reason why the animal was impounded, and a statement of the time limits for the owner to respond and request a hearing as provided in Code Section 4-11-9.5. The notice shall be provided by personal service or by registered mail, certified mail, or statutory overnight delivery sent to the last known address of the owner. Service of the notice which complies with subsection (b) of Code Section 9-11-5 shall in all cases be sufficient. If the owner of such animal is unknown or cannot be found, service of the notice on the owner shall be made by posting the notice in a conspicuous place at the location where the animal was impounded and by publishing a notice once in a newspaper of general circulation in the county where the animal was impounded.

(b) An animal impounded pursuant to this article is deemed to be in the custody of the state or local government agency responsible for enforcement of this article within said county or municipality.

GA. CODE ANN. §4-11-9.5(2012). Hearing on impoundment of animal.

(a) If the owner of an animal impounded pursuant to this article fails to respond in writing within five business days of the date the notice of impoundment was served, or, if the owner is unknown or could not be found within 30 days of publication of the notice of impoundment, the impounded animal may be disposed of pursuant to Code Section 4-11-9.6.

(b)

(1) If the owner of an animal impounded pursuant to this article refuses to enter into a consent agreement with the government agency having custody of the animal that such animal will be given humane care and adequate and necessary veterinary care, the owner may request, in writing, a hearing within five business days of the date the notice of impoundment was served on such owner, or, if the owner is unknown or could not be found, within 30 days of the date of publication of the notice of impoundment. Such request for hearing shall be served upon the government agency having custody of the animal. If no hearing is requested within the time limits specified in this paragraph and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the owner, the right to a hearing shall have been waived.

(2) Within 30 days after receiving a written request for a hearing, the government agency having custody of the animal shall hold a hearing as is provided in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If the animal is in the custody of an agency of local government which has, by local law or ordinance, established a procedure for hearing such matters, the body designated in such local law or ordinance shall conduct the hearing required by this Code section. If the local government does not have a hearing procedure, the government agency having custody of the animal may refer the matter to the Office of State Administrative Hearings. If the animal is in the custody of the Department of Agriculture, the Commissioner or his or her designee shall conduct the hearing. The hearing shall be public and all testimony shall be received under oath. A record of the proceedings at such hearing shall be made and maintained by the hearing officer as provided in Code Section 50-13-13.

(3) The scope of the hearing shall be limited to whether the impounding of the animal was authorized by subsection (c) of Code Section 4-11-9.2.

(4) The hearing officer shall, within five business days after such hearing, forward a decision to the person who impounded the animal and the government agency having custody of the animal.

(5) If the hearing officer finds that the animal was improperly impounded, the animal shall be returned to the owner and the cost incurred in providing reasonable care and treatment for the animal from the date of impoundment to the date of the order shall be paid by the impounding agency.

(6) If the hearing officer finds that the animal was lawfully impounded, the hearing officer may:

(A) Recommend that the government agency having custody of the animal dispose of the animal as provided in Code Section 4-11-9.6; or

(B) Unless, in a prior administrative or legal action in this state or any other state, the owner has been found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the government agency having custody of the animal. Such conditions may include, but are not limited to, the following, that:

(i) Such animal shall be given humane care and adequate and necessary veterinary services;

(ii) Such animal shall not be subjected to mistreatment; and

(iii) The owner shall comply with this article.

(c) The provisions of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner or disposed of without the approval of the prosecuting attorney.

GA. CODE ANN. §4-11-9.6(2012).Disposal of impounded animal.

(a) The government agency having custody of an animal impounded pursuant to this article which is not returned to the owner as provided in Code Sections 4-11-9.3 and 4-11-9.5 may dispose of the animal through sale by any commercially feasible means, at a public auction or by sealed bids, or, if in the opinion of a licensed accredited veterinarian or a veterinarian employed by a state or federal government and approved by the Commissioner such animal has a temperament or condition such that euthanasia is the only reasonable course of action, by humanely disposing of the animal.

(b) Any proceeds from the sale of such animal shall be used first to pay the costs associated with the impoundment, including, but not limited to, removal of the animal from the premises, shelter and care of the animal, notice, hearing, and disposition of the animal. Any funds remaining shall:

(1) If the owner is unknown or cannot be found, be paid into the state treasury if the animal was impounded by the Commissioner or his or her designated agent or into the treasury of the local government if the animal was impounded by the sheriff, a deputy sheriff, another law enforcement officer, or an animal control officer; or

(2) If the owner is known, be paid to the owner.

(c) The government agency responsible for conducting the sale shall keep a record of all sales, disbursements, and distributions made under this article.

GA. CODE ANN. §4-11-13(2012). Article not applicable to persons raising animals for human consumption.

The provisions of this article shall not apply to any person who raises, keeps, or maintains animals solely for the purposes of human consumption.

GA. CODE ANN. § 4-11-15 (2012).Injunctions and restraining orders.

In addition to the remedies provided in this article or elsewhere in the laws of this state and notwithstanding the existence of an adequate remedy at law, the Commissioner or, where authorized by the local governing authority, the city or county attorney is authorized to apply to the superior court for an injunction or restraining order. The court shall for good cause shown grant a temporary or permanent injunction or an ex parte or restraining order, restraining or enjoining any person, partnership, firm, corporation, or other entity from violating and continuing to violate this article, any rules and regulations promulgated under this article, Code Section 16-12-4, or Code Section 16-12-37. Such injunction or restraining order shall be issued without bond and may be granted notwithstanding the fact that the violation constitutes a criminal act and notwithstanding the pendency of any criminal prosecution for the same violation.

GA. CODE ANN. §4-11-15.1(2012).Unlawful to abandon domestic animal.

Notwithstanding the provisions of Code Section 4-11-13, it shall be unlawful for any person knowingly and intentionally to abandon any domesticated animal upon any public or private property or public right of way. This Code section shall not be construed as amending or otherwise affecting the provisions of Chapter 3 of this title, relating to livestock running at large or straying.

GA. CODE ANN. §4-11-16 (2012).Penalties for violation.

(a) Except as otherwise provided in Code Section 16-12-4 or 16-12-37, any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3; provided, however, that if such offense is committed by a corporation, such corporation shall be punished by a fine not to exceed \$1,000.00 for each such violation, community service of not less than 200 hours nor more than 500 hours, or both.

(b) Each violation of this article shall constitute a separate offense.

GA. CODE ANN. §4-11-17 (2012).Reports of animal cruelty or dog fighting by veterinarians or veterinary technicians; immunity from civil or criminal liability.

(a) Notwithstanding Code Section 24-9-29 or any other provision of law to the contrary, any licensed veterinarian or veterinary technician having reasonable cause to believe that an animal has been subjected to animal cruelty in violation of Code Section 16-12-4 or an act prohibited under Code Section 16-12-37 may make or cause to be made a report of such violation to the Commissioner, his or her designee, an animal control officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in any judicial or administrative proceeding concerning the care of an animal.

(b) Any person participating in the making of a report pursuant to this Code section or participating in any administrative or judicial proceeding pursuant to this article or Title 16 shall, in so doing, be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided such participation pursuant to this Code section or any other law is made in good faith.

GA. CODE ANN. §16-6-6 (2012). Bestiality.

(a) A person commits the offense of bestiality when he performs or submits to any sexual act with an animal involving the sex organs of the one and the mouth, anus, penis, or vagina of the other.

(b) A person convicted of the offense of bestiality shall be punished by imprisonment for not less than one nor more than five years.

GA. CODE ANN. §16-12-4(2012).Cruelty to animals.

(a) As used in this Code section, the term:

(1) “Animal” shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

(2) "Conviction" shall include pleas of guilty or nolocontendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolocontendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.

(3) "Willful neglect" means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.

(b) A person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor; provided, however, that:

(1) Any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or both; and

(2) Any person who is convicted of a second or subsequent violation of this subsection which results in the death of an animal shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by imprisonment for not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated, or withheld.

(c) A person commits the offense of aggravated cruelty to animals when he or she knowingly and maliciously causes death or physical harm to an animal by rendering a part of such animal's body useless or by seriously disfiguring such animal. A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.

(d) Before sentencing a defendant for any conviction under this Code section, the sentencing judge may require psychological evaluation of the offender and shall consider the entire criminal record of the offender.

(e) The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

(f)

(1) Nothing in this Code section shall be construed as prohibiting a person from:

(A) Defending his or her person or property, or the person or property of another, from injury or damage being caused by an animal; or

(B) Injuring or killing an animal reasonably believed to constitute a threat for injury or damage to any property, livestock, or poultry.

(2) The method used to injure or kill such animal shall be designed to be as humane as is possible under the circumstances. A person who humanely injures or kills an animal under the circumstances indicated in this subsection shall incur no civil or criminal liability for such injury or death.

GA. CODE ANN. §16-12-37 (2012).Dogfighting.

(a) As used in this Code section, the term “dog” means any domestic canine.

(b) Any person who:

(1) Owns, possesses, trains, transports, or sells any dog with the intent that such dog shall be engaged in fighting with another dog;

(2) For amusement or gain, causes any dog to fight with another dog or for amusement or gain, causes any dogs to injure each other;

(3) Wagers money or anything of value on the result of such dogfighting;

(4) Knowingly permits any act in violation of paragraph (1) or (2) of this subsection on any premises under the ownership or control of such person or knowingly aids or abets any such act; or

(5) Knowingly promotes or advertises an exhibition of fighting with another dog

shall be guilty of a felony and, upon the first conviction thereof, shall be punished by imprisonment of not less than one nor more than five years, a fine of not less than \$5,000.00, or both such fine and imprisonment. On a second or subsequent conviction, such person shall be punished by imprisonment of not less than one nor more than ten years, a fine of not less than \$15,000.00, or both such fine and imprisonment. Each act or omission in violation of this subsection shall constitute a separate offense.

(c) Any person who is knowingly present only as a spectator at any place for the fighting of dogs shall, upon a first conviction thereof, be guilty of a misdemeanor of a high and aggravated nature. On a second conviction, such person shall be guilty of a felony and shall be punished by imprisonment of not less than one nor more than five years, a fine of not less than \$5,000.00, or both such fine and imprisonment. On a third or subsequent conviction, such person shall be punished by imprisonment of not less than one nor more than ten years, a fine of not less than \$15,000.00, or both such fine and imprisonment. Each act in violation of this subsection shall constitute a separate offense.

(d) Any dog subject to fighting may be impounded pursuant to the provisions of Code Sections 4-11-9.2 through 4-11-9.6.

(e) This Code section shall not prohibit, impede, or otherwise interfere with animal husbandry, training techniques, competition, events, shows, or practices not otherwise specifically prohibited by law and shall not apply to the following activities:

(1) Owning, using, breeding, training, or equipping any animal to pursue, take, hunt, or recover wildlife or any animal lawfully hunted under Title 27 or participating in hunting or fishing in accordance with the provisions of Title 27 and rules and regulations promulgated pursuant thereto as such rules and regulations existed on the date specified in Code Section 27-1-39;

(2) Owning, using, breeding, training, or equipping dogs to work livestock for agricultural purposes in accordance with the rules and regulations of the Commissioner of Agriculture as such rules and regulations existed on January 1, 2008;

(3) Owning, using, breeding, training, or equipping dogs for law enforcement purposes;
or

(4) Owning, using, breeding, training, or equipping any animal to control damage from nuisance or pest species in and around structures or agricultural operations.

GA. CODE ANN. §17-10-3 (2012).Misdemeanors, how punished.

(a) Except as otherwise provided by law, every crime declared to be a misdemeanor shall be punished as follows:

(1) By a fine not to exceed \$1,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a total term not to exceed 12 months, or both;

(2) By confinement under the jurisdiction of the Board of Corrections in a state probation detention center or diversion center pursuant to Code Sections 42-8-35.4 and 42-8-35.5, for a determinate term of months which shall not exceed a total term of 12 months; or

(3) If the crime was committed by an inmate within the confines of a state correctional institution, by confinement under the jurisdiction of the Board of Corrections in a state correctional institution or such other institution as the Department of Corrections may direct for a term which shall not exceed 12 months.

(b) Either the punishment provided in paragraph (1) or (2) of subsection (a) of this Code section, but not both, may be imposed in the discretion of the sentencing judge. Misdemeanor punishment imposed under either paragraph may be subject to suspension or probation. The sentencing courts shall retain jurisdiction to amend, modify, alter, suspend, or probate sentences under paragraph (1) of subsection (a) of this Code section at any time, but in no instance shall any sentence under the paragraph be modified in a manner to place a county inmate under the jurisdiction of the Board of Corrections, except as provided in paragraph (2) of subsection (a) of this Code section.

(c) In all misdemeanor cases in which, upon conviction, a six-month sentence or less is imposed, it is within the authority and discretion of the sentencing judge to allow the sentence to be served on weekends by weekend confinement or during the nonworking hours of the defendant. A weekend shall commence and shall end in the discretion of the sentencing judge, and the nonworking hours of the defendant shall be determined in the discretion of the sentencing judge; provided, however, that the judge shall retain plenary control of the defendant at all times during the sentence period. A weekend term shall be counted as serving two days of the full sentence. Confinement during the nonworking hours of a defendant during any day may be counted as serving a full day of the sentence.

(d) In addition to or instead of any other penalty provided for the punishment of a misdemeanor involving a traffic offense, or punishment of a municipal ordinance involving a traffic offense, with the exception of habitual offenders sentenced under Code Section 17-10-7, a judge may impose any one or more of the following sentences:

(1) Reexamination by the Department of Driver Services when the judge has good cause to believe that the convicted licensed driver is incompetent or otherwise not qualified to be licensed;

(2) Attendance at, and satisfactory completion of, a driver improvement course meeting standards approved by the court;

(3) Within the limits of the authority of the charter powers of a municipality or the punishment prescribed by law in other courts, imprisonment at times specified by the court or release from imprisonment upon such conditions and at such times as may be specified; or

(4) Probation or suspension of all or any part of a penalty upon such terms and conditions as may be prescribed by the judge. The conditions may include driving with no further motor vehicle violations during a specified time unless the driving privileges have been or will be otherwise suspended or revoked by law; reporting periodically to the court or a specified agency; and performing, or refraining from performing, such acts as may be ordered by the judge.

(e) Any sentence imposed under subsection (d) of this Code section shall be reported to the Department of Driver Services as prescribed by law.

(f) The Department of Corrections shall lack jurisdiction to supervise misdemeanor offenders, except when the sentence is made concurrent to a probated felony sentence or when the sentence is accepted pursuant to Code Section 42-9-71. Except as provided in this subsection, the Department of Corrections shall lack jurisdiction to confine misdemeanor offenders.

(g) This Code section will have no effect upon any offender convicted of a misdemeanor offense prior January 1, 2001, and sentenced to confinement under the jurisdiction of the Board of Corrections or to the supervision of the Department of Corrections.

GA. CODE ANN. §17-10-4 (2012). Punishment for misdemeanor of a high and aggravated nature.

(a) A person who is convicted of a misdemeanor of a high and aggravated nature shall be punished by a fine not to exceed \$5,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a term not to exceed 12 months, or both; provided, however, that a person convicted of a misdemeanor of a high and aggravated nature which was committed by an inmate within the confines of a state correctional institution and sentenced to confinement as a result of such offense shall be sentenced to confinement under the jurisdiction of the Board of Corrections in a state correctional institution or such other institution as the Department of Corrections may direct for a term which shall not exceed 12 months. In all cases of a conviction of a misdemeanor of a high and aggravated nature, the sentencing court shall retain jurisdiction to amend, modify, alter, suspend, or probate sentences imposed under this Code section at any time; but in no instance shall a sentence imposed under this Code section be modified in such a manner as to increase the amount of fine or the term of confinement.

(b) Notwithstanding any laws to the contrary, a person sentenced for a misdemeanor of a high and aggravated nature may earn no more than four days per month earned time allowance.

ANIMAL PROTECTION LAWS OF GUAM

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Guam's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Guam may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Cruelty to animals in the second degree 9 GUAM CODE ANN. § 70.10</p> <p>(2) Cruelty to animals in the first degree 9 GUAM CODE ANN. § 70.10.1</p> <p>(3) Animal abandonment 9 GUAM CODE ANN. § 70.10.2</p> <p>(4) Animal neglect 10 GUAM CODE ANN. § 34205(a)</p> <p>(5) Cruelty to animals 10 GUAM CODE ANN. § 34205(b)</p> <p>(6) Animal abandonment 10 GUAM CODE ANN. § 34205(c)</p>
<p><i>Animals Covered in Definition</i></p>	<p>“Animal” means a domestic animal, a household pet or a wild animal in captivity. 9 GUAM CODE ANN. § 70.01(a)</p> <p>“Domestic animal” means any animal, other than livestock, that is owned or possessed by a person. 9 GUAM CODE ANN. § 70.01(b)</p> <p>“Pet” means a cat or dog. 10 GUAM CODE ANN. § 34101</p> <p>“Animal” means any live non-human vertebrate creature, domestic or wild. 10 GUAM CODE ANN. § 34201(a)</p> <p>“Pet” means any animal kept for pleasure rather than utility.</p>

	10 GUAM CODE ANN. § 34201(k)
GUAM <i>continued</i>	
<i>Classification of Crimes</i>	(1) Misdemeanor (2) Third-degree felony (3) Petty misdemeanor (4)-(6) Violation
2. MAXIMUM PENALTIES**	(1) 1 year imprisonment 9 GUAM CODE ANN. § 80.34(a) <i>and</i> \$1,000 fine 9 GUAM CODE ANN. § 80.50(c) (2) <i>1st offense:</i> 3 years imprisonment 9 GUAM CODE ANN. § 80.31(c) <i>and</i> \$5,000 fine 9 GUAM CODE ANN. § 80.50(b) <i>Subsequent offenses:</i> 5 years imprisonment 9 GUAM CODE ANN. § 80.30(c) <i>and</i> \$5,000 fine 9 GUAM CODE ANN. § 80.50(b) (3) 60 days imprisonment 9 GUAM CODE ANN. § 80.34(b) <i>and</i> \$500 fine 9 GUAM CODE ANN. § 80.50 (4)-(6)

	\$500 fine 10 GUAM CODE ANN. §§ 34125, 34210
GUAM <i>continued</i>	
3. EXEMPTIONS ***	1, 2, 3, 5, 6, 9 9 GUAM CODE ANN. §§ 70.10, 70.10.1 9 10 GUAM CODE ANN. §§ 34110–34112, 34210(b)
4. COUNSELING / EVALUATIONS †	-----
5. PROTECTIVE ORDERS †	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS †	Offender may be required to make restitution. 9 GUAM CODE ANN. § 80.50 Owners whose seized animals are returned to them shall be assessed a per diem fee for the animal’s care based on the holding facility’s operating costs. 10 GUAM CODE ANN. § 34117 In addition to any other penalty, the defendant shall pay all applicable costs, including care for impounded animals. 10 GUAM CODE ANN. § 34125 Anyone who receives ownership or reclaims a seized animal may be assessed a per diem fee based on the holding facility’s operating costs. 10 GUAM CODE ANN. § 34209(c)

GUAM <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION	<p>Upon probable cause of animal cruelty, neglect or abandonment, any officer under exigent circumstances may enter premises and impound the animal(s). Notice of impoundment shall be posted. No liability for non-reckless damages for entry. 9GUAM CODE ANN. § 70.10.3</p> <p>The Director of Agriculture may impound and hold mistreated or neglected pets. 10 GUAM CODE ANN. §§34117, 34209(b)</p> <p>Any officer is authorized to enter upon any private premises, and is authorized to remove any pet from public or private property, if that officer has reason to believe that the pet or its owner is being mistreated or neglected. 10 GUAM CODE ANN. § 34121</p>
8. FORFEITURE / POSSESSION[†]	<p>The Director of Agriculture may order a seized pet destroyed or given up for adoption, as the Director deems in the best interests of the pet and the public. 10 GUAM CODE ANN. §§34117, 34209(c)</p>
9. CROSS ENFORCEMENT / REPORTING	<p>Physicians and other health care professionals shall report suspected dogfighting, and failure to do so may result in loss of licensure. 9 GUAM CODE ANN. § 70.11(f)</p>
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians shall report suspected dogfighting, and failure to do so may result in loss of licensure. 9 GUAM CODE ANN. § 70.11(f)</p>

GUAM <i>continued</i>	
11. LAW ENFORCEMENT POLICIES	<p>Any officer authorized by the Director of Agriculture shall have authority as a peace officer to the extent necessary to enable them to discharge all duties assigned to them by law.</p> <p>10 GUAM CODE ANN. § 34121</p> <p>Any peace officer may issue a citation of violation for animal mistreatment.</p> <p>10 GUAM CODE ANN. § 34209</p>
12. SEXUAL ASSAULT	-----
13. FIGHTING	<p>Animal fighting (not including cockfighting) is a violation.</p> <p>10 GUAM CODE ANN. § 34205(b)</p> <p>EDITOR'S NOTE:Cockfighting is legal. It is regulated and licensed pursuant to 22 GCA BUS. REG. CH. 39.</p> <p>Various dogfighting activities, including spectatorship, are third degree felonies.</p> <p>9 GUAM CODE ANN. § 70.11</p> <p>Court may order seizure of alleged fighting dogs. Costs of care for such dogs are entitled to be received from the defendant. Upon conviction, the court may order defendant to pay costs as restitution.</p> <p>9 GUAM CODE ANN. § 70.11</p>
<i>Other Felony Provisions Affecting Animals</i> [‡]	-----

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states and territories may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡ This list is not exhaustive; states and territories may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

9 GUAM CODE ANN. § 70.01 (2012). Cruelty to Animals; Definitions.

For purposes of this Chapter:

(a) "Animal" means a domestic animal, a household pet or a wild animal in captivity.

(b) "Domestic animal" means any animal, other than livestock, that is owned or possessed by a person.

(c) "Good animal husbandry" includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

(d) "Minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

(1) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;

(2) open or adequate access to potable water in sufficient quantity to satisfy the animal's needs;

(3) access to a structure sufficient to protect the animal from wind, rain, or sun;

(4) veterinary care deemed necessary by a reasonably prudent person to relieve injury, neglect or disease;

(5) for a domestic animal, continuous access to an area:

(A) with adequate space and room for exercise necessary for the health of the animal, and

(B) kept reasonably clean and free from excess waste or other contaminants that could affect the health of the animal(s).

(e) *“Officer” means a member of the Guam Police Department, a Mayor of Guam, an Animal Control Officer, or any other person authorized by law by the Chief of the Guam Police Department or by the Director of the Department of Agriculture.*

(f) *“Physical injury” means physical trauma, impairment of physical condition or substantial pain.*

(g) *“Physical trauma” means fractures, cuts, punctures, bruises, burns or other wounds.*

(h) *“Serious physical injury” means physical injury that creates a substantial risk of death or that causes protracted disfigurement, impairment of health or impairment to the function of a limb or bodily organ.*

(i) *“Torture” means an action taken for the primary purpose of inflicting pain.*

9 GUAM CODE ANN. § 70.10 (2012).Cruelty to Animals: Defined; Exceptions; Penalty.

(a) *A person commits the crime of animal abuse in the second degree if the person intentionally, knowingly or recklessly, except as otherwise authorized by law:*

(1) causes physical injury to an animal;

(2) fails to provide minimum care for the animal(s) in such person’s custody and control, and the failure to provide such minimum care causes physical injury to the animal(s); or

(3) kills, impounds or injures any animal belonging to another without legal authority or consent of the owner.

(b) *Animal abuse in the second degree is a misdemeanor.*

(c) Subsection (a) shall not be applicable to:

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfection of rodents, insects and arachnids.

9 GUAM CODE ANN. § 70.10.1 (2012). Animal Abuse in the First Degree.

(a) A person commits the crime of animal abuse in the first degree if the person intentionally, knowingly or recklessly, except as otherwise authorized by law:

(1) causes serious physical injury to the animal(s), cruelly causes the death of the animal(s) or tortures the animal(s); or

(2) fails to provide minimum care for the animal(s) in the person's custody or control, and the failure to provide care results in serious physical injury or death to the animal(s).

(b) Animal abuse in the first degree is a third-degree felony.

(c) Subsection (a) of this Section shall not be applicable to:

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfection of rodents, insects and arachnids.

9 GUAM CODE ANN. § 70.10.2 (2012). Animal Abandonment.

(a) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal at a location without providing 'minimum care' as defined in this Chapter.

(b) Animal abandonment is a petty misdemeanor.

10 GUAM CODE ANN. § 34101 (2012). Definitions.

For purposes of this Article:

(a) *“Euthanasia” means putting an animal to death by drug in a manner provided by regulation of the Department of Agriculture (the Department).*

(b) *“Impoundment” means strict confinement under restraint by leash, cage or paddock upon premises specified by order of the Director of Agriculture (the “Director”).*

(c) *“Officer” means a member of the Guam Police Department, a Mayor of Guam, or a person authorized by the Director.*

(d) *“Person” means any natural person, association, partnership, firm, corporation or any government entity.*

(e) *“Pet” means a cat or dog.*

(f) *“Pet owner” means any person or legal entity who harbors, cares for, exercises control over or knowingly permits any pet to remain on premises occupied by that person or legal entity.*

(g) *“Running at large” means any dog that*

(1) is not restrained on private property in a manner that physically prevents the dog from leaving that property or reaching any public areas; or

(2) when on public property, or any public area, is not restrained by a leash, tether or other physical control device not to exceed eight (8) feet in length and under the physical control of a capable person.

(h) *“Unlicensed pet” means any pet not exempted under the provisions of this Article for which the license for the current year has not been issued or to which the license tag is not attached.*

(i) *“Department” means the Department of Agriculture.*

(j) *“Director” means the Director of Agriculture.*

10 GUAM CODE ANN. § 34201 (2012). Definitions.

For purposes of this Article:

- (a) “Animal” means any live non-human vertebrate creature, domestic or wild;*
- (b) “Animal shelter” means any facility operated by a humane society, the government of Guam or their authorized agents for the purpose of caring for animals held under the authority of this Article;*
- (c) “Auctions” mean any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this Article. This does not apply to individual sales of animals by owners;*
- (d) “Circus” means a commercial variety show featuring animal acts for public entertainment;*
- (e) “Commercial animal establishment” means a pet shop, grooming shop, auction, riding school or stable, zoological park, circus performing animal exhibition, animal quarantine facility or kennel;*
- (f) “Grooming shop” means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed;*
- (g) “Officer” means a member of the Guam Police Department, a Mayor or a person authorized by the Director of Agriculture (the “Director”);*
- (h) “Kennel” means any premises wherein any person engaged in the business of boarding, breeding, buying, letting for hire, training for a fee, selling dogs or cats, or any premises in a non-agricultural zone area upon which five (5) or more adult dogs or cats are harbored or kept;*
- (i) “Owner” means any person, partnership or corporation owning, keeping or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered three (3) consecutive days or more;*
- (j) “Performing animal exhibition” means any spectacle, display, act or event other than circuses in which performing animals are used;*
- (k) “Pet” means any animal kept for pleasure rather than utility;*
- (l) “Pet shop” means any person, partnership or corporation, whether operated separately or in connection with another business enterprise except for a licensed kennel that buys, sells or boards any species of animal;*

(m) *“Public nuisance” means any animal that:*

- (1) Molests passersby or passing vehicles;*
- (2) Attacks other animals;*
- (3) Trespasses on school grounds;*
- (4) Is repeatedly at large; or*
- (5) Damages private or public property;*

(n) *“Restraint” means any animal secured by a leash or lead or under the control of a responsible person and obedient to that person’s commands or within the real property limits of its owner;*

(o) *“Riding school or stables” mean any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro;*

(p) *“Veterinary hospital” means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals;*

(q) *“Vicious animal” means any animal that constitutes a physical threat to human beings or other animals;*

(r) *“Wild animal” means any animal which is not commonly domesticated, or which is not native to Guam, or which, irrespective of geographic origin, is of a wild or predatory nature, or any domesticated animal, which because of its size, vicious nature or other characteristics would constitute an unreasonable danger to human life or property if not kept, maintained or contained in a safe and secure manner;*

(s) *“Zoological parks” means any facility, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of non-domesticated animals operated by a person, partnership, corporation or government agency;*

(t) *“Permitting authority” means the Department of Agriculture (the Department) which shall be the permitting authority for purposes of this Article.*

10 GUAM CODE ANN. §34205(2012).Animal Care.

(a) *No person who has an animal or animals in his custody or control shall fail to provide the animal(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, space to exercise, an area which is reasonably clean and free of excrement which may be injurious to the health of the animal(s), veterinary care when needed to prevent suffering, and with other humane care and treatment as necessary to preserve the health and well-being of the animal(s).*

(b) No person shall beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse an animal or cause, instigate or permit any dogfight, bullfight or other combat between animals with the exception of cockfighting as regulated by the Cockpit License Board.

(c) No owner of an animal shall abandon such animal.

(d) No person shall crop a dog's ears except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort and in no event shall any person except a licensed veterinarian perform such an operation.

(e) Any person who, as the operator of a motor vehicle, strikes a domestic or wild animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to an officer.

(f) Only a licensed veterinarian shall perform ear cropping or tail docking on an animal, which shall be performed in accordance with the American Veterinarian Medical Association policy, and the veterinarian shall counsel pet owners about this matter before agreeing to perform these surgeries and shall record said consultation in the pet's record.

2. PENALTIES

9 GUAM CODE ANN. § 80.30(2012). Duration of Imprisonment.

Except as otherwise provided by law, a person who has been convicted of a felony may be sentenced to imprisonment as follows:

- (a) In the case of a felony of the first degree, the court shall impose a sentence of not less than five (5) years and not more than twenty (20) years;
- (b) In the case of a felony of the second degree, the court shall impose a sentence of not less than three (3) years and not more than ten (10) years; and
- (c) *In the case of a felony of the third degree, the court may impose a sentence of not more than five (5) years.*

9 GUAM CODE ANN. § 80.31(2012). Prison Terms for First Offenders.

In the cases to which § 80.30 is applicable as to the sentencing of the person, a person who has not previously been convicted of a criminal offense and has been convicted of a felony for the first time may be sentenced to imprisonment as follows:

- (a) In the case of a felony of the first degree, the court shall impose a sentence of not less than three (3) years and not more than fifteen (15) years;
- (b) In the case of a felony of the second degree, the court shall impose a sentence of not less than one (1) year and not more than eight (8) years; and
- (c) *In the case of a felony of the third degree, the court may impose a sentence of not more than three (3) years.*

9 GUAM CODE ANN. § 80.34 (2012). Misdemeanor & Petty Misdemeanor Sentences.

Except as otherwise provided by § 80.36, a person who has been convicted of a misdemeanor or a petty misdemeanor may be sentenced to imprisonment, as follows:

- (a) *in the case of a misdemeanor, the court shall set a maximum term not to exceed one (1) year;*
- (b) *in the case of a petty misdemeanor, the court shall set a definite term not to exceed sixty (60) days.*

9 GUAM CODE ANN. § 80.50 (2012). Fines & Restitution as Sentence Allowed: Limited.

A person who has been convicted of an offense may be sentenced to pay a fine or to make restitution not exceeding:

(a) Ten Thousand Dollars (\$10,000.00), when the conviction is of a felony of the first or second degree;

(b) Five Thousand Dollars (\$5,000.00), when the conviction is of a felony of the third degree;

(c) One Thousand Dollars (\$1,000.00), when the conviction is of a misdemeanor;

(d) Five Hundred Dollars (\$500.00), when the conviction is of a petty misdemeanor or violation;

(e) Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this Section, the term “gain” means the amount of money or the value of the property derived by the offender and the term “loss” means the amount of value separated from the victim;

(f) Any amount specifically authorized by statute.

The restitution ordered paid to the victim shall not exceed his loss.

10 GUAM CODE ANN. § 34125(2012). Penalties for Violation of Articles 1 and 2.

Notwithstanding the penalties created by § 34124, violations of Articles 1 and 2 of this Chapter shall be punished by a fine to be imposed on the pet owner of not less than \$25 for the first offense, \$50 for a second offense, and \$100 for a third and subsequent offense. The pet owner shall also pay all applicable costs, such as vaccination, licensing and the per diem fee for impoundment.

10 GUAM CODE ANN. § 34210(2012). Penalties.

(a) Except as otherwise provided herein, any person violating any provision of this Article shall be deemed guilty of a violation and shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). If any violation be continuing, each day’s violation shall be deemed a separate violation.

(b) The provisions of this Article shall not apply to any operator of a greyhound racing track nor to any greyhound racing dog so long as such greyhound is subject to regulation by the Department of Revenue and Taxation.

3. EXEMPTIONS

9 GUAM CODE ANN. § 70.10 (2012).Cruelty to Animals: Defined; Exceptions; Penalty.

(a) A person commits the crime of animal abuse in the second degree if the person intentionally, knowingly or recklessly, except as otherwise authorized by law:

(1) causes physical injury to an animal;

(2) fails to provide minimum care for the animal(s) in such person's custody and control, and the failure to provide such minimum care causes physical injury to the animal(s); or

(3) kills, impounds or injures any animal belonging to another without legal authority or consent of the owner.

(b) Animal abuse in the second degree is a misdemeanor.

(c) *Subsection (a) shall not be applicable to:*

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfection of rodents, insects and arachnids.

9 GUAM CODE ANN. § 70.10.1 (2012).Animal Abuse in the First Degree.

(a) A person commits the crime of animal abuse in the first degree if the person intentionally, knowingly or recklessly, except as otherwise authorized by law:

(1) causes serious physical injury to the animal(s), cruelly causes the death of the animal(s) or tortures the animal(s); or

(2) fails to provide minimum care for the animal(s) in the person's custody or control, and the failure to provide care results in serious physical injury or death to the animal(s).

(b) Animal abuse in the first degree is a third-degree felony.

(c) *Subsection (a) of this Section shall not be applicable to:*

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfection of rodents, insects and arachnids.

10 GUAM CODE ANN. § 34110(2012). Immediate menace.

It shall be lawful for any officer, if there are no other readily available means of bringing the pet under control, to kill any pet that constitutes an immediate menace to any person. The officer shall turn the carcass of the pet over to the Department as soon as possible for examination as determined by the Director, and compile a written report and submit to the Director describing the event leading to the killing if said pet was licensed.

10 GUAM CODE ANN. § 34111(2012). Persons attacked by animal.

Any person who is attacked by a pet or animal or any person witnessing any such attack may kill such pet or animal while so attacking or thereafter. Such person shall notify the Department immediately of such killing and remain with the carcass until an officer takes possession of the carcass. The carcass shall be immediately delivered to the Department for examination.

10 GUAM CODE ANN. § 34112(2012). Pet trespassing on private property.

(a) Any person who shall observe a pet to be trespassing on land or premises not owned or possessed by owner of the pet shall report such trespass to the Pet Control Unit.

(b) It shall be unlawful for any person to kill a pet not owned by him except in any of the following cases or as otherwise provided in this Article

(1) The pet is found in the act of killing, wounding or persistently pursuing livestock or poultry on land or premises not owned or possessed by the pet owner;

(2) The person has such proof as conclusively shows that the pet has recently engaged in killing or wounding his livestock or poultry on land or premises owned by him.

Any person killing or injuring a pet pursuant to action taken by him as authorized under any section of this Article shall not incur any financial liability to the owner of such pet.

10 GUAM CODE ANN. § 34210(2012). Penalties.

(a) Except as otherwise provided herein, any person violating any provision of this Article shall be deemed guilty of a violation and shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). If any violation be continuing, each day's violation shall be deemed a separate violation.

(b) The provisions of this Article shall not apply to any operator of a greyhound racing track nor to any greyhound racing dog so long as such greyhound is subject to regulation by the Department of Revenue and Taxation.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

9 GUAM CODE ANN. § 80.50 (2012). Fines & Restitution as Sentence Allowed: Limited.

A person who has been convicted of an offense may be sentenced to pay a fine or to make restitution not exceeding:

(a) Ten Thousand Dollars (\$10,000.00), when the conviction is of a felony of the first or second degree;

(b) Five Thousand Dollars (\$5,000.00), when the conviction is of a felony of the third degree;

(c) One Thousand Dollars (\$1,000.00), when the conviction is of a misdemeanor;

(d) Five Hundred Dollars (\$500.00), when the conviction is of a petty misdemeanor or violation;

(e) Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this Section, the term "gain" means the amount of money or the value of the property derived by the offender and the term "loss" means the amount of value separated from the victim;

(f) Any amount specifically authorized by statute.

The restitution ordered paid to the victim shall not exceed his loss.

10 GUAM CODE ANN. § 34117(2012). Impoundment.

The Director may impound and hold at the facility any pet that is the subject of a violation of this Article, any pet that requires protective custody and care because of mistreatment or neglect by its owner, or a pet that the Superior Court orders him to impound. The Director may authorize the destruction of the impounded pet as provided in this Article, or may return the pet to its owner, or may order the pet given up for adoption, as the Director determines to be in the best interests of the pet and the public. *The owners of any pets returned to them shall be assessed a per diem fee for the animal's care based on the facility's operating costs.*

10 GUAM CODE ANN. § 34125(2012). Penalties for Violation of Articles 1 and 2.

Notwithstanding the penalties created by § 34124, violations of Articles 1 and 2 of this Chapter shall be punished by a fine to be imposed on the pet owner of not less than \$25 for the first offense, \$50 for a second offense, and \$100 for a third and subsequent offense. *The pet owner shall also pay all applicable costs, such as vaccination, licensing and the per diem fee for impoundment.*

10 GUAM CODE ANN. § 34209(2012). Authority of Officers and Director.

(a) Any peace officer may issue a citation of violation as provided in Title 8 GCA §§ 25.10 through 25.50.

(b) The Director may impound any pet or wild animal that is the subject of a violation of this Article, any pet or wild animal that requires protective custody and care because of mistreatment or neglect by its owner, or a pet or wild animal that the Superior Court orders him to impound.

(c) The Director may authorize the destruction of the animal, or may return a pet to its owner or may order the animal given up for adoption, or make any other disposition as the Director determines is required by this Article and by the best interests of the animal and the public. *The Director may assess a per diem fee based on the facility's operating costs to anyone who receives the animal.*

7. SEIZURE / ON-SITE SUPERVISION

9 GUAM CODE ANN. § 70.10.3 (2012). Authority to Enter Premises and Court Proceedings.

(a) If there is probable cause to believe that any animal is being subjected to treatment in violation of § 70.10, § 70.10.1 or § 70.10.2 of this Chapter, any officer under exigent circumstances may enter the premises to impound the animal(s). Notice of said impoundment shall be conspicuously posted on the premises.

(1) An officer is not liable for any damages for an entry under Subsection (a) of this Section unless the damages were caused by reckless behavior.

(2) Any animal(s) so impounded shall be held at the animal care facility designated pursuant to § 34118 of Chapter 34, Title 10GCA.

10 GUAM CODE ANN. § 34117(2012). Impoundment.

The Director may impound and hold at the facility any pet that is the subject of a violation of this Article, any pet that requires protective custody and care because of mistreatment or neglect by its owner, or a pet that the Superior Court orders him to impound. The Director may authorize the destruction of the impounded pet as provided in this Article, or may return the pet to its owner, or may order the pet given up for adoption, as the Director determines to be in the best interests of the pet and the public. The owners of any pets returned to them shall be assessed a per diem fee for the animal's care based on the facility's operating costs.

10 GUAM CODE ANN. § 34121(2012). Authority of officers.

(a) All officers shall have authority as peace officer to the extent necessary to enable them to discharge all duties assigned to them by law.

(b) Any officer is authorized to enter upon any private premises, and is authorized to remove any pet from public or private property, if that officer has reason to believe that the pet or its owner is in violation of any provisions of this Chapter. Any pet so removed shall be impounded and delivered to the pound.

(c) Any officer may issue a citation of violation as provided in §§ 25.10 through 25.50 of Title 8, Guam Code Annotated.

10 GUAM CODE ANN. § 34209(2012). Authority of Officers and Director.

(a) Any peace officer may issue a citation of violation as provided in Title 8 GCA §§ 25.10 through 25.50.

(b) The Director may impound any pet or wild animal that is the subject of a violation of this Article, any pet or wild animal that requires protective custody and care because of mistreatment or neglect by its owner, or a pet or wild animal that the Superior Court orders him to impound.

(c) The Director may authorize the destruction of the animal, or may return a pet to its owner or may order the animal given up for adoption, or make any other disposition as the Director determines is required by this Article and by the best interests of the animal and the public. The Director may assess a per diem fee based on the facility's operating costs to anyone who receives the animal.

8. FORFEITURE / POSSESSION

10 GUAM CODE ANN. § 34117(2012). Impoundment.

The Director may impound and hold at the facility any pet that is the subject of a violation of this Article, any pet that requires protective custody and care because of mistreatment or neglect by its owner, or a pet that the Superior Court orders him to impound. *The Director may authorize the destruction of the impounded pet as provided in this Article, or may return the pet to its owner, or may order the pet given up for adoption, as the Director determines to be in the best interests of the pet and the public.* The owners of any pets returned to them shall be assessed a per diem fee for the animal's care based on the facility's operating costs.

10 GUAM CODE ANN. § 34209(2012). Authority of Officers and Director.

(a) Any peace officer may issue a citation of violation as provided in Title 8 GCA §§ 25.10 through 25.50.

(b) The Director may impound any pet or wild animal that is the subject of a violation of this Article, any pet or wild animal that requires protective custody and care because of mistreatment or neglect by its owner, or a pet or wild animal that the Superior Court orders him to impound.

(c) *The Director may authorize the destruction of the animal, or may return a pet to its owner or may order the animal given up for adoption, or make any other disposition as the Director determines is required by this Article and by the best interests of the animal and the public.* The Director may assess a per diem fee based on the facility's operating costs to anyone who receives the animal.

9. CROSS ENFORCEMENT / REPORTING

9 GUAM CODE ANN. § 70.11(2012).Dogfighting: Defined: Penalty.

(a)

(1) *Dogfight* means a fight, arranged by any person, between two (2) or more dogs the purpose or probable result of which fight is the infliction of injury by one (1) dog upon another.

(2) *Baiting* means to provoke or to harass an animal with one (1) or more animals and/or with drugs or other substances for the purpose of training an animal to engage in a dogfight.

(b) A person commits a third degree felony if he knowingly:

(1) owns, possesses, keeps, trains, promotes, purchases, or sells any dog(s) with the intent that the dog(s) shall be engaged in a dogfight;

(2) gambles or bets on the outcome of a dogfight and/or baiting;

(3) for amusement or gain, causes, allows, or permits any dog(s) to fight with another dog or other animal or causes any dog(s) to injure each other or other animal; or

(4) is a spectator at an event involving the fighting of a dog(s).

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3) and (4) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Five Thousand Dollars (\$5,000) and no more than Ten Thousand Dollars (\$10,000) or both per violation.

(c) A person commits a third degree felony if he:

(1) keeps, uses, be connected with or interested in the management of, or receives money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting and/or baiting a dog(s);

(2) permits or suffers a place owned or controlled by him to be used as provided in Item (1) of this paragraph;

(3) permits or suffers a place leased by him to be used as provided in Item (1) of this paragraph;

(4) be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in Item (1) of this paragraph; or

(5) promotes, hosts or sponsors an activity enumerated in Item (1) of this paragraph.

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3), (4) and (5) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Ten Thousand Dollars (\$10,000) and no more than Fifteen Thousand Dollars (\$15,000) or both per violation. Additionally, any person convicted of any violation of this paragraph may be subject to seizure of any personal property, including vehicles, and real property at which the dogfight was staged.

(d) Seizure of Dogs.

(1) A judge may order the seizure of alleged fighting dogs owned, possessed or kept by any person.

(2) The judge issuing an order for the seizure of a dog(s) as provided in Item (1) of this paragraph may require the dog(s) to be impounded at an animal shelter or veterinary clinic or hospital. The government unit which executes the seizure shall be responsible for the cost of impoundment at the animal shelter, but the governmental unit is entitled to receive reimbursement of those costs from the owner, possessor or keeper of the impounded dog(s). If the owner, possessor or keeper of the dog(s) is subsequently convicted of dogfighting under this Section, the Court may order the defendant to pay the costs as restitution in the case.

(e) Nothing in this Section shall constitute a prohibition or ban on the possession, lawful importation/exportation, breeding or selling of any breed of dog.

(f) Veterinarians and/or physicians and/or health professionals are required to report suspected dogfighting incidents that come to their attention through the provision of medical services to dogs to the Guam Police Department within five (5) days of learning of dogfighting incidents. Failure to do so shall result in potential loss of licensure if deemed appropriate by the appropriate licensure agencies.

10. VETERINARIAN REPORTING / IMMUNITY

9 GUAM CODE ANN. § 70.11(2012).Dogfighting: Defined: Penalty.

(a)

(1) *Dogfight* means a fight, arranged by any person, between two (2) or more dogs the purpose or probable result of which fight is the infliction of injury by one (1) dog upon another.

(2) *Baiting* means to provoke or to harass an animal with one (1) or more animals and/or with drugs or other substances for the purpose of training an animal to engage in a dogfight.

(b) A person commits a third degree felony if he knowingly:

(1) owns, possesses, keeps, trains, promotes, purchases, or sells any dog(s) with the intent that the dog(s) shall be engaged in a dogfight;

(2) gambles or bets on the outcome of a dogfight and/or baiting;

(3) for amusement or gain, causes, allows, or permits any dog(s) to fight with another dog or other animal or causes any dog(s) to injure each other or other animal; or

(4) is a spectator at an event involving the fighting of a dog(s).

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3) and (4) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Five Thousand Dollars (\$5,000) and no more than Ten Thousand Dollars (\$10,000) or both per violation.

(c) A person commits a third degree felony if he:

(1) keeps, uses, be connected with or interested in the management of, or receives money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting and/or baiting a dog(s);

(2) permits or suffers a place owned or controlled by him to be used as provided in Item (1) of this paragraph;

(3) permits or suffers a place leased by him to be used as provided in Item (1) of this paragraph;

(4) be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in Item (1) of this paragraph; or

(5) promotes, hosts or sponsors an activity enumerated in Item (1) of this paragraph.

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3), (4) and (5) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Ten Thousand Dollars (\$10,000) and no more than Fifteen Thousand Dollars (\$15,000) or both per violation. Additionally, any person convicted of any violation of this paragraph may be subject to seizure of any personal property, including vehicles, and real property at which the dogfight was staged.

(d) Seizure of Dogs.

(1) A judge may order the seizure of alleged fighting dogs owned, possessed or kept by any person.

(2) The judge issuing an order for the seizure of a dog(s) as provided in Item (1) of this paragraph may require the dog(s) to be impounded at an animal shelter or veterinary clinic or hospital. The government unit which executes the seizure shall be responsible for the cost of impoundment at the animal shelter, but the governmental unit is entitled to receive reimbursement of those costs from the owner, possessor or keeper of the impounded dog(s). If the owner, possessor or keeper of the dog(s) is subsequently convicted of dogfighting under this Section, the Court may order the defendant to pay the costs as restitution in the case.

(e) Nothing in this Section shall constitute a prohibition or ban on the possession, lawful importation/exportation, breeding or selling of any breed of dog.

(f) Veterinarians and/or physicians and/or health professionals are required to report suspected dogfighting incidents that come to their attention through the provision of medical services to dogs to the Guam Police Department within five (5) days of learning of dogfighting incidents. Failure to do so shall result in potential loss of licensure if deemed appropriate by the appropriate licensure agencies.

11. LAW ENFORCEMENT POLICIES

10 GUAM CODE ANN. § 34121(2012). Authority of officers.

(a) All officers shall have authority as peace officer to the extent necessary to enable them to discharge all duties assigned to them by law.

(b) Any officer is authorized to enter upon any private premises, and is authorized to remove any pet from public or private property, if that officer has reason to believe that the pet or its owner is in violation of any provisions of this Chapter. Any pet so removed shall be impounded and delivered to the pound.

(c) Any officer may issue a citation of violation as provided in §§ 25.10 through 25.50 of Title 8, Guam Code Annotated.

10 GUAM CODE ANN. § 34209(2012). Authority of Officers and Director.

(a) Any peace officer may issue a citation of violation as provided in Title 8 GCA §§ 25.10 through 25.50.

(b) The Director may impound any pet or wild animal that is the subject of a violation of this Article, any pet or wild animal that requires protective custody and care because of mistreatment or neglect by its owner, or a pet or wild animal that the Superior Court orders him to impound.

(c) The Director may authorize the destruction of the animal, or may return a pet to its owner or may order the animal given up for adoption, or make any other disposition as the Director determines is required by this Article and by the best interests of the animal and the public. The Director may assess a per diem fee based on the facility's operating costs to anyone who receives the animal.

12. SEXUAL ASSAULT

13. FIGHTING

9 GUAM CODE ANN. § 70.11(2012).Dogfighting: Defined: Penalty.

(a)

(1) Dogfight means a fight, arranged by any person, between two (2) or more dogs the purpose or probable result of which fight is the infliction of injury by one (1) dog upon another.

(2) Baiting means to provoke or to harass an animal with one (1) or more animals and/or with drugs or other substances for the purpose of training an animal to engage in a dogfight.

(b) A person commits a third degree felony if he knowingly:

(1) owns, possesses, keeps, trains, promotes, purchases, or sells any dog(s) with the intent that the dog(s) shall be engaged in a dogfight;

(2) gambles or bets on the outcome of a dogfight and/or baiting;

(3) for amusement or gain, causes, allows, or permits any dog(s) to fight with another dog or other animal or causes any dog(s) to injure each other or other animal; or

(4) is a spectator at an event involving the fighting of a dog(s).

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3) and (4) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Five Thousand Dollars (\$5,000) and no more than Ten Thousand Dollars (\$10,000) or both per violation.

(c) A person commits a third degree felony if he:

(1) keeps, uses, be connected with or interested in the management of, or receives money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting and/or baiting a dog(s);

(2) permits or suffers a place owned or controlled by him to be used as provided in Item (1) of this paragraph;

(3) permits or suffers a place leased by him to be used as provided in Item (1) of this paragraph;

(4) be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in Item (1) of this paragraph; or

(5) promotes, hosts or sponsors an activity enumerated in Item (1) of this paragraph.

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3), (4) and (5) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Ten Thousand Dollars (\$10,000) and no more than Fifteen Thousand Dollars (\$15,000) or both per violation. Additionally, any person convicted of any violation of this paragraph may be subject to seizure of any personal property, including vehicles, and real property at which the dogfight was staged.

(d) Seizure of Dogs.

(1) A judge may order the seizure of alleged fighting dogs owned, possessed or kept by any person.

(2) The judge issuing an order for the seizure of a dog(s) as provided in Item (1) of this paragraph may require the dog(s) to be impounded at an animal shelter or veterinary clinic or hospital. The government unit which executes the seizure shall be responsible for the cost of impoundment at the animal shelter, but the governmental unit is entitled to receive reimbursement of those costs from the owner, possessor or keeper of the impounded dog(s). If the owner, possessor or keeper of the dog(s) is subsequently convicted of dogfighting under this Section, the Court may order the defendant to pay the costs as restitution in the case.

(e) Nothing in this Section shall constitute a prohibition or ban on the possession, lawful importation/exportation, breeding or selling of any breed of dog.

(f) Veterinarians and/or physicians and/or health professionals are required to report suspected dogfighting incidents that come to their attention through the provision of medical services to dogs to the Guam Police Department within five (5) days of learning of dogfighting incidents. Failure to do so shall result in potential loss of licensure if deemed appropriate by the appropriate licensure agencies.

10 GUAM CODE ANN. §34205 (2012).Animal Care.

(a) No person who has an animal or animals in his custody or control shall fail to provide the animal(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, space to exercise, an area which is reasonably clean and free of excrement which may be injurious to the health of the animal(s), veterinary care when needed to prevent suffering, and with other humane care and treatment as necessary to preserve the health and well-being of the animal(s).

(b) No person shall beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse an animal or cause, instigate or permit any dogfight, bullfight or other combat between animals with the exception of cockfighting as regulated by the Cockpit License Board.

(c) No owner of an animal shall abandon such animal.

(d) No person shall crop a dog's ears except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort and in no event shall any person except a licensed veterinarian perform such an operation.

(e) Any person who, as the operator of a motor vehicle, strikes a domestic or wild animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to an officer.

(f) Only a licensed veterinarian shall perform ear cropping or tail docking on an animal, which shall be performed in accordance with the American Veterinarian Medical Association policy, and the veterinarian shall counsel pet owners about this matter before agreeing to perform these surgeries and shall record said consultation in the pet's record.

14. REFERENCED STATUTES

9 GUAM CODE ANN. § 70.01 (2012). Cruelty to Animals; Definitions.

For purposes of this Chapter:

- (a) *Animal* means a domestic animal, a household pet or a wild animal in captivity.
- (b) *Domestic animal* means any animal, other than livestock, that is owned or possessed by a person.
- (c) *Good animal husbandry* includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.
- (d) *Minimum care* means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is *not* limited to, the following requirements:
 - (1) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
 - (2) open or adequate access to potable water in sufficient quantity to satisfy the animal's needs;
 - (3) access to a structure sufficient to protect the animal from wind, rain, or sun;
 - (4) veterinary care deemed necessary by a reasonably prudent person to relieve injury, neglect or disease;
 - (5) for a domestic animal, continuous access to an area:
 - (A) with adequate space and room for exercise necessary for the health of the animal, and
 - (B) kept reasonably clean and free from excess waste or other contaminants that could affect the health of the animal(s).
- (e) *Officer* means a member of the Guam Police Department, a Mayor of Guam, an Animal Control Officer, or any other person authorized by law by the Chief of the Guam Police Department or by the Director of the Department of Agriculture.
- (f) *Physical injury* means physical trauma, impairment of physical condition or substantial pain.

(g) *Physical trauma* means fractures, cuts, punctures, bruises, burns or other wounds.

(h) *Serious physical injury* means physical injury that creates a substantial risk of death or that causes protracted disfigurement, impairment of health or impairment to the function of a limb or bodily organ.

(i) *Torture* means an action taken for the primary purpose of inflicting pain.

9 GUAM CODE ANN. § 70.10 (2012). Cruelty to Animals: Defined; Exceptions; Penalty.

(a) A person commits the crime of animal abuse in the second degree if the person intentionally, knowingly or recklessly, except as otherwise authorized by law:

(1) causes physical injury to an animal;

(2) fails to provide minimum care for the animal(s) in such person's custody and control, and the failure to provide such minimum care causes physical injury to the animal(s); or

(3) kills, impounds or injures any animal belonging to another without legal authority or consent of the owner.

(b) Animal abuse in the second degree is a misdemeanor.

(c) Subsection (a) shall not be applicable to:

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfestation of rodents, insects and arachnids.

9 GUAM CODE ANN. § 70.10.1 (2012). Animal Abuse in the First Degree.

(a) A person commits the crime of animal abuse in the first degree if the person intentionally, knowingly or recklessly, except as otherwise authorized by law:

(1) causes serious physical injury to the animal(s), cruelly causes the death of the animal(s) or tortures the animal(s); or

(2) fails to provide minimum care for the animal(s) in the person's custody or control, and the failure to provide care results in serious physical injury or death to the animal(s).

(b) Animal abuse in the first degree is a third-degree felony.

(c) Subsection (a) of this Section shall not be applicable to:

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfection of rodents, insects and arachnids.

9 GUAM CODE ANN. § 70.10.2 (2012). Animal Abandonment.

(a) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal at a location without providing 'minimum care' as defined in this Chapter.

(b) Animal abandonment is a petty misdemeanor.

9 GUAM CODE ANN. § 70.10.3 (2012). Authority to Enter Premises and Court Proceedings.

(a) If there is probable cause to believe that any animal is being subjected to treatment in violation of § 70.10, § 70.10.1 or § 70.10.2 of this Chapter, any officer under exigent circumstances may enter the premises to impound the animal(s). Notice of said impoundment shall be conspicuously posted on the premises.

(1) An officer is not liable for any damages for an entry under Subsection (a) of this Section unless the damages were caused by reckless behavior.

(2) Any animal(s) so impounded shall be held at the animal care facility designated pursuant to § 34118 of Chapter 34, Title 10GCA.

9 GUAM CODE ANN. § 70.11 (2012). Dogfighting: Defined: Penalty.

(a)

(1) *Dogfight* means a fight, arranged by any person, between two (2) or more dogs the purpose or probable result of which fight is the infliction of injury by one (1) dog upon another.

(2) *Baiting* means to provoke or to harass an animal with one (1) or more animals and/or with drugs or other substances for the purpose of training an animal to engage in a dogfight.

(b) A person commits a third degree felony if he knowingly:

(1) owns, possesses, keeps, trains, promotes, purchases, or sells any dog(s) with the intent that the dog(s) shall be engaged in a dogfight;

(2) gambles or bets on the outcome of a dogfight and/or baiting;

(3) for amusement or gain, causes, allows, or permits any dog(s) to fight with another dog or other animal or causes any dog(s) to injure each other or other animal; or

(4) is a spectator at an event involving the fighting of a dog(s).

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3) and (4) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Five Thousand Dollars (\$5,000) and no more than Ten Thousand Dollars (\$10,000) or both per violation.

(c) A person commits a third degree felony if he:

(1) keeps, uses, be connected with or interested in the management of, or receives money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting and/or baiting a dog(s);

(2) permits or suffers a place owned or controlled by him to be used as provided in Item (1) of this paragraph;

(3) permits or suffers a place leased by him to be used as provided in Item (1) of this paragraph;

(4) be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in Item (1) of this paragraph; or

(5) promotes, hosts or sponsors an activity enumerated in Item (1) of this paragraph.

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3), (4) and (5) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Ten Thousand Dollars (\$10,000) and no more than Fifteen Thousand Dollars (\$15,000) or both per violation. Additionally, any person convicted of any violation of this paragraph may be subject to seizure of any personal property, including vehicles, and real property at which the dogfight was staged.

(d) Seizure of Dogs.

(1) A judge may order the seizure of alleged fighting dogs owned, possessed or kept by any person.

(2) The judge issuing an order for the seizure of a dog(s) as provided in Item (1) of this paragraph may require the dog(s) to be impounded at an animal shelter or veterinary clinic or hospital. The government unit which executes the seizure shall be responsible for the cost of impoundment at the animal shelter, but the governmental unit is entitled to receive reimbursement of those costs from the owner, possessor or keeper of the impounded dog(s). If the owner, possessor or keeper of the dog(s) is subsequently convicted of dogfighting under this Section, the Court may order the defendant to pay the costs as restitution in the case.

(e) Nothing in this Section shall constitute a prohibition or ban on the possession, lawful importation/exportation, breeding or selling of any breed of dog.

(f) Veterinarians and/or physicians and/or health professionals are required to report suspected dogfighting incidents that come to their attention through the provision of medical services to dogs to the Guam Police Department within five (5) days of learning of dogfighting incidents.

Failure to do so shall result in potential loss of licensure if deemed appropriate by the appropriate licensure agencies.

9 GUAM CODE ANN. § 80.30(2012). Duration of Imprisonment.

Except as otherwise provided by law, a person who has been convicted of a felony may be sentenced to imprisonment as follows:

- (a) In the case of a felony of the first degree, the court shall impose a sentence of not less than five (5) years and not more than twenty (20) years;
- (b) In the case of a felony of the second degree, the court shall impose a sentence of not less than three (3) years and not more than ten (10) years; and
- (c) In the case of a felony of the third degree, the court may impose a sentence of not more than five (5) years.

9 GUAM CODE ANN. § 80.31(2012). Prison Terms for First Offenders.

In the cases to which § 80.30 is applicable as to the sentencing of the person, a person who has not previously been convicted of a criminal offense and has been convicted of a felony for the first time may be sentenced to imprisonment as follows:

- (a) In the case of a felony of the first degree, the court shall impose a sentence of not less than three (3) years and not more than fifteen (15) years;
- (b) In the case of a felony of the second degree, the court shall impose a sentence of not less than one (1) year and not more than eight (8) years; and
- (c) In the case of a felony of the third degree, the court may impose a sentence of not more than three (3) years.

9 GUAM CODE ANN. § 80.34 (2010). Misdemeanor & Petty Misdemeanor Sentences.

Except as otherwise provided by § 80.36, a person who has been convicted of a misdemeanor or a petty misdemeanor may be sentenced to imprisonment, as follows:

- (a) in the case of a misdemeanor, the court shall set a maximum term not to exceed one (1) year;
- (b) in the case of a petty misdemeanor, the court shall set a definite term not to exceed sixty (60) days.

9 GUAM CODE ANN. § 80.50 (2012). Fines & Restitution as Sentence Allowed: Limited.

A person who has been convicted of an offense may be sentenced to pay a fine or to make restitution not exceeding:

- (a) Ten Thousand Dollars (\$10,000.00), when the conviction is of a felony of the first or second degree;
- (b) Five Thousand Dollars (\$5,000.00), when the conviction is of a felony of the third degree;
- (c) One Thousand Dollars (\$1,000.00), when the conviction is of a misdemeanor;
- (d) Five Hundred Dollars (\$500.00), when the conviction is of a petty misdemeanor or violation;
- (e) Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this Section, the term “gain” means the amount of money or the value of the property derived by the offender and the term “loss” means the amount of value separated from the victim;
- (f) Any amount specifically authorized by statute.

The restitution ordered paid to the victim shall not exceed his loss.

10 GUAM CODE ANN. § 34101 (2012). Definitions.

For purposes of this Article:

- (a) “Euthanasia” means putting an animal to death by drug in a manner provided by regulation of the Department of Agriculture (the Department).
- (b) “Impoundment” means strict confinement under restraint by leash, cage or paddock upon premises specified by order of the Director of Agriculture (the “Director”).
- (c) “Officer” means a member of the Guam Police Department, a Mayor of Guam, or a person authorized by the Director.
- (d) “Person” means any natural person, association, partnership, firm, corporation or any

government entity.

(e) “Pet” means a cat or dog.

(f) “Pet owner” means any person or legal entity who harbors, cares for, exercises control over or knowingly permits any pet to remain on premises occupied by that person or legal entity.

(g) “Running at large” means any dog that

(1) is not restrained on private property in a manner that physically prevents the dog from leaving that property or reaching any public areas; or

(2) when on public property, or any public area, is not restrained by a leash, tether or other physical control device not to exceed eight (8) feet in length and under the physical control of a capable person.

(h) “Unlicensed pet” means any pet not exempted under the provisions of this Article for which the license for the current year has not been issued or to which the license tag is not attached.

(i) “Department” means the Department of Agriculture.

(j) “Director” means the Director of Agriculture.

10 GUAM CODE ANN. § 34110(2012). Immediate menace.

It shall be lawful for any officer, if there are no other readily available means of bringing the pet under control, to kill any pet that constitutes an immediate menace to any person. The officer shall turn the carcass of the pet over to the Department as soon as possible for examination as determined by the Director, and compile a written report and submit to the Director describing the event leading to the killing if said pet was licensed.

10 GUAM CODE ANN. § 34111(2012). Persons attacked by animal.

Any person who is attacked by a pet or animal or any person witnessing any such attack may kill such pet or animal while so attacking or thereafter. Such person shall notify the Department immediately of such killing and remain with the carcass until an officer takes possession of the carcass. The carcass shall be immediately delivered to the Department for examination.

10 GUAM CODE ANN. § 34112(2012). Pet trespassing on private property.

(a) Any person who shall observe a pet to be trespassing on land or premises not owned or possessed by owner of the pet shall report such trespass to the Pet Control Unit.

(b) It shall be unlawful for any person to kill a pet not owned by him except in any of the following cases or as otherwise provided in this Article

(1) The pet is found in the act of killing, wounding or persistently pursuing livestock or poultry on land or premises not owned or possessed by the pet owner;

(2) The person has such proof as conclusively shows that the pet has recently engaged in killing or wounding his livestock or poultry on land or premises owned by him.

Any person killing or injuring a pet pursuant to action taken by him as authorized under any section of this Article shall not incur any financial liability to the owner of such pet.

10 GUAM CODE ANN. § 34117(2012). Impoundment.

The Director may impound and hold at the facility any pet that is the subject of a violation of this Article, any pet that requires protective custody and care because of mistreatment or neglect by its owner, or a pet that the Superior Court orders him to impound. The Director may authorize the destruction of the impounded pet as provided in this Article, or may return the pet to its owner, or may order the pet given up for adoption, as the Director determines to be in the best interests of the pet and the public. The owners of any pets returned to them shall be assessed a per diem fee for the animal's care based on the facility's operating costs.

10 GUAM CODE ANN. § 34121(2012). Authority of officers.

(a) All officers shall have authority as peace officer to the extent necessary to enable them to discharge all duties assigned to them by law.

(b) Any officer is authorized to enter upon any private premises, and is authorized to remove any pet from public or private property, if that officer has reason to believe that the pet or its owner is in violation of any provisions of this Chapter. Any pet so removed shall be impounded and delivered to the pound.

(c) Any officer may issue a citation of violation as provided in §§ 25.10 through 25.50 of Title 8, Guam Code Annotated.

10 GUAM CODE ANN. § 34125(2012). Penalties for Violation of Articles 1 and 2.

Notwithstanding the penalties created by § 34124, violations of Articles 1 and 2 of this Chapter shall be punished by a fine to be imposed on the pet owner of not less than \$25 for the first offense, \$50 for a second offense, and \$100 for a third and subsequent offense. The pet owner shall also pay all applicable costs, such as vaccination, licensing and the per diem fee for

impoundment.

10 GUAM CODE ANN. §34205(2012).Animal Care.

(a) No person who has an animal or animals in his custody or control shall fail to provide the animal(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, space to exercise, an area which is reasonably clean and free of excrement which may be injurious to the health of the animal(s), veterinary care when needed to prevent suffering, and with other humane care and treatment as necessary to preserve the health and well-being of the animal(s).

(b) No person shall beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse an animal or cause, instigate or permit any dogfight, bullfight or other combat between animals with the exception of cockfighting as regulated by the Cockpit License Board.

(c) No owner of an animal shall abandon such animal.

(d) No person shall crop a dog's ears except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort and in no event shall any person except a licensed veterinarian perform such an operation.

(e) Any person who, as the operator of a motor vehicle, strikes a domestic or wild animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to an officer.

(f) Only a licensed veterinarian shall perform ear cropping or tail docking on an animal, which shall be performed in accordance with the American Veterinarian Medical Association policy, and the veterinarian shall counsel pet owners about this matter before agreeing to perform these surgeries and shall record said consultation in the pet's record.

10 GUAM CODE ANN. § 34209(2012). Authority of Officers and Director.

(a) Any peace officer may issue a citation of violation as provided in Title 8 GCA §§ 25.10 through 25.50.

(b) The Director may impound any pet or wild animal that is the subject of a violation of this Article, any pet or wild animal that requires protective custody and care because of mistreatment or neglect by its owner, or a pet or wild animal that the Superior Court orders him to impound.

(c) The Director may authorize the destruction of the animal, or may return a pet to its owner or may order the animal given up for adoption, or make any other disposition as the Director determines is required by this Article and by the best interests of the animal and the public. The

Director may assess a per diem fee based on the facility's operating costs to anyone who receives the animal.

10 GUAM CODE ANN. § 34210(2012). Penalties.

(a) Except as otherwise provided herein, any person violating any provision of this Article shall be deemed guilty of a violation and shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500). If any violation be continuing, each day's violation shall be deemed a separate violation.

(b) The provisions of this Article shall not apply to any operator of a greyhound racing track nor to any greyhound racing dog so long as such greyhound is subject to regulation by the Department of Revenue and Taxation.

ANIMAL PROTECTION LAWS OF HAWAII

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Hawaii's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Hawaii may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

HAWAII

1. GENERAL PROHIBITIONS*	(1) Abandonment HAW. REV. STAT. §143-2.6 (2) Cruelty to animals in the 2 nd degree HAW. REV. STAT. § 711-1109 (3) Cruelty to animals in the 1 st degree HAW. REV. STAT. § 711-1108.5 (4) Animal hoarding HAW. REV. STAT. § 711-1109.6
<i>Animals Covered in Definition</i>	“Animal” includes every living creature, except a human being. “Equine animal” means an animal of or belonging to the family Equidae, including horses, ponies, mules, donkeys, asses, burros, and zebras. “Pet animal” means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption. HAW. REV. STAT. § 711-1100
<i>Classification of Crimes</i>	(1) Petty misdemeanor (2), (4) Misdemeanor (3) Class C felony

HAWAII*continued*

HAWAII <i>continued</i>	
2. MAXIMUM PENALTIES ^{**}	<p>(1) 30 days imprisonment HAW. REV. STAT. § 706-663 <i>and/or</i> \$1,000 fine HAW. REV. STAT. § 706-640</p> <p>(2), (4) 1 year imprisonment HAW. REV. STAT. § 706-663 <i>and/or</i> \$2,000 fine HAW. REV. STAT. § 706-640</p> <p>(3) 5 years imprisonment HAW. REV. STAT. § 706-660 <i>and/or</i> \$10,000 fine HAW. REV. STAT. § 706-640</p>
3. EXEMPTIONS ^{***}	<p>1, 2, 9 HAW. REV. STAT. § 711-1108.5</p> <p>1, 2, 6 HAW. REV. STAT. § 711-1109</p> <p>9 HAW. REV. STAT. § 711-1109.3</p>
4. COUNSELING / EVALUATIONS [†]	-----
5. PROTECTIVE ORDERS [†]	HAW. REV. STAT. §586-4

HAWAII <i>continued</i>	
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>Defendant may be required to post a security bond for costs of care of an impounded animal or forfeit rights in the animal. HAW. REV. STAT. § 711-1109.2</p> <p>The court shall order the defendant to reimburse the humane society or society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited. HAW. REV. STAT. § 711-1110.5(b)</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>If there is probable cause to believe that an animal is being mistreated in violation of the law, a law enforcement officer may, after obtaining a search warrant, or in any other lawful manner, enter premises and provide care for, or impound, the animal. HAW. REV. STAT. § 711-1109.1</p>
8. FORFEITURE / POSSESSION[†]	<p>If a court determines that there is probable cause that a violation of the animal protection laws occurred, the court, following such hearing, shall order forfeiture of the impounded animal unless the defendant posts a bond to cover the cost of care for the animal. HAW. REV. STAT. § 711-1109.2</p> <p>Upon conviction, the court may order defendant to forfeit mistreated animal as well as other animals in defendant's possession. HAW. REV. STAT. § 711-1110.5</p>
9. CROSS ENFORCEMENT / REPORTING	-----

10. VETERINARIAN REPORTING/IMMUNITY	-----
HAWAII <i>continued</i>	
11. LAW ENFORCEMENT POLICIES	Appointed humane agents may make arrests. HAW. REV. STAT. § 711-1110
12. SEXUAL ASSAULT	-----
13. FIGHTING	Various animal fighting or baiting activities are misdemeanors. HAW. REV. STAT. § 711-1109(1)(d) Various dog fighting activities are class C felonies HAW. REV. STAT. § 711-1109.3
<i>Other Felony Provisions Affecting Animals</i> [‡]	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

†This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

HAW. REV. STAT. §143-2.6 (2012). Animal desertion.

It shall be unlawful for the owner of any animal or any person in possession of an animal that belongs to another person to leave the animal without the intention of returning to it.

Any person who violates this section shall be guilty of a petty misdemeanor.

HAW. REV. STAT. § 711-1100 (2012). Definitions.

In this chapter, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

“Animal” includes every living creature, except a human being.

“Equine animal” means an animal of or belonging to the family Equidae, including horses, ponies, mules, donkeys, asses, burros, and zebras.

“Facsimile” means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

“Necessary sustenance” means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

(1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;

(2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal’s needs;

(3) Access to protection from wind, rain, or sun;

(4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health; provided that the area of confinement in a primary pet enclosure must:

(a) Provide access to shelter;

(b) Be constructed of safe materials to protect the pet animal from injury;

(c) Enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal's health;

(d) Provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird a perch that is large enough for the bird to perch upon in a normal manner;

(e) Provide sufficient space to allow the pet animal to, at minimum, do the following:

(i) Easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and

(ii) Interact safely with other animals within the enclosure; and

(5) Veterinary care when needed to prevent suffering.

“Obstructs” means renders impassable without unreasonable inconvenience or hazard.

“Pet animal” means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

“Primary pet enclosure” means any kennel, cage, or structure used to restrict only a pet animal as defined in this section to a limited area of space, and does not apply to the confinement of any animals that are raised for food, such as any poultry that is raised for meat or egg production and livestock, rabbits, or pigs that are raised specifically for meat production because these animals are not pets when raised for meat or egg production.

“Private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

“Public” means affecting or likely to affect a substantial number of persons.

“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Record”, for the purposes of sections 711-1110.9 and 711-1111, means to videotape, film, photograph, or archive electronically or digitally.

“Torment” means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

“Torture” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

HAW. REV. STAT. § 711-1108.5 (2012).Cruelty to animals in the first degree.

(1) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:

(a) Tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal; or

(b) Kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of the pet animal’s owner.

(2) Subsection (1)(a) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Cropping or docking as customarily practiced.

(3) Subsection (1)(b) shall not apply to:

(a) Humane euthanasia of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency in accordance with American Veterinary Medical Association accepted standards; or

(b) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to the actor, another person, or an animal; provided that the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by this section and is justifiable as provided in section 703–302 for choice of evils; provided further that, for purposes of this paragraph, as the justification described in section 703–302 shall also apply to conduct which the actor believes to be necessary to avoid an imminent harm or evil to an animal.

(4) Whenever any pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved, the animal may be immediately destroyed without creating any offense under this section.

(5) *Cruelty to animals in the first degree is a class C felony.*

HAW. REV. STAT. § 711-1109 (2012).Cruelty to animals in the second degree.

(1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

(a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injury to, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;

(b) Deprives a pet animal of necessary sustenance or causes such deprivation;

(c) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests; provided that the handling or extermination of any insect, vermin, or other pest is conducted in accordance with standard and acceptable pest control practices and all applicable laws and regulations;

(d) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;

(e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;

(f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;

(g) Tethers, fastens, ties, or restrains a dog to a dog house, tree, fence, or any other stationary object by means of a choke collar, pinch collar, or prong collar; provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a dog is engaged in a supervised activity, or

(h) Assists another in the commission of any act specified in subsections (1)(a) through (1)(g).

(2) Subsection (1)(a), (b), (c), (e), (f), (g), and (h) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.

(3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.

(4) *Cruelty to animals in the second degree is a misdemeanor.*

HAW. REV. STAT. § 711-1109.6 (2012). Animal hoarding. [Repealed effective July 1, 2015].

(1) A person commits the offense of animal hoarding if the person intentionally, knowingly, or recklessly:

(a) Possesses more than fifteen dogs, cats, or a combination of dogs and cats;

(b) Fails to provide necessary sustenance for each dog or cat; and

(c) Fails to correct the conditions under which the dogs or cats are living, where conditions injurious to the dogs', cats', or owner's health and well-being result from the person's failure to provide necessary sustenance.

(2) Animal hoarding is a misdemeanor.

2. PENALTIES

HAW. REV. STAT. § 706-640 (2012). Authorized fines.

(1) *A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:*

(a) \$50,000, when the conviction is of a class A felony, murder in the first or second degree, or attempted murder in the first or second degree;

(b) \$25,000, when the conviction is of a class B felony;

(c) \$10,000, when the conviction is of a class C felony;

(d) \$2,000, when the conviction is of a misdemeanor;

(e) \$1,000, when the conviction is of a petty misdemeanor or a violation;

(f) Any higher amount equal to double the pecuniary gain derived from the offense by the defendant;

(g) Any higher or lower amount specifically authorized by statute.

(2) Notwithstanding section 706-641, the court shall impose a mandatory fine upon any defendant convicted of theft in the first or second degree committed by receiving stolen property as set forth in section 708-830(7). The fine imposed shall be the greater of double the value of the stolen property received or \$25,000 in the case of a conviction for theft in the first degree; or the greater of double the value of the stolen property received or \$10,000 in the case of a conviction for theft in the second degree. The mandatory fines imposed by this subsection shall not be reduced except and only to the extent that payment of the fine prevents the defendant from making restitution to the victim of the offense, or that the defendant's property, real or otherwise, has been forfeited under chapter 712A as a result of the same conviction for which the defendant is being fined under this subsection. Consequences for nonpayment shall be governed by section 706-644; provided that the court shall not reduce the fine under section 706-644(4) or 706-645.

HAW. REV. STAT. § 706-660 (2012). Sentence of imprisonment for class B and C felonies; ordinary terms.

A person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

(1) For a class B felony - 10 years; and

(2) *For a class C felony - 5 years.*

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

HAW. REV. STAT. § 706-663 (2012). Sentence of imprisonment for misdemeanor and petty misdemeanor.

After consideration of the factors set forth in sections 706-606 and 706-621, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor.

3. EXEMPTIONS

HAW. REV. STAT. § 711-1108.5 (2012).Cruelty to animals in the first degree.

(1) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:

(a) Tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal; or

(b) Kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of the pet animal's owner.

(2) *Subsection (1)(a) shall not apply to:*

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Cropping or docking as customarily practiced.

(3) *Subsection (1)(b) shall not apply to:*

(a) Humane euthanasia of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency in accordance with American Veterinary Medical Association accepted standards; or

(b) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to the actor, another person, or an animal; provided that the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by this section and is justifiable as provided in section 703–302 for choice of evils; provided further that, for purposes of this paragraph, as the justification described in section 703–302 shall also apply to conduct which the actor believes to be necessary to avoid an imminent harm or evil to an animal.

(4) *Whenever any pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved, the animal may be immediately destroyed without creating any offense under this section.*

(5) Cruelty to animals in the first degree is a class C felony.

HAW. REV. STAT. § 711-1109 (2012).Cruelty to animals in the second degree.

(1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

(a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injuryto,or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;

(b) Deprives a pet animal of necessary sustenance or causes such deprivation;

(c) Mutilates, poisons, or kills without need any animal *other than insects, vermin, or other pests; provided that the handling or extermination of any insect, vermin, or other pest is conducted in accordance with standard and acceptable pest control practices and all applicable laws and regulations;*

(d) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;

(e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;

(f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;

(g) Tethers, fastens, ties, or restrains a dog to a dog house, tree, fence, or any other stationary object by means of a choke collar, pinch collar, or prong collar; provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a dog is engaged in a supervised activity, or

(h) Assists another in the commission of any act specified in subsections (1)(a) through (1)(g).

(2) *Subsection (1)(a), (b), (c), (e), (f), (g), and (h) shall not apply to:*

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.

(3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.

(4) Cruelty to animals in the second degree is a misdemeanor.

HAW. REV. STAT. § 711-1109.3 (2012). Cruelty to animals by fighting dogs in the first degree.

(1) A person commits the offense of cruelty to animals by fighting dogs in the first degree if the person:

(a) Knowingly:

(i) Causes, sponsors, arranges, or holds a dogfight for entertainment or financial gain; or

(ii) Owns, trains, transports, possesses, sells, transfers, or equips any dog with the intent that the dog shall be engaged in a dogfight; or

(b) Recklessly:

(i) Allows a dogfight to occur on any property owned or controlled by the person; or

(ii) Allows any dog intended to be used for a dogfight to be kept, trained on, or transported in, any property owned or controlled by the person.

(2) *Nothing in this section shall prohibit any of the following:*

(a) The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;

(b) The use of dogs in hunting wildlife including game; or

(c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

(3) As used in this section, "dogfight" means a dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.

(4) Violation of this section shall be a class B felony.

(5) If there is any conflict between this section and section 711-1109, or any other provision of law, this section shall apply.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

HAW. REV. STAT. §586-4(2012).Temporary Restraining Orders.

(a) Upon petition to a family court judge, an ex parte temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time the order is granted, is a family or household member as defined in section 586-1 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence; or
- (3) Entering or visiting the protected party's residence.

The ex parte temporary restraining order may also enjoin or restrain both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(b) For any person who is alleged to be a family or household member by virtue of a dating relationship, the court may consider the following factors in determining whether a dating relationship exists:

- (1) The length of the relationship;
- (2) The nature of the relationship; and
- (3) The frequency of the interaction between the parties.

(c) The family court judge may issue the ex parte temporary restraining order orally, if the person being restrained is present in court. The order shall state that there is probable cause to believe that a past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order further shall state that the temporary restraining order is necessary for the purposes of: preventing acts of abuse or preventing a recurrence of actual domestic abuse; and ensuring a period of separation of the parties involved. The order shall also describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order; may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members; and may enjoin or restrain both parties from taking, concealing, removing, threatening, physically abusing, or

otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence;
- (3) Entering or visiting the protected party's residence; or
- (4) *Taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.*

(d) If a divorce or a child custody proceeding is pending, a petition for a temporary restraining order may be filed in that same proceeding to the extent practicable. Any decree or order issued in a divorce or child custody proceeding subsequent to the petition being filed or an order being issued pursuant to this section, in the discretion of the court hearing the divorce or child custody proceeding, may supersede in whole or part the orders issued pursuant to this section. The factual findings and rulings made in connection with the granting or denying of a temporary restraining order may not have binding effect in any other family court proceeding, including child custody determinations under section 571-46, and the court in such proceedings may give de novo consideration to the facts and circumstances alleged in making later determinations affecting the parties, including determination of custody and visitation.

(e) When a temporary restraining order is granted and the respondent or person to be restrained knows of the order, a knowing or intentional violation of the restraining order is a misdemeanor. A person convicted under this subsection shall undergo domestic violence intervention at any available domestic violence program as ordered by the court. The court additionally shall sentence a person convicted under this subsection as follows:

- (1) For a first conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight hours and be fined not less than \$150 nor more than \$500; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine; and
- (2) For the second and any subsequent conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of thirty days and be fined not less than \$250 nor more than \$1,000; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

The court may suspend any jail sentence, except for the mandatory sentences under paragraphs (1) and (2), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this subsection shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor.

If the court finds that the defendant has knowledge of the location of any protected party's residence, place of employment, or school, in addition to any other penalties provided in this subsection, the court may, as a condition of probation, prohibit contact with the protected party through the establishment of court-defined geographic exclusion zones, including the areas in and around the protected party's residence, place of employment, or school, and order that the defendant wear a global positioning satellite tracking device designed to transmit and record the defendant's location data. If the defendant enters a court-defined geographic exclusion zone, the defendant's location data shall be immediately transmitted to the protected party and to the police through any appropriate means, including the telephone, an electronic beeper, or a paging device. The global positioning satellite tracking device and its tracking shall be administered by the court. If a court finds that the defendant has entered a geographic exclusion zone, the court shall revoke the probation and the defendant shall be fined, imprisoned, or both, as provided in this subsection. Based on the defendant's ability to pay, the court may also order the defendant to pay the monthly costs or portion thereof for monitoring by the global positioning satellite tracking system.

(f) Any fines collected pursuant to subsection [(e)] shall be deposited into the spouse and child abuse special account established under sections 601-3.6.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

HAW. REV. STAT. § 711-1109.2 (2012). Forfeiture of animal prior to disposition of criminal charges.[Effective July 1, 2012 – June 30, 2015.]

(1) If any pet animal or equine animal is impounded pursuant to section 711-1109.1, prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal or equine animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal or equine animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.

(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal or equine animal was subjected to a violation of section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal or equine animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

(a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal or equine animal from the date of initial impoundment to the date of trial; or

(b) Demonstrates to the court that proper alternative care has been arranged for the pet animal or equine animal.

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.

(5) No pet animal or equine animal may be destroyed by a petitioner under this section prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, except in the event that the pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved.

(6) Forfeiture of a pet animal under this section shall not be subject to the provisions of chapter 712A.

(7) In addition to any reasonable costs incurred under subsection (4) by the petitioner in the caring for the pet animal or equine animal, the court may award reasonable attorney's fees and court costs to the petitioner following the conviction of the defendant.

(8) As used in this section, "pet animal or equine animal" includes any offspring from the pet animal or equine animal that was pregnant at the time of the rescue and born during the impoundment of the pet animal or equine animal.

HAW. REV. STAT. § 711-1110.5 (2012). Surrender or forfeiture of animals. [Effective until July 1, 2015.]

Upon conviction, guilty plea, or plea of nolocontendere for any violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.6, or 711-1109.35:

(1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and

(2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.

7. SEIZURE / ON-SITE SUPERVISION

HAW. REV. STAT. § 711-1109.1 (2012). Authority to enter premises; notice of impoundment of animal; damage resulting from entry[Effective July 1, 2012 –June30, 2015.]

(1) If there is probable cause to believe that a pet animal or equine animal is being subjected to treatment in violation of section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, a law enforcement officer, after obtaining a search warrant, or in any other manner authorized by law, may enter the premises where the pet animal or equine animal is located to provide the pet animal or equine animal with food, water, and emergency medical treatment or to impound the pet animal or equine animal. If after reasonable effort, the owner or person having custody of the pet animal or equine animal cannot be found and notified of the impoundment, an impoundment notice shall be conspicuously posted on the premises and within seventy-two hours after posting, the notice shall be sent by certified mail to the address, if any, from which the pet animal or equine animal was removed.

(2) A law enforcement officer is not liable for any damage resulting from an entry under subsection (1), unless the damage resulted from intentional or reckless behavior on behalf of the law enforcement officer.

(3) A court may order a pet animal or equine animal impounded under subsection (1) to be held at a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals. A facility receiving the pet animal or equine animal shall provide adequate food and water and may provide veterinary care.

(4) For purposes of this section, “law enforcement officer” shall have the same meaning as section 710-1000.

8. FORFEITURE / POSSESSION

HAW. REV. STAT. § 711-1109.2 (2012). Forfeiture of animal prior to disposition of criminal charges.[Effective July 1, 2012 – June 30, 2015.]

(1) If any pet animal or equine animal is impounded pursuant to section 711-1109.1, prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal or equine animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal or equine animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.

(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal or equine animal was subjected to a violation of section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal or equine animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

(a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal or equine animal from the date of initial impoundment to the date of trial; or

(b) Demonstrates to the court that proper alternative care has been arranged for the pet animal or equine animal.

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.

(5) No pet animal or equine animal may be destroyed by a petitioner under this section prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, except in the event that the pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved.

(6) Forfeiture of a pet animal under this section shall not be subject to the provisions of chapter 712A.

(7) In addition to any reasonable costs incurred under subsection (4) by the petitioner in the caring for the pet animal or equine animal, the court may award reasonable attorney's fees and court costs to the petitioner following the conviction of the defendant.

(8) As used in this section, "pet animal or equine animal" includes any offspring from the pet animal or equine animal that was pregnant at the time of the rescue and born during the impoundment of the pet animal or equine animal.

HAW. REV. STAT. § 711-1110.5 (2012). Surrender or forfeiture of animals. [Effective until July 1, 2015.]

Upon conviction, guilty plea, or plea of nolocontendere for any violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.6, or 711-1109.35:

(1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and

(2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

HAW. REV. STAT. § 711-1110 (2012). Relating to agent of society.

The agent of any society which is formed or incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any district in the State, may within such district make arrests and bring before any district judge thereof offenders found violating the provisions of section 711-1109 to be dealt with according to law.

12. SEXUAL ASSAULT

13. FIGHTING

HAW. REV. STAT. § 711-1109 (2012).Cruelty to animals in the second degree.

(1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

(a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injury, or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;

(b) Deprives a pet animal of necessary sustenance or causes such deprivation;

(c) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;

(d) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;

(e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;

(f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;

(g) Tethers, fastens, ties, or restrains a dog to a dog house, tree, fence, or any other stationary object by means of a choke collar, pinch collar, or prong collar; provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a dog is engaged in a supervised activity, or

(h) Assists another in the commission of any act specified in subsections (1)(a) through (1)(g).

(2) Subsection (1)(a), (b), (c), (e), (f), (g), and (h) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.

(3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.

(4) Cruelty to animals in the second degree is a misdemeanor.

HAW. REV. STAT. § 711-1109.3 (2012). Cruelty to animals by fighting dogs in the first degree.

(1) A person commits the offense of cruelty to animals by fighting dogs in the first degree if the person:

(a) Knowingly:

(i) Causes, sponsors, arranges, or holds a dogfight for entertainment or financial gain; or

(ii) Owns, trains, transports, possesses, sells, transfers, or equips any dog with the intent that the dog shall be engaged in a dogfight; or

(b) Recklessly:

(i) Allows a dogfight to occur on any property owned or controlled by the person; or

(ii) Allows any dog intended to be used for a dogfight to be kept, trained on, or transported in, any property owned or controlled by the person.

(2) Nothing in this section shall prohibit any of the following:

(a) The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;

(b) The use of dogs in hunting wildlife including game; or

(c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

(3) As used in this section, "dogfight" means a dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.

(4) Violation of this section shall be a class B felony.

(5) If there is any conflict between this section and section 711-1109, or any other provision of law, this section shall apply.

14. REFERENCED STATUTES

HAW. REV. STAT. §143-2.6 (2012). Animal desertion.

It shall be unlawful for the owner of any animal or any person in possession of an animal that belongs to another person to leave the animal without the intention of returning to it.

Any person who violates this section shall be guilty of a petty misdemeanor.

HAW. REV. STAT. §586-4(2012). Temporary Restraining Orders.

(a) Upon petition to a family court judge, an ex parte temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time the order is granted, is a family or household member as defined in section 586-1 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence; or
- (3) Entering or visiting the protected party's residence.

The ex parte temporary restraining order may also enjoin or restrain both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(b) For any person who is alleged to be a family or household member by virtue of a dating relationship, the court may consider the following factors in determining whether a dating relationship exists:

- (1) The length of the relationship;
- (2) The nature of the relationship; and
- (3) The frequency of the interaction between the parties.

(c) The family court judge may issue the ex parte temporary restraining order orally, if the person being restrained is present in court. The order shall state that there is probable cause to believe that a past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order further shall state that the temporary restraining order is necessary for the purposes of: preventing acts of abuse or preventing a recurrence of actual domestic abuse; and ensuring a period of separation of the parties involved. The order shall also describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order; may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members; and may enjoin or restrain both parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence;
- (3) Entering or visiting the protected party's residence; or
- (4) Taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(d) If a divorce or a child custody proceeding is pending, a petition for a temporary restraining order may be filed in that same proceeding to the extent practicable. Any decree or order issued in a divorce or child custody proceeding subsequent to the petition being filed or an order being issued pursuant to this section, in the discretion of the court hearing the divorce or child custody proceeding, may supersede in whole or part the orders issued pursuant to this section. The factual findings and rulings made in connection with the granting or denying of a temporary restraining order may not have binding effect in any other family court proceeding, including child custody determinations under section 571-46, and the court in such proceedings may give de novo consideration to the facts and circumstances alleged in making later determinations affecting the parties, including determination of custody and visitation.

(e) When a temporary restraining order is granted and the respondent or person to be restrained knows of the order, a knowing or intentional violation of the restraining order is a misdemeanor. A person convicted under this subsection shall undergo domestic violence intervention at any available domestic violence program as ordered by the court. The court additionally shall sentence a person convicted under this subsection as follows:

(1) For a first conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight hours and be fined not less than \$150 nor more than \$500; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine; and

(2) For the second and any subsequent conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of thirty days and be fined not less than \$250 nor more than \$1,000; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

The court may suspend any jail sentence, except for the mandatory sentences under paragraphs (1) and (2), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this subsection shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor.

If the court finds that the defendant has knowledge of the location of any protected party's residence, place of employment, or school, in addition to any other penalties provided in this subsection, the court may, as a condition of probation, prohibit contact with the protected party through the establishment of court-defined geographic exclusion zones, including the areas in and around the protected party's residence, place of employment, or school, and order that the defendant wear a global positioning satellite tracking device designed to transmit and record the defendant's location data. If the defendant enters a court-defined geographic exclusion zone, the defendant's location data shall be immediately transmitted to the protected party and to the police through any appropriate means, including the telephone, an electronic beeper, or a paging device. The global positioning satellite tracking device and its tracking shall be administered by the court. If a court finds that the defendant has entered a geographic exclusion zone, the court shall revoke the probation and the defendant shall be fined, imprisoned, or both, as provided in this subsection. Based on the defendant's ability to pay, the court may also order the defendant to pay the monthly costs or portion thereof for monitoring by the global positioning satellite tracking system.

(f) Any fines collected pursuant to subsection [(e)] shall be deposited into the spouse and child abuse special account established under sections 601-3.6.

HAW. REV. STAT. § 706-640 (2012). Authorized fines.

(1) A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

- (a) \$50,000, when the conviction is of a class A felony, murder in the first or second degree, or attempted murder in the first or second degree;
- (b) \$25,000, when the conviction is of a class B felony;
- (c) \$10,000, when the conviction is of a class C felony;
- (d) \$2,000, when the conviction is of a misdemeanor;
- (e) \$1,000, when the conviction is of a petty misdemeanor or a violation;
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the defendant;
- (g) Any higher or lower amount specifically authorized by statute.

(2) Notwithstanding section 706-641, the court shall impose a mandatory fine upon any defendant convicted of theft in the first or second degree committed by receiving stolen property as set forth in section 708-830(7). The fine imposed shall be the greater of double the value of the stolen property received or \$25,000 in the case of a conviction for theft in the first degree; or the greater of double the value of the stolen property received or \$10,000 in the case of a conviction for theft in the second degree. The mandatory fines imposed by this subsection shall not be reduced except and only to the extent that payment of the fine prevents the defendant from making restitution to the victim of the offense, or that the defendant's property, real or otherwise, has been forfeited under chapter 712A as a result of the same conviction for which the defendant is being fined under this subsection. Consequences for nonpayment shall be governed by section 706-644; provided that the court shall not reduce the fine under section 706-644(4) or 706-645.

HAW. REV. STAT. § 706-660 (2012). Sentence of imprisonment for class B and C felonies; ordinary terms.

A person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

- (1) For a class B felony - 10 years; and
- (2) For a class C felony - 5 years.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

HAW. REV. STAT. § 706-663 (2012). Sentence of imprisonment for misdemeanor and petty misdemeanor.

After consideration of the factors set forth in sections 706-606 and 706-621, the court may sentence a person who has been convicted of a misdemeanor or a petty misdemeanor to imprisonment for a definite term to be fixed by the court and not to exceed one year in the case of a misdemeanor or thirty days in the case of a petty misdemeanor.

HAW. REV. STAT. § 711-1100 (2012). Definitions.

In this chapter, unless a different meaning is plainly required, or the definition is otherwise limited by this section:

“Animal” includes every living creature, except a human being.

“Equine animal” means an animal of or belonging to the family Equidae, including horses, ponies, mules, donkeys, asses, burros, and zebras.

“Facsimile” means a document produced by a receiver of signals transmitted over telecommunication lines, after translating the signals, to produce a duplicate of an original document.

“Necessary sustenance” means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
- (2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal's needs;
- (3) Access to protection from wind, rain, or sun;
- (4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health; provided that the area of confinement in a primary pet enclosure must:
 - (a) Provide access to shelter;
 - (b) Be constructed of safe materials to protect the pet animal from injury;
 - (c) Enable the pet animal to be clean, dry, and free from excess waste or other contaminants that could affect the pet animal's health;
 - (d) Provide the pet animal with a solid surface or resting platform that is large enough for the pet animal to lie upon in a normal manner, or, in the case of a caged bird a perch that is large enough for the bird to perch upon in a normal manner;
 - (e) Provide sufficient space to allow the pet animal to, at minimum, do the following:
 - (i) Easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable manner for the pet animal, without making physical contact with any other animal in the enclosure; and
 - (ii) Interact safely with other animals within the enclosure; and
- (5) Veterinary care when needed to prevent suffering.

“Obstructs” means renders impassable without unreasonable inconvenience or hazard.

“Pet animal” means a dog, cat, domesticated rabbit, guinea pig, domesticated pig, or caged birds (passeriformes, piciformes, and psittaciformes only) so long as not bred for consumption.

“Primary pet enclosure” means any kennel, cage, or structure used to restrict only a pet animal as defined in this section to a limited area of space, and does not apply to the confinement of any animals that are raised for food, such as any poultry that is raised for meat or egg production and livestock, rabbits, or pigs that are raised specifically for meat production because these animals are not pets when raised for meat or egg production.

“Private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

“Public” means affecting or likely to affect a substantial number of persons.

“Public place” means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

“Record”, for the purposes of sections 711-1110.9 and 711-1111, means to videotape, film, photograph, or archive electronically or digitally.

“Torment” means fail to attempt to mitigate substantial bodily injury with respect to a person who has a duty of care to the animal.

“Torture” includes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

HAW. REV. STAT. § 711-1108.5 (2012). Cruelty to animals in the first degree.

(1) A person commits the offense of cruelty to animals in the first degree if the person intentionally or knowingly:

(a) Tortures, mutilates, or poisons or causes the torture, mutilation, or poisoning of any pet animal or equine animal resulting in serious bodily injury or death of the pet animal or equine animal; or

(b) Kills or attempts to kill any pet animal belonging to another person, without first obtaining legal authority or the consent of the pet animal’s owner.

(2) Subsection (1)(a) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Cropping or docking as customarily practiced.

(3) Subsection (1)(b) shall not apply to:

(a) Humane euthanasia of any animal by an animal control officer, duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals, or duly authorized governmental agency in accordance with American Veterinary Medical Association accepted standards; or

(b) Conduct which the actor believes to be necessary to avoid an imminent harm or evil to the actor, another person, or an animal; provided that the harm or evil sought to be avoided by such conduct is greater than that sought to be prevented by this section and is justifiable as provided in section 703–302 for choice of evils; provided further that, for purposes of this paragraph, as the justification described in section 703–302 shall also apply to conduct which the actor believes to be necessary to avoid an imminent harm or evil to an animal.

(4) Whenever any pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved, the animal may be immediately destroyed without creating any offense under this section.

(5) Cruelty to animals in the first degree is a class C felony.

HAW. REV. STAT. § 711-1109 (2012).Cruelty to animals in the second degree.

(1) A person commits the offense of cruelty to animals in the second degree if the person intentionally, knowingly, or recklessly:

(a) Overdrives, overloads, tortures, torments, beats, causes substantial bodily injuryto,or starves any animal, or causes the overdriving, overloading, torture, torment, beating, or starving of any animal;

(b) Deprives a pet animal of necessary sustenance or causes such deprivation;

(c) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests; provided that the handling or extermination of any insect, vermin, or other pest is conducted in accordance with standard and acceptable pest control practices and all applicable laws and regulations;

(d) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other animal, and includes every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;

(e) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner;

(f) Confines or causes to be confined, in a kennel or cage, any pet animal in a cruel or inhumane manner;

(g) Tethers, fastens, ties, or restrains a dog to a dog house, tree, fence, or any other stationary object by means of a choke collar, pinch collar, or prong collar; provided that a person is not prohibited from using such restraints when walking a dog with a hand-held leash or while a dog is engaged in a supervised activity, or

(h) Assists another in the commission of any act specified in subsections (1)(a) through (1)(g).

(2) Subsection (1)(a), (b), (c), (e), (f), (g), and (h) shall not apply to:

(a) Accepted veterinary practices;

(b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or

(c) Pest control operations conducted pursuant to chapter 149A by a pest control operator licensed pursuant to chapter 460J, if the pest control is performed under a written contract.

(3) Whenever any animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed without creating any offense under this section.

(4) Cruelty to animals in the second degree is a misdemeanor.

HAW. REV. STAT. § 711-1109.1 (2012). Authority to enter premises; notice of impoundment of animal; damage resulting from entry.[Effective July 1, 2012 – June 30, 2015.]

(1) If there is probable cause to believe that a pet animal or equine animal is being subjected to treatment in violation of section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, a law enforcement officer, after obtaining a search warrant, or in any other manner authorized by law, may enter the premises where the pet animal or equine animal is located to provide the pet animal or equine animal with food, water, and emergency medical treatment or to impound the pet animal or equine animal. If after reasonable effort, the owner or person having custody of the pet animal or equine animal cannot be found and notified of the impoundment, an impoundment notice shall be conspicuously posted on the premises and within seventy-two hours after posting, the notice shall be sent by certified mail to the address, if any,

from which the pet animal or equine animal was removed.

(2) A law enforcement officer is not liable for any damage resulting from an entry under subsection (1), unless the damage resulted from intentional or reckless behavior on behalf of the law enforcement officer.

(3) A court may order a pet animal or equine animal impounded under subsection (1) to be held at a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals. A facility receiving the pet animal or equine animal shall provide adequate food and water and may provide veterinary care.

(4) For purposes of this section, “law enforcement officer” shall have the same meaning as section 710-1000.

HAW. REV. STAT. § 711-1109.2 (2012). Forfeiture of animal prior to disposition of criminal charges.[Effective July 1, 2012 – June 30, 2015.]

(1) If any pet animal or equine animal is impounded pursuant to section 711-1109.1, prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, against the pet animal’s or equine animal’s owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal or equine animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal or equine animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.

(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal or equine animal was subjected to a violation of section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal or equine animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

(a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal or equine animal from the date of initial impoundment to the date of trial; or

(b) Demonstrates to the court that proper alternative care has been arranged for the pet animal or equine animal.

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3)(a), the petitioner may draw from the security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action. If the trial is continued to a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the pet animal or equine animal until the date of final disposition of the criminal action, and the petitioner may draw from the additional security deposit or bond as necessary.

(5) No pet animal or equine animal may be destroyed by a petitioner under this section prior to final disposition of a criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable, against the pet animal's or equine animal's owner, except in the event that the pet animal or equine animal is so severely injured that there is no reasonable probability that its life can be saved.

(6) Forfeiture of a pet animal under this section shall not be subject to the provisions of chapter 712A.

(7) In addition to any reasonable costs incurred under subsection (4) by the petitioner in the caring for the pet animal or equine animal, the court may award reasonable attorney's fees and court costs to the petitioner following the conviction of the defendant.

(8) As used in this section, "pet animal or equine animal" includes any offspring from the pet animal or equine animal that was pregnant at the time of the rescue and born during the impoundment of the pet animal or equine animal.

HAW. REV. STAT. § 711-1109.3 (2012). Cruelty to animals by fighting dogs in the first degree.

(1) A person commits the offense of cruelty to animals by fighting dogs in the first degree if the person:

(a) Knowingly:

(i) Causes, sponsors, arranges, or holds a dogfight for entertainment or financial gain; or

(ii) Owns, trains, transports, possesses, sells, transfers, or equips any dog with the intent that the dog shall be engaged in a dogfight; or

(b) Recklessly:

(i) Allows a dogfight to occur on any property owned or controlled by the person;
or

(ii) Allows any dog intended to be used for a dogfight to be kept, trained on, or transported in, any property owned or controlled by the person.

(2) Nothing in this section shall prohibit any of the following:

(a) The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;

(b) The use of dogs in hunting wildlife including game; or

(c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

(3) As used in this section, "dogfight" means a dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.

(4) Violation of this section shall be a class B felony.

(5) If there is any conflict between this section and section 711-1109, or any other provision of law, this section shall apply.

HAW. REV. STAT. § 711-1109.6 (2012). Animal hoarding. [Repealed effective July 1, 2015].

(1) A person commits the offense of animal hoarding if the person intentionally, knowingly, or recklessly:

(a) Possesses more than fifteen dogs, cats, or a combination of dogs and cats;

(b) Fails to provide necessary sustenance for each dog or cat; and

(c) Fails to correct the conditions under which the dogs or cats are living, where conditions injurious to the dogs', cats', or owner's health and well-being result from the person's failure to provide necessary sustenance.

(2) Animal hoarding is a misdemeanor.

HAW. REV. STAT. § 711-1110 (2012). Relating to agent of society.

The agent of any society which is formed or incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any district in the State, may within such district make arrests and bring before any district judge thereof offenders found violating the provisions of section 711-1109 to be dealt with according to law.

HAW. REV. STAT. § 711-1110.5 (2012). Surrender or forfeiture of animals. [Effective until July 1, 2015.]

Upon conviction, guilty plea, or plea of nolocontendere for any violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.6, or 711-1109.35:

(1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and

(2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section.

ANIMAL PROTECTION LAWS OF IDAHO

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Idaho's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Idaho may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

IDAHO

1. GENERAL PROHIBITIONS*	(1) Poisoning animals IDAHO CODE §25-3503 (2) Cruelty to animals IDAHO CODE §25-3504 (3) Carrying animal in a cruel manner or otherwise subjecting it to cruelty IDAHO CODE §25-3505 (4) Impounding without food or water IDAHO CODE §25-3510 (5) Permitting animals to go without care IDAHO CODE §25-3511 (6) Beating and harassing animals IDAHO CODE §25-3518
<i>Animals Covered in Definition</i>	“[A]ny vertebrate member of the animal kingdom, except man” IDAHO CODE §25-3502(2)
<i>Classification of Crimes</i>	(1) Misdemeanor or Felony (2) - (6) Misdemeanor

IDAHO*continued*

2. MAXIMUM PENALTIES ^{**}	<p>(1) [Misdemeanor]: 1 years jail <i>and/or</i> \$5,000 fine IDAHO CODE §25-3503</p> <p>[Felony]: 3 years prison <i>and/or</i> \$5,000 fine IDAHO CODE §25-3503</p> <hr/> <p>(2) - (6) [1st offense]: 6 months jail <i>and/or</i> \$5,000 fine IDAHO CODE §25-3520A(1)</p> <p>[2nd offense]: 9 months jail <i>and/or</i> \$7,000 fine IDAHO CODE §25-3520A(2)</p> <p>[3rd and subsequent offenses]: 1 year jail <i>and/or</i> \$9,000 fine IDAHO CODE §25-3520A(3)</p>
3. EXEMPTIONS ^{***}	1, 2, 3, 4, 5, 6, 7, 8, 9 IDAHO CODE §§25-3514, 25-3514A, 25-3515
4. COUNSELING / EVALUATIONS [†]	-----

IDAHO <i>continued</i>	
5. PROTECTIVE ORDERS[†]	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>Owner or keeper is responsible for reasonable costs of care and seizure for impounded animals. IDAHO CODE§ 25-3520B</p> <p>Defendant may post a security bond for costs of care from impoundment to the date of trial, which may be used for actual reasonable costs of care. IDAHO CODE§ 25-3520B</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>In cases involving mistreatment of “production animals,” the department of agriculture must give approval before seizure occurs. IDAHO CODE§ 25-3501A</p> <p>Officers must seize animals being cruelly transported once person transporting them is arrested. IDAHO CODE §25-3505</p> <p>Peace officers or qualified humane officer may seize cruelly treated or neglected animals, subject to restrictions in 25-3501A. IDAHO CODE §§25-3504, 25-3511, 25-3520B</p> <p>Search warrants must be issued in cases of probable cause. IDAHO CODE §25-3513</p>

IDAHO <i>continued</i>	
8. FORFEITURE / POSSESSION[†]	<p>If, after due process, a responsible owner cannot be found, abandoned animals may be offered for adoption or may be euthanized. IDAHO CODE §25-3511</p> <p>Upon conviction, the court may order forfeiture of the mistreated animal and any other animals owned or possessed by the defendant at the time of the offense. IDAHO CODE § 25-3520A(4)</p> <p>The court, prior to disposition of criminal charges, may order forfeiture of an impounded animal, if the court finds that probable cause of mistreatment existed and the defendant fails to issue a bond for costs of care. IDAHO CODE § 25-3520B</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians are not liable for investigations of cruelty, unless accompanied by bad faith or malice. IDAHO CODE § 25-3514A</p>

IDAHO <i>continued</i>	
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>The department of agriculture, division of animal industries is responsible for the administration of the provisions of this chapter as they pertain to production animals; local law enforcement agencies shall be responsible for the administration of the provisions of this chapter as they pertain to companion animals. IDAHO CODE §25-3501</p> <p>In cases involving mistreatment of “production animals,” the department of agriculture must give approval before enforcement of laws or seizure occurs. IDAHO CODE § 25-3501A</p> <p>Animal control officers must comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers. IDAHO CODE § 25-3501A</p> <p>Sheriff, police, peace officers, or animal control officers may make arrests. IDAHO CODE § 25-3513</p> <p>Representatives of the division of animal industries are authorized to enter any premises in this state, with the owner’s permission, to investigate alleged violations. If permission is not granted, representatives may call upon law enforcement to assist. IDAHO CODE §25-3519</p>
<p>12. SEXUAL ASSAULT</p>	<p>Sexually assaulting an animal is a felony.</p>

	IDAHO CODE§18-6605
IDAHO <i>continued</i>	
13. FIGHTING	<p>Various cockfighting activities are misdemeanors; subsequent violations under certain circumstances are felonies. IDAHO CODE§25-3506</p> <p>Various dogfighting activities felonies; spectatorship is a misdemeanor. IDAHO CODE§ 25-3507</p> <p>Any qualified peace officer may enter any building or tenement where there is an exhibition of the fighting of birds or animals or where preparations are being made for such an exhibition, and without a warrant, arrest all persons. IDAHO CODE§25-3509</p>
<i>Other Felony Provisions Affecting Animals</i> [‡]	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
†This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

IDAHO CODE § 25-3502 (2012).Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) “Abandon” means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter.

(2) “Animal” means any vertebrate member of the animal kingdom, except man.

(3) “Animal care and control agency” means any agency incorporated under the laws of this state to which a county or municipality has conferred authority to exercise the powers and duties set forth in this chapter based upon the agency’s ability to fulfill the purposes of this chapter.

(4) “Companion animal” means those animals including, but not limited to, domestic dogs, domestic cats, rabbits, companion birds, and other animals commonly kept as pets.

(5) “Cruel” or “cruelty” shall mean any or all of the following:

(a) The intentional and malicious infliction of pain, physical suffering, injury or death upon an animal;

(b) To maliciously kill, maim, wound, overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink or shelter, cruelly beat, mutilate or cruelly kill an animal;

(c) To subject an animal to needless suffering, inflict unnecessary cruelty, drive, ride or otherwise use an animal when same is unfit;

(d) To abandon an animal;

(e) To negligently confine an animal in unsanitary conditions or to negligently house an animal in inadequate facilities; to negligently fail to provide sustenance, water or shelter to an animal.

(6) “Department” means the Idaho state department of agriculture.

(7) “Department investigator” means a person employed by, or approved by, the Idaho state department of agriculture, division of animal industries, to determine whether there has been a violation of this chapter.

(8) “Division” means the division of animal industries of the Idaho state department of agriculture.

(9) “Custodian” means any person who keeps or harbors an animal, has an animal in his care or acts as caretaker of an animal.

(10) “Malicious” or “maliciously” means the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or death.

(11) “Owner” means any person who has a right of property in an animal.

(12) “Person” means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the state of Idaho, or any municipal corporation or political subdivision of the state.

(13) “Pound” means a place enclosed by public authority for the detention of stray animals.

(14) “Production animal” means, for purposes of this chapter:

(a) The following animals owned for the express purpose of producing food or fiber, or other commercial activity, in furtherance of the production of food or fiber, or other commercial activity, or to be sold for the use by another for such purpose: cattle, sheep, goats, swine, poultry, ratites, equines, domestic cervidae, camelidae, and guard and stock dogs; and

(b) Furbearing animals kept for the purpose of commercial fur production.

IDAHO CODE§ 25-3503 (2012). Poisoning animals.

Every person who willfully administers any poisonous substance to an animal, the property of another, or maliciously places any poisonous substance where it would be found by an animal or where it would attract an animal, with the intent that the same shall be taken, ingested or absorbed by any such animal, is punishable by imprisonment in the state prison not exceeding three (3) years, or in the county jail not exceeding one (1) year, and a fine not less than one hundred dollars (\$100) or more than five thousand dollars (\$5000).

IDAHO CODE § 25-3504 (2012).Committing cruelty to animals.

Every person who is cruel to any animal, or causes or procures any animal to be cruelly treated, or who, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to cruelty shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

IDAHO CODE § 25-3505 (2012).Carrying in a cruel manner—Seizure, expenses, lien.

Whoever carries or causes to be carried in or upon any vehicle or otherwise any animal in a cruel manner, or knowingly and willfully authorizes or permits it to be subjected to cruelty of any kind, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Subject to the restrictions of section 25-3501A, Idaho Code, whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle, and its contents, and deposit them in some place of custody, and must take possession of the animal and deposit it in some place of custody until final disposition of the animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

IDAHO CODE§ 25-3510 (2012). Impounding without food or water.

Any person who impounds, or causes to be impounded in any pound, any animal, must supply the same during such confinement with a sufficient quantity of wholesome food and clean water, and in default thereof, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

IDAHO CODE § 25-3511 (2012).Permitting animals to go without care—Abandoned animals to be humanely destroyed.

Every owner, custodian or possessor of any animal, who shall permit the same to be in any building, enclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, as determined by an Idaho licensed veterinarian, or a representative of the division, shall, on conviction, be deemed guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. It shall be the duty of any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, to take possession of the animal so abandoned or neglected, and care for the same until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be humanely destroyed, or other provision made for the animal by or on the order of such officer; and it shall be the duty of all law enforcement officers or animal care and control officers, to cause the same to be humanely destroyed, or other provision made therefor, on information of such abandonment. Subject to the restrictions of section 25-3501A, Idaho Code, such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the activity it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. If, in accordance with this section, a responsible owner cannot be found, the animal may be offered for adoption to a responsible person in lieu of destruction.

IDAHO CODE§ 25-3518 (2012).Beating and harassing animals.

Every person who cruelly whips, beats or otherwise maliciously treats any animal, or maliciously harasses with a dog any cattle, horses, sheep, hogs or other livestock shall be guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

2. PENALTIES

IDAHO CODE§ 18-111 (2012).Felony, misdemeanor and infraction defined.

A felony is a crime which is punishable with death or by imprisonment in the state prison. An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding one hundred dollars (\$100) and for which no period of incarceration may be imposed. Every other crime is a misdemeanor. When a crime punishable by imprisonment in the state prison is also punishable by fine or imprisonment in a county jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the state prison.

IDAHO CODE§ 25-3503 (2012). Poisoning animals.

Every person who willfully administers any poisonous substance to an animal, the property of another, or maliciously places any poisonous substance where it would be found by an animal or where it would attract an animal, with the intent that the same shall be taken, ingested or absorbed by any such animal, *is punishable by imprisonment in the state prison not exceeding three (3) years, or in the county jail not exceeding one (1) year, and a fine not less than one hundred dollars (\$100) or more than five thousand dollars (\$5000).*

IDAHO CODE § 25-3520A (2012). Penalty for violations—Termination of rights

(1) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted for a first violation of any of the provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a second violation of any of the provisions of this chapter within ten (10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine (9) months or a fine of not less than two hundred dollars (\$200) or more than seven thousand dollars (\$7,000) or both fine and imprisonment.

(3)

(A) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a third or subsequent violation of any of the provisions of this chapter, except certain violations of section 25-3504, Idaho Code, as provided in paragraph (B) of this subsection, within fifteen (15) years of the first conviction, shall be guilty of a misdemeanor and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or more than nine thousand dollars (\$9,000) or by both fine and imprisonment.

(B) Except as provided in section 25-3503, Idaho Code, any person convicted of a third or subsequent violation who previously has been found guilty of or has pled guilty to two (2) violations of section 25-3504, Idaho Code, provided the violations were for conduct as defined by section 25-3502 (5) (a), Idaho Code, within fifteen (15) years of the first conviction, shall be guilty of a felony and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$ 500) or not more than nine thousand dollars (\$ 9,000) or by both fine and imprisonment. All other violations of section 25-3504, Idaho Code, for conduct as defined by any other paragraphs, other than paragraph (a) of section 25-3502 (5), Idaho Code, shall constitute misdemeanors and shall be punishable as provided in paragraph (a) of this subsection.

(C) Each prior conviction or guilty plea shall constitute one (1) violation of this chapter regardless of the number of counts involved in the conviction or guilty plea. Practices described in section 25-3514, Idaho Code, are not animal cruelty.

(4) If a person pleads guilty or is found guilty of an offense under this chapter, the court may issue an order terminating the person's right to possession, title, custody or care of an animal that was involved in the offense or that was owned or possessed at the time of the offense. If a person's right to possession, title, custody or care of an animal is terminated, the court may award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals, or may award the animal to a law enforcement agency or animal care and control agency. The court's award of custody or care of an animal will grant to the organization or agency the authority to determine custody, adoption, sale or other disposition of the animal thereafter.

3. EXEMPTIONS

IDAHO CODE§ 25-3514 (2012). Chapter construed not to interfere with normal or legal practices.

No part of this chapter shall be construed as interfering with or allowing interference with:

(1) Normal or accepted veterinary practices;

(2) The humane slaughter of any animal normally and commonly raised as food, for production of fiber or equines;

(3) Bona fide experiments or research carried out by professionally recognized private or public research facilities or institutions;

(4) The humane destruction of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane destruction of animals for population control;

(5) Normal or accepted practices of animal identification and animal husbandry as established by, but not limited to, guidelines developed and approved by the appropriate national or state commodity organizations;

(6) The killing of any animal, by any person at any time, which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(7) The killing of an animal that is vicious by an animal control officer, law enforcement officer or veterinarian;

(8) The killing or destruction of predatory animals, vermin or other animals or birds which are injuring or posing a threat to farm or privately owned animals or property, when such killing or destruction is conducted in accordance with laws and rules covering such animals;

(9) Any other exhibitions, competitions, activities, practices or procedures normally or commonly considered acceptable. The practices, procedures and activities described in this section shall not be construed to be cruel nor shall they be defined as cruelty to animals, nor shall any person engaged in these practices, procedures or activities be charged with cruelty to animals.

IDAHO CODE§ 25-3514A (2012). Immunity.

Any Idaho licensed veterinarian shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this chapter. Such a veterinarian is, therefore, protected from a lawsuit for his part in an investigation of cruelty to animals. Provided however, that a veterinarian who participates or reports in bad faith or with malice shall not be protected under the provisions of this section.

IDAHO CODE§ 25-3515 (2012). Chapter construed not to interfere with game laws.

No part of this chapter shall be construed as interfering with, negating or preempting any of the laws or rules of the department of fish and game of this state or any law for or against the destruction of certain birds, nor must this chapter be construed as interfering with the right to destroy any venomous reptile, or animal known as dangerous to life, limb, or property, or to interfere with the right to kill, slaughter, bag or take all animals used for food or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college, or university of this state, or any other recognized research facility or institution.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

IDAHO CODE § 25-3520B(2012).Seizure—Costs—Forfeiture proceedings—Security deposit or bond-disposition—Procedural guidelines.

(1) Any person having authority to enforce this chapter, in accordance with section 25-3501 or 25-3501A, Idaho Code, who has probable cause to believe there has been a violation of section 25-3504, 25-3505, 25-3506, 25-3507, 25-3510 or 25-3511, Idaho Code, may take custody of the animal involved.

(2) If any animal is seized under this section, the owner or keeper shall be liable for the reasonable costs of the seizure and the care, keeping and disposal of the animal. Reasonable costs shall include, but shall not be limited to, transportation, medical, board, shelter and farrier costs.

(3) If any animal is in the possession of, and being held by, a law enforcement agency or animal care and control agency pursuant to the provisions of this chapter, pending the outcome of a criminal action charging a violation of this chapter, and prior to final disposition of the criminal charge, the animal care and control agency or law enforcement agency may file a petition in the criminal case requesting that the court issue an order forfeiting the animal to the law enforcement agency or animal care and control agency. The petitioner shall serve a true copy of the petition upon the defendant.

(4) Upon receipt of a petition pursuant to subsection (3) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within fourteen (14) days after the filing of the petition, or as soon as practicable. The hearing shall be limited to the question of forfeiture of the animal.

(5) At a hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of this chapter. A prior finding of probable cause to proceed on the criminal case will create a permissive inference that probable cause exists for the forfeiture proceeding. After the hearing, if the court finds probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within seventy-two (72) hours of the hearing, posts a security deposit or bond with the municipal or county treasurer in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, for the care of the animal for at least thirty (30) days inclusive of the day of the initial seizure and may order anticipated costs up to the time set for trial on the criminal case if requested by the petitioner. If, after the hearing, the court finds that no probable cause exists, the animal shall be returned to the owner or keeper of the animal, and the owner or keeper shall not be responsible for any costs of the seizure, care or treatment, unless the person later pleads guilty to or is found guilty of a violation of this chapter.

(6) At the end of the time for which expenses are covered by the security deposit or bond, if the person owning or keeping the animal desires to prevent disposition of the animal, the owner or keeper shall post a new security deposit or bond with the municipal or county treasurer which must be received before the expiration date of the previous security deposit or bond. The court may correct, alter or otherwise adjust the new security deposit or bond upon a motion made before the expiration date of the previous security deposit or bond, provided however, no person may file more than one (1) motion seeking an adjustment to the new security deposit or bond.

(7) If a security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may draw from that security deposit or bond reasonable costs in keeping and caring for the animal from the date of the seizure to the date of final disposition of the animal in the criminal action.

(8) At the end of the time for which expenses are covered by the security deposit or bond, or if no security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may determine disposition of the animal. *The owner or keeper of the animal shall be liable for all unpaid reasonable costs of the care, keeping or disposal of the animal.* Posting of the security deposit or bond shall not prevent the law enforcement agency or animal care and control agency from disposing of the seized or impounded animal before the expiration of the period covered by the security deposit or bond if the court orders the forfeiture of the animal or the owner relinquishes the animal.

(9) Upon resolution of the criminal action, remaining funds deposited with the municipal or county treasurer which have not, and will not be expended in the care, keeping or disposal of the animal shall be remitted to the owner or keeper of the animal.

(10) Irrespective of any other provision of this section, if in the written determination of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured or diseased, and therefore not likely to recover, it may be immediately euthanized.

(11) No proceeding under this section shall be used as a basis for a continuance or to delay the criminal case nor shall proceedings in the criminal case, other than dismissal, be used as a basis to delay or continue the forfeiture proceeding as provided for in this section. Proceedings under this section are of a civil nature and governed by the Idaho rules of civil procedure except as to limitations upon the discovery process. Due to the need to conduct any proceeding necessary under this section in an expeditious manner, and the right of any criminal defendant to avoid self-incrimination, any and all discovery requests shall be granted only under authority of the court. Discovery shall be authorized with the intent to provide the necessary information relating directly to the evidence for the probable cause proceeding. In no event shall discovery mechanisms be used to unreasonably burden the opposing party. Discovery mechanisms shall not include the deposition of any party, witness or representative, the use of interrogatories, or the demand to inspect any records outside the immediate reports and financial accountings for the animal in question.

7. SEIZURE / ON-SITE SUPERVISION

IDAHO CODE § 25-3501A(2012). Enforcement—Enforcement restrictions.

(1) Law enforcement agencies and animal care and control agencies that provide law enforcement or animal care and control services to a municipality or county, may enforce the provisions of this chapter in that municipality or county.

(2) Animal care and control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Idaho.

(3) *In cases where production animals are subject to a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, law enforcement agencies and animal care and control agencies shall not:*

(a) Enforce section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that a violation of one (1) or more of the sections has occurred or is occurring; or

(b) *Take a production animal from a production animal facility, pasture, or rangeland for a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that such action is in the best interest of the animal.*

Editor's Note: Definition of "production animal" is included in Section (1) above. See §25-3502(14).

IDAHO CODE § 25-3520B(2012). Seizure—Costs—Forfeiture proceedings—Security deposit or bond-disposition—Procedural guidelines.

(1) *Any person having authority to enforce this chapter, in accordance with section 25-3501 or 25-3501A, Idaho Code, who has probable cause to believe there has been a violation of section 25-3504, 25-3505, 25-3506, 25-3507, 25-3510 or 25-3511, Idaho Code, may take custody of the animal involved.*

(2) If any animal is seized under this section, the owner or keeper shall be liable for the reasonable costs of the seizure and the care, keeping and disposal of the animal. Reasonable costs shall include, but shall not be limited to, transportation, medical, board, shelter and farrier costs.

(3) If any animal is in the possession of, and being held by, a law enforcement agency or animal care and control agency pursuant to the provisions of this chapter, pending the outcome of a criminal action charging a violation of this chapter, and prior to final disposition of the criminal charge, the animal care and control agency or law enforcement agency may file a petition in the criminal case requesting that the court issue an order forfeiting the animal to the law enforcement agency or animal care and control agency. The petitioner shall serve a true copy of the petition upon the defendant.

(4) Upon receipt of a petition pursuant to subsection (3) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within fourteen (14) days after the filing of the petition, or as soon as practicable. The hearing shall be limited to the question of forfeiture of the animal.

(5) At a hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of this chapter. A prior finding of probable cause to proceed on the criminal case will create a permissive inference that probable cause exists for the forfeiture proceeding. After the hearing, if the court finds probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within seventy-two (72) hours of the hearing, posts a security deposit or bond with the municipal or county treasurer in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, for the care of the animal for at least thirty (30) days inclusive of the day of the initial seizure and may order anticipated costs up to the time set for trial on the criminal case if requested by the petitioner. If, after the hearing, the court finds that no probable cause exists, the animal shall be returned to the owner or keeper of the animal, and the owner or keeper shall not be responsible for any costs of the seizure, care or treatment, unless the person later pleads guilty to or is found guilty of a violation of this chapter.

(6) At the end of the time for which expenses are covered by the security deposit or bond, if the person owning or keeping the animal desires to prevent disposition of the animal, the owner or keeper shall post a new security deposit or bond with the municipal or county treasurer which must be received before the expiration date of the previous security deposit or bond. The court may correct, alter or otherwise adjust the new security deposit or bond upon a motion made before the expiration date of the previous security deposit or bond, provided however, no person may file more than one (1) motion seeking an adjustment to the new security deposit or bond.

(7) If a security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may draw from that security deposit or bond reasonable costs in keeping and caring for the animal from the date of the seizure to the date of final disposition of the animal in the criminal action.

(8) At the end of the time for which expenses are covered by the security deposit or bond, or if no security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may determine disposition of the animal. The owner or keeper of the animal shall be liable for all unpaid reasonable costs of the care, keeping or disposal of the animal. Posting of the security deposit or bond shall not prevent the law enforcement agency or animal care and control agency from disposing of the seized or impounded animal before the expiration of the period covered by the security deposit or bond if the court orders the forfeiture of the animal or the owner relinquishes the animal.

(9) Upon resolution of the criminal action, remaining funds deposited with the municipal or county treasurer which have not, and will not be expended in the care, keeping or disposal of the animal shall be remitted to the owner or keeper of the animal.

(10) Irrespective of any other provision of this section, if in the written determination of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured or diseased, and therefore not likely to recover, it may be immediately euthanized.

(11) No proceeding under this section shall be used as a basis for a continuance or to delay the criminal case nor shall proceedings in the criminal case, other than dismissal, be used as a basis to delay or continue the forfeiture proceeding as provided for in this section. Proceedings under this section are of a civil nature and governed by the Idaho rules of civil procedure except as to limitations upon the discovery process. Due to the need to conduct any proceeding necessary under this section in an expeditious manner, and the right of any criminal defendant to avoid self-incrimination, any and all discovery requests shall be granted only under authority of the court. Discovery shall be authorized with the intent to provide the necessary information relating directly to the evidence for the probable cause proceeding. In no event shall discovery mechanisms be used to unreasonably burden the opposing party. Discovery mechanisms shall not include the deposition of any party, witness or representative, the use of interrogatories, or the demand to inspect any records outside the immediate reports and financial accountings for the animal in question.

IDAHO CODE § 25-3504 (2012).Committing cruelty to animals.

Every person who is cruel to any animal, or causes or procures any animal to be cruelly treated, or who, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to cruelty shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. *Any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.*

IDAHO CODE § 25-3505 (2012).Carrying in a cruel manner—Seizure, expenses, lien.

Whoever carries or causes to be carried in or upon any vehicle or otherwise any animal in a cruel manner, or knowingly and willfully authorizes or permits it to be subjected to cruelty of any kind, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. *Subject to the restrictions of section 25-3501A, Idaho Code, whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle, and its contents, and deposit them in some place of custody, and must take possession of the animal and deposit it in some place of custody until final disposition of the animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.*

IDAHO CODE § 25-3511 (2012).Permitting animals to go without care—Abandoned animals to be humanely destroyed.

Every owner, custodian or possessor of any animal, who shall permit the same to be in any building, enclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, as determined by an Idaho licensed veterinarian, or a representative of the division, shall, on conviction, be deemed guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. *It shall be the duty of any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, to take possession of the animal so abandoned or neglected, and care for the same until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.* Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be humanely destroyed, or other provision made for the animal by or on the order of such officer; and it shall be the duty of all law enforcement officers or animal care and control officers, to cause the same to be humanely destroyed, or other provision made therefor, on information of such abandonment. *Subject to the restrictions of section 25-3501A, Idaho Code, such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the activity it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.* If, in accordance with this section, a responsible owner cannot be found, the animal may be offered for adoption to a responsible person in lieu of destruction.

IDAHO CODE§ 25-3513 (2012). Prosecutions.

When complaint is made on oath, to any magistrate authorized to issue warrants in criminal cases, that there is probable cause to believe that any provision of law relating to or in any way affecting animals, is being, or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer, or animal control officer, authorizing him to enter and search such building or place, and to arrest any person there present violating or attempting to violate any law relating thereto, or in any way affecting animals and to bring such person before some court or magistrate of competent jurisdiction, within the city or county within which such offense has been committed or attempted, to be dealt with according to law, and such attempt must be held to be a misdemeanor and persons so convicted shall be punished in accordance with section 25-3520A, Idaho Code.

8. FORFEITURE / POSSESSION

IDAHO CODE § 25-3511 (2012).Permitting animals to go without care—Abandoned animals to be humanely destroyed.

Every owner, custodian or possessor of any animal, who shall permit the same to be in any building, enclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, as determined by an Idaho licensed veterinarian, or a representative of the division, shall, on conviction, be deemed guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. It shall be the duty of any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, to take possession of the animal so abandoned or neglected, and care for the same until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. *Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be humanely destroyed, or other provision made for the animal by or on the order of such officer; and it shall be the duty of all law enforcement officers or animal care and control officers, to cause the same to be humanely destroyed, or other provision made therefor, on information of such abandonment.* Subject to the restrictions of section 25-3501A, Idaho Code, such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the activity it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. *If, in accordance with this section, a responsible owner cannot be found, the animal may be offered for adoption to a responsible person in lieu of destruction.*

IDAHO CODE § 25-3520A (2012).Penalty for violations—Termination of rights.

(1) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted for a first violation of any of the provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a second violation of any of the provisions of this chapter within ten (10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine (9) months or a fine of not less than two hundred dollars (\$200) or more than seven thousand dollars (\$7,000) or both fine and imprisonment.

(3)

(A) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a third or subsequent violation of any of the provisions of this chapter, except certain violations of section 25-3504, Idaho Code, as provided in paragraph (B) of this subsection, within fifteen (15) years of the first conviction, shall be guilty of a misdemeanor and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or more than nine thousand dollars (\$9,000) or by both fine and imprisonment.

(B) Except as provided in section 25-3503, Idaho Code, any person convicted of a third or subsequent violation who previously has been found guilty of or has pled guilty to two (2) violations of section 25-3504, Idaho Code, provided the violations were for conduct as defined by section 25-3502 (5) (a), Idaho Code, within fifteen (15) years of the first conviction, shall be guilty of a felony and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$ 500) or not more than nine thousand dollars (\$ 9,000) or by both fine and imprisonment. All other violations of section 25-3504, Idaho Code, for conduct as defined by any other paragraphs, other than paragraph (a) of section 25-3502 (5), Idaho Code, shall constitute misdemeanors and shall be punishable as provided in paragraph (a) of this subsection.

(C) Each prior conviction or guilty plea shall constitute one (1) violation of this chapter regardless of the number of counts involved in the conviction or guilty plea. Practices described in section 25-3514, Idaho Code, are not animal cruelty.

(4) If a person pleads guilty or is found guilty of an offense under this chapter, the court may issue an order terminating the person's right to possession, title, custody or care of an animal that was involved in the offense or that was owned or possessed at the time of the offense. If a person's right to possession, title, custody or care of an animal is terminated, the court may award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals, or may award the animal to a law enforcement agency or animal care and control agency. The court's award of custody or care of an animal will grant to the organization or agency the authority to determine custody, adoption, sale or other disposition of the animal thereafter.

IDAHO CODE § 25-3520B(2012).Seizure—Costs—Forfeiture proceedings—Security deposit or bond-disposition—Procedural guidelines.

(1) Any person having authority to enforce this chapter, in accordance with section 25-3501 or 25-3501A, Idaho Code, who has probable cause to believe there has been a violation of section 25-3504, 25-3505, 25- 3506, 25-3507, 25-3510 or 25-3511, Idaho Code, may take custody of the animal involved.

(2) If any animal is seized under this section, the owner or keeper shall be liable for the reasonable costs of the seizure and the care, keeping and disposal of the animal. Reasonable costs shall include, but shall not be limited to, transportation, medical, board, shelter and farrier costs.

(3) If any animal is in the possession of, and being held by, a law enforcement agency or animal care and control agency pursuant to the provisions of this chapter, pending the outcome of a criminal action charging a violation of this chapter, and prior to final disposition of the criminal charge, the animal care and control agency or law enforcement agency may file a petition in the criminal case requesting that the court issue an order forfeiting the animal to the law enforcement agency or animal care and control agency. The petitioner shall serve a true copy of the petition upon the defendant.

(4) Upon receipt of a petition pursuant to subsection (3) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within fourteen (14) days after the filing of the petition, or as soon as practicable. The hearing shall be limited to the question of forfeiture of the animal.

(5) At a hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of this chapter. A prior finding of probable cause to proceed on the criminal case will create a permissive inference that probable cause exists for the forfeiture proceeding. After the hearing, if the court finds probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within seventy-two (72) hours of the hearing, posts a security deposit or bond with the municipal or county treasurer in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, for the care of the animal for at least thirty (30) days inclusive of the day of the initial seizure and may order anticipated costs up to the time set for trial on the criminal case if requested by the petitioner. If, after the hearing, the court finds that no probable cause exists, the animal shall be returned to the owner or keeper of the animal, and the owner or keeper shall not be responsible for any costs of the seizure, care or treatment, unless the person later pleads guilty to or is found guilty of a violation of this chapter.

(6) At the end of the time for which expenses are covered by the security deposit or bond, if the person owning or keeping the animal desires to prevent disposition of the animal, the owner or keeper shall post a new security deposit or bond with the municipal or county treasurer which must be received before the expiration date of the previous security deposit or bond. The court may correct, alter or otherwise adjust the new security deposit or bond upon a motion made before the expiration date of the previous security deposit or bond, provided however, no person may file more than one (1) motion seeking an adjustment to the new security deposit or bond.

(7) If a security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may draw from that security deposit or bond reasonable costs in keeping and caring for the animal from the date of the seizure to the date of final disposition of the animal in the criminal action.

(8) At the end of the time for which expenses are covered by the security deposit or bond, or if no security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may determine disposition of the animal. The owner or keeper of the animal shall be liable for all unpaid reasonable costs of the care, keeping or disposal of the animal. Posting of the security deposit or bond shall not prevent the law enforcement agency or animal care and control agency from disposing of the seized or impounded animal before the expiration of the period covered by the security deposit or bond if the court orders the forfeiture of the animal or the owner relinquishes the animal.

(9) Upon resolution of the criminal action, remaining funds deposited with the municipal or county treasurer which have not, and will not be expended in the care, keeping or disposal of the animal shall be remitted to the owner or keeper of the animal.

(10) Irrespective of any other provision of this section, if in the written determination of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured or diseased, and therefore not likely to recover, it may be immediately euthanized.

(11) No proceeding under this section shall be used as a basis for a continuance or to delay the criminal case nor shall proceedings in the criminal case, other than dismissal, be used as a basis to delay or continue the forfeiture proceeding as provided for in this section. Proceedings under this section are of a civil nature and governed by the Idaho rules of civil procedure except as to limitations upon the discovery process. Due to the need to conduct any proceeding necessary under this section in an expeditious manner, and the right of any criminal defendant to avoid self-incrimination, any and all discovery requests shall be granted only under authority of the court. Discovery shall be authorized with the intent to provide the necessary information relating directly to the evidence for the probable cause proceeding. In no event shall discovery mechanisms be used to unreasonably burden the opposing party. Discovery mechanisms shall not include the deposition of any party, witness or representative, the use of interrogatories, or the demand to inspect any records outside the immediate reports and financial accountings for the animal in question.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

IDAHO CODE§ 25-3514A (2012). Immunity.

Any Idaho licensed veterinarian shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this chapter. Such a veterinarian is, therefore, protected from a lawsuit for his part in an investigation of cruelty to animals. Provided however, that a veterinarian who participates or reports in bad faith or with malice shall not be protected under the provisions of this section.

11. LAW ENFORCEMENT POLICIES

IDAHO CODE § 25-3501 (2012). Administration.

The Idaho state department of agriculture, division of animal industries shall be responsible for the administration of the provisions of this chapter as they pertain to production animals and shall inform the public and animal owners concerning their legal responsibilities, and in cooperation with local law enforcement, investigate and develop cases for prosecution. Local law enforcement agencies shall be responsible for the administration of the provisions of this chapter as they pertain to companion animals and shall be authorized to call upon the division to aid in fulfillment of the requirements of this chapter and refer cases for prosecution to the appropriate authority. The foregoing shall not be construed to preclude county or local officials, acting upon their own authority, from investigating, developing cases and prosecuting violations of this chapter that occur in their jurisdiction. The cost to the department for administering the provisions of this chapter shall be borne by the citizens of this state through the appropriation of general funds for administration, personnel, travel, equipment and supplies. No provision of this chapter relating to law enforcement agencies and animal care and control agencies shall be construed to preclude the authority of agencies or entities recognized in this section.

IDAHO CODE § 25-3501A(2012). Enforcement—Enforcement restrictions.

- (1) Law enforcement agencies and animal care and control agencies that provide law enforcement or animal care and control services to a municipality or county, may enforce the provisions of this chapter in that municipality or county.*
- (2) Animal care and control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Idaho.*
- (3) In cases where production animals are subject to a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, law enforcement agencies and animal care and control agencies shall not:
 - (a) Enforce section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that a violation of one (1) or more of the sections has occurred or is occurring; or*
 - (b) Take a production animal from a production animal facility, pasture, or rangeland for a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that such action is in the best interest of the animal.**

IDAHO CODE§ 25-3513 (2012). Prosecutions.

When complaint is made on oath, to any magistrate authorized to issue warrants in criminal cases, that there is probable cause to believe that any provision of law relating to or in any way affecting animals, is being, or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer, or animal control officer, authorizing him to enter and search such building or place, and to arrest any person there present violating or attempting to violate any law relating thereto, or in any way affecting animals and to bring such person before some court or magistrate of competent jurisdiction, within the city or county within which such offense has been committed or attempted, to be dealt with according to law, and such attempt must be held to be a misdemeanor and persons so convicted shall be punished in accordance with section 25-3520A, Idaho Code.

IDAHO CODE§25-3519(2012).Authority to enter premises and examine animals.

Representatives of the division are authorized and empowered to enter any field, pasture, feedyard, barn, stable, kennel, cage, yard, vehicle, trailer or other premises in this state where animals are kept, during normal operating hours, when probable cause exists, with the permission of the owner, to investigate alleged violations of the provisions of this chapter. If permission is not granted, said representatives shall be empowered to call on sheriffs, constables and peace officers to assist them in the discharge of their duties and in carrying out the provisions of this chapter.

12. SEXUAL ASSAULT

IDAHO CODE §18-6605(2012). Crime against nature—Punishment.

Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than five years.

13. FIGHTING

IDAHO CODE §25-3506(2012). Exhibition of cockfights.

(1) Every person who participates in a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Nothing in this section prohibits any customary practice of breeding or rearing game fowl, regardless of the subsequent uses of said game fowl.

(2) Every person who knowingly advertises, promotes or organizes a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature and at which:

(A) any controlled substance listed in section 37-2732C, Idaho Code, is present; and

(B) any act of gambling, as defined in section 18-3801, Idaho Code, occurs; is guilty of a felony and shall, upon conviction, be punished in accordance with the penalty provisions in section 25-3520A(3)(a), Idaho Code.

(3) Every person who knowingly advertises, promotes or organizes a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature and at which:

(A) gaffs or other artificial or mechanical means are used to enhance pain, inflict injury or to cause death; or

(B) any substance to enhance activity, aggressiveness or bodily energy has been administered to a gamecock; is guilty of a misdemeanor for a first violation and shall, upon conviction, be punished in accordance with the penalty provisions of section 25-3520A(1), Idaho Code. any person convicted of a second or subsequent violation of the provisions of this subsection is guilty of a felony and shall, upon conviction, be punished in accordance with the penalty provisions of section 25-3520A(3) (a), Idaho Code. each prior conviction shall constitute one (1) violation of the provisions of this subsection regardless of the number of counts involved in the conviction.

(4) Nothing in this section prohibits any customary practice of breeding or rearing game fowl, regardless of the subsequent uses of said game fowl.

IDAHO CODE § 25-3507 (2012).Exhibition of dogfights.

(1) Every person who knowingly owns, possesses, keeps, trains, buys or sells dogs for the purpose of a public or private display of combat between two (2) or more dogs in which the fighting, killing, maiming or injuring of dogs is a significant feature is guilty of a felony.

(2) Every person who knowingly advertises, promotes, organizes, participates or knowingly has a monetary interest in a public or private display of combat between two (2) or more dogs in which the fighting, killing, maiming or injuring of dogs is a significant feature is guilty of a felony.

(3) Every person who is knowingly present as a spectator at any place where preparations are being made for an exhibition of the fighting of dogs with the intent to be present at such preparations or to be knowingly present at such exhibition shall be guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

(4) Nothing in this section prohibits: demonstrations of the hunting, herding, working or tracking skills of dogs or the lawful use of dogs for hunting, herding, working, tracking or self and property protection; the use of dogs in the management of livestock or the training, raising, breeding or keeping of dogs for any purpose not prohibited by law. An exhibition of dogfighting shall not be construed to mean the type of confrontation that happens unintentionally because of a chance encounter between two (2) or more uncontrolled dogs.

IDAHO CODE § 25-3509 (2012).Arrests without warrants.

Any sheriff, constable, police or peace officer, qualified under the provisions of law to make arrests may enter any place, building or tenement where there is an exhibition of the fighting of birds or animals or where preparations are being made for such an exhibition, and without a warrant, arrest all persons there present.

14. REFERENCED STATUTES

IDAHO CODE § 18-111 (2012). Felony, misdemeanor and infraction defined.

A felony is a crime which is punishable with death or by imprisonment in the state prison. An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding one hundred dollars (\$100) and for which no period of incarceration may be imposed. Every other crime is a misdemeanor. When a crime punishable by imprisonment in the state prison is also punishable by fine or imprisonment in a county jail, in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the state prison.

IDAHO CODE § 18-6605 (2012). Crime against nature—Punishment.

Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than five years.

IDAHO CODE § 25-3501 (2012). Administration.

The Idaho state department of agriculture, division of animal industries shall be responsible for the administration of the provisions of this chapter as they pertain to production animals and shall inform the public and animal owners concerning their legal responsibilities, and in cooperation with local law enforcement, investigate and develop cases for prosecution. Local law enforcement agencies shall be responsible for the administration of the provisions of this chapter as they pertain to companion animals and shall be authorized to call upon the division to aid in fulfillment of the requirements of this chapter and refer cases for prosecution to the appropriate authority. The foregoing shall not be construed to preclude county or local officials, acting upon their own authority, from investigating, developing cases and prosecuting violations of this chapter that occur in their jurisdiction. The cost to the department for administering the provisions of this chapter shall be borne by the citizens of this state through the appropriation of general funds for administration, personnel, travel, equipment and supplies. No provision of this chapter relating to law enforcement agencies and animal care and control agencies shall be construed to preclude the authority of agencies or entities recognized in this section.

IDAHO CODE § 25-3501A (2012). Enforcement—Enforcement restrictions.

(1) Law enforcement agencies and animal care and control agencies that provide law enforcement or animal care and control services to a municipality or county, may enforce the provisions of this chapter in that municipality or county.

(2) Animal care and control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Idaho.

(3) In cases where production animals are subject to a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, law enforcement agencies and animal care and control agencies shall not:

(a) Enforce section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that a violation of one (1) or more of the sections has occurred or is occurring; or

(b) Take a production animal from a production animal facility, pasture, or rangeland for a violation of section 25-3504, 25-3505 or 25-3511, Idaho Code, without first obtaining an inspection and written determination from a department investigator that such action is in the best interest of the animal.

IDAHO CODE § 25-3502 (2012).Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) “Abandon” means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter.

(2) “Animal” means any vertebrate member of the animal kingdom, except man.

(3) “Animal care and control agency” means any agency incorporated under the laws of this state to which a county or municipality has conferred authority to exercise the powers and duties set forth in this chapter based upon the agency’s ability to fulfill the purposes of this chapter.

(4) “Companion animal” means those animals including, but not limited to, domestic dogs, domestic cats, rabbits, companion birds, and other animals commonly kept as pets.

(5) “Cruel” or “cruelty” shall mean any or all of the following:

(a) The intentional and malicious infliction of pain, physical suffering, injury or death upon an animal;

(b) To maliciously kill, maim, wound, overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink or shelter, cruelly beat, mutilate or cruelly kill an animal;

(c) To subject an animal to needless suffering, inflict unnecessary cruelty, drive, ride or otherwise use an animal when same is unfit;

(d) To abandon an animal;

(e) To negligently confine an animal in unsanitary conditions or to negligently house an animal in inadequate facilities; to negligently fail to provide sustenance, water or shelter to an animal.

(6) “Department” means the Idaho state department of agriculture.

(7) “Department investigator” means a person employed by, or approved by, the Idaho state department of agriculture, division of animal industries, to determine whether there has been a violation of this chapter.

(8) “Division” means the division of animal industries of the Idaho state department of agriculture.

(9) “Custodian” means any person who keeps or harbors an animal, has an animal in his care or acts as caretaker of an animal.

(10) “Malicious” or “maliciously” means the intentional doing of a wrongful act without just cause or excuse, with an intent to inflict an injury or death.

(11) “Owner” means any person who has a right of property in an animal.

(12) “Person” means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the state of Idaho, or any municipal corporation or political subdivision of the state.

(13) “Pound” means a place enclosed by public authority for the detention of stray animals.

(14) “Production animal” means, for purposes of this chapter:

(a) The following animals owned for the express purpose of producing food or fiber, or other commercial activity, in furtherance of the production of food or fiber, or other commercial activity, or to be sold for the use by another for such purpose: cattle, sheep, goats, swine, poultry, ratites, equines, domestic cervidae, camelidae, and guard and stock dogs; and

(b) Furbearing animals kept for the purpose of commercial fur production.

IDAHO CODE§ 25-3503 (2012). Poisoning animals.

Every person who willfully administers any poisonous substance to an animal, the property of another, or maliciously places any poisonous substance where it would be found by an animal or where it would attract an animal, with the intent that the same shall be taken, ingested or absorbed by any such animal, is punishable by imprisonment in the state prison not exceeding three (3) years, or in the county jail not exceeding one (1) year, and a fine not less than one hundred dollars (\$100) or more than five thousand dollars (\$5000).

IDAHO CODE§ 25-3504 (2012).Committing cruelty to animals

Every person who is cruel to any animal, or causes or procures any animal to be cruelly treated, or who, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to cruelty shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, may take possession of the animal cruelly treated, and provide care for the same, until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

IDAHO CODE§ 25-3505 (2012).Carrying in a cruel manner—Seizure, expenses, lien.

Whoever carries or causes to be carried in or upon any vehicle or otherwise any animal in a cruel manner, or knowingly and willfully authorizes or permits it to be subjected to cruelty of any kind, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Subject to the restrictions of section 25-3501A, Idaho Code, whenever any such person is taken into custody therefor by any officer, such officer must take charge of such vehicle, and its contents, and deposit them in some place of custody, and must take possession of the animal and deposit it in some place of custody until final disposition of the animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code.

IDAHO CODE§25-3506(2012).Exhibition of cockfights.

(1) Every person who participates in a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. Nothing in this section prohibits any customary practice of breeding or rearing game fowl, regardless of the subsequent uses of said game fowl.

(2) Every person who knowingly advertises, promotes or organizes a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature and at which:

(A) any controlled substance listed in section 37-2732C, Idaho Code, is present; and

(B) any act of gambling, as defined in section 18-3801, Idaho Code, occurs; is guilty of a felony and shall, upon conviction, be punished in accordance with the penalty provisions in section 25-3520A(3)(a), Idaho Code.

(3) Every person who knowingly advertises, promotes or organizes a public or private display of combat between two (2) or more gamecocks in which the fighting, killing, maiming or injuring of gamecocks is a significant feature and at which:

(A) gaffs or other artificial or mechanical means are used to enhance pain, inflict injury or to cause death; or

(B) any substance to enhance activity, aggressiveness or bodily energy has been administered to a gamecock; is guilty of a misdemeanor for a first violation and shall, upon conviction, be punished in accordance with the penalty provisions of section 25-3520A(1), Idaho Code. any person convicted of a second or subsequent violation of the provisions of this subsection is guilty of a felony and shall, upon conviction, be punished in accordance with the penalty provisions of section 25-3520A(3) (a), Idaho Code. each prior conviction shall constitute one (1) violation of the provisions of this subsection regardless of the number of counts involved in the conviction.

(4) Nothing in this section prohibits any customary practice of breeding or rearing game fowl, regardless of the subsequent uses of said game fowl.

IDAHO CODE§25-3507(2012).Exhibition of dogfights.

(1) Every person who knowingly owns, possesses, keeps, trains, buys or sells dogs for the purpose of a public or private display of combat between two (2) or more dogs in which the fighting, killing, maiming or injuring of dogs is a significant feature is guilty of a felony.

(2) Every person who knowingly advertises, promotes, organizes, participates or knowingly has a monetary interest in a public or private display of combat between two (2) or more dogs in which the fighting, killing, maiming or injuring of dogs is a significant feature is guilty of a felony.

(3) Every person who is knowingly present as a spectator at any place where preparations are being made for an exhibition of the fighting of dogs with the intent to be present at such preparations or to be knowingly present at such exhibition shall be guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

(4) Nothing in this section prohibits: demonstrations of the hunting, herding, working or tracking skills of dogs or the lawful use of dogs for hunting, herding, working, tracking or self and property protection; the use of dogs in the management of livestock or the training, raising, breeding or keeping of dogs for any purpose not prohibited by law. An exhibition of dogfighting shall not be construed to mean the type of confrontation that happens unintentionally because of a chance encounter between two (2) or more uncontrolled dogs.

IDAHO CODE§25-3509(2012).Arrests without warrants.

Any sheriff, constable, police or peace officer, qualified under the provisions of law to make arrests may enter any place, building or tenement where there is an exhibition of the fighting of birds or animals or where preparations are being made for such an exhibition, and without a warrant, arrest all persons there present.

IDAHO CODE§ 25-3510 (2012). Impounding without food or water.

Any person who impounds, or causes to be impounded in any pound, any animal, must supply the same during such confinement with a sufficient quantity of wholesome food and clean water, and in default thereof, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

IDAHO CODE§ 25-3511 (2012).Permitting animals to go without care—Abandoned animals to be humanely destroyed.

Every owner, custodian or possessor of any animal, who shall permit the same to be in any building, enclosure, lane, street, square or lot of any city, county or precinct, without proper care and attention, as determined by an Idaho licensed veterinarian, or a representative of the division, shall, on conviction, be deemed guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code. It shall be the duty of any law enforcement officer or animal care and control officer, subject to the restrictions of section 25-3501A, Idaho Code, to take possession of the animal so abandoned or neglected, and care for the same until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. Every sick, disabled, infirm or crippled animal which shall be abandoned in any city, county or precinct, may if after due search no owner can be found therefor, be humanely destroyed, or other provision made for the animal by or on the order of such officer; and it shall be the duty of all law enforcement officers or animal care and control officers, to cause the same to be humanely destroyed, or other provision made therefor, on information of such abandonment. Subject to the restrictions of section 25-3501A, Idaho Code, such officer may likewise take charge of any animal that by reason of lameness, sickness, feebleness or neglect, is unfit for the activity it is performing, or that in any other manner is being cruelly treated; and, if such animal is not then in custody of its owner, such officer shall give notice thereof to such owner, if known, and may provide suitable care for such animal until final disposition of such animal is determined in accordance with section 25-3520A or 25-3520B, Idaho Code. If, in accordance with this section, a responsible owner cannot be found, the animal may be offered for adoption to a responsible person in lieu of destruction.

IDAHO CODE§ 25-3513 (2012). Prosecutions.

When complaint is made on oath, to any magistrate authorized to issue warrants in criminal cases, that there is probable cause to believe that any provision of law relating to or in any way affecting animals, is being, or is about to be violated in any particular building or place, such magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer, or animal control officer, authorizing him to enter and search such building or place, and to arrest any person there present violating or attempting to violate any law relating thereto, or in any way affecting animals and to bring such person before some court or magistrate of competent jurisdiction, within the city or county within which such offense has been committed or attempted, to be dealt with according to law, and such attempt must be held to be a misdemeanor and persons so convicted shall be punished in accordance with section 25-3520A, Idaho Code.

IDAHO CODE§ 25-3514 (2012). Chapter construed not to interfere with normal or legal practices.

No part of this chapter shall be construed as interfering with or allowing interference with:

- (1) Normal or accepted veterinary practices;
- (2) The humane slaughter of any animal normally and commonly raised as food, for production of fiber or equines;
- (3) Bona fide experiments or research carried out by professionally recognized private or public research facilities or institutions;
- (4) The humane destruction of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane destruction of animals for population control;
- (5) Normal or accepted practices of animal identification and animal husbandry as established by, but not limited to, guidelines developed and approved by the appropriate national or state commodity organizations;
- (6) The killing of any animal, by any person at any time, which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (7) The killing of an animal that is vicious by an animal control officer, law enforcement officer or veterinarian;
- (8) The killing or destruction of predatory animals, vermin or other animals or birds which are injuring or posing a threat to farm or privately owned animals or property, when such killing or destruction is conducted in accordance with laws and rules covering such animals;
- (9) Any other exhibitions, competitions, activities, practices or procedures normally or commonly considered acceptable. The practices, procedures and activities described in this section shall not be construed to be cruel nor shall they be defined as cruelty to animals, nor shall any person engaged in these practices, procedures or activities be charged with cruelty to animals.

IDAHO CODE§ 25-3514A (2012). Immunity.

Any Idaho licensed veterinarian shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this chapter. Such a veterinarian is, therefore, protected from a lawsuit for his part in an investigation of cruelty to animals. Provided however, that a veterinarian who participates or reports in bad faith or with malice shall not be protected under the provisions of this section.

IDAHO CODE§ 25-3515 (2012). Chapter construed not to interfere with game laws.

No part of this chapter shall be construed as interfering with, negating or preempting any of the laws or rules of the department of fish and game of this state or any law for or against the destruction of certain birds, nor must this chapter be construed as interfering with the right to destroy any venomous reptile, or animal known as dangerous to life, limb, or property, or to interfere with the right to kill, slaughter, bag or take all animals used for food or with properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college, or university of this state, or any other recognized research facility or institution.

IDAHO CODE§ 25-3518 (2012).Beating and harassing animals.

Every person who cruelly whips, beats or otherwise maliciously treats any animal, or maliciously harasses with a dog any cattle, horses, sheep, hogs or other livestock shall be guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

IDAHO CODE§25-3519 (2012).Authority to enter premises and examine animals.

Representatives of the division are authorized and empowered to enter any field, pasture, feedyard, barn, stable, kennel, cage, yard, vehicle, trailer or other premises in this state where animals are kept, during normal operating hours, when probable cause exists, with the permission of the owner, to investigate alleged violations of the provisions of this chapter. If permission is not granted, said representatives shall be empowered to call on sheriffs, constables and peace officers to assist them in the discharge of their duties and in carrying out the provisions of this chapter.

IDAHO CODE § 25-3520A (2012). Penalty for violations—Termination of rights.

(1) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted for a first violation of any of the provisions of this chapter shall be punished, for each offense, by a jail sentence of not more than six (6) months or by a fine of not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

(2) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a second violation of any of the provisions of this chapter within ten (10) years of the first conviction, shall be punished for each offense, by a jail sentence of not more than nine (9) months or a fine of not less than two hundred dollars (\$200) or more than seven thousand dollars (\$7,000) or both fine and imprisonment.

(3)

(A) Except as otherwise provided in section 25-3503 or 25-3506, Idaho Code, any person convicted of a third or subsequent violation of any of the provisions of this chapter, except certain violations of section 25-3504, Idaho Code, as provided in paragraph (B) of this subsection, within fifteen (15) years of the first conviction, shall be guilty of a misdemeanor and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$500) or more than nine thousand dollars (\$9,000) or by both fine and imprisonment.

(B) Except as provided in section 25-3503, Idaho Code, any person convicted of a third or subsequent violation who previously has been found guilty of or has pled guilty to two (2) violations of section 25-3504, Idaho Code, provided the violations were for conduct as defined by section 25-3502 (5) (a), Idaho Code, within fifteen (15) years of the first conviction, shall be guilty of a felony and punished for each offense by a jail sentence of not more than twelve (12) months or a fine of not less than five hundred dollars (\$ 500) or not more than nine thousand dollars (\$ 9,000) or by both fine and imprisonment. All other violations of section 25-3504, Idaho Code, for conduct as defined by any other paragraphs, other than paragraph (a) of section 25-3502 (5), Idaho Code, shall constitute misdemeanors and shall be punishable as provided in paragraph (a) of this subsection.

(C) Each prior conviction or guilty plea shall constitute one (1) violation of this chapter regardless of the number of counts involved in the conviction or guilty plea. Practices described in section 25-3514, Idaho Code, are not animal cruelty.

(4) If a person pleads guilty or is found guilty of an offense under this chapter, the court may issue an order terminating the person's right to possession, title, custody or care of an animal that was involved in the offense or that was owned or possessed at the time of the offense. If a person's right to possession, title, custody or care of an animal is terminated, the court may award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals, or may award the animal to a law enforcement agency or animal care and control agency. The court's award of custody or care of an animal will grant to the organization or agency the authority to determine custody, adoption, sale or other disposition of the animal thereafter.

IDAHO CODE § 25-3520B (2012).Seizure—Costs—Forfeiture proceedings—Security deposit or bond-disposition—Procedural guidelines.

(1) Any person having authority to enforce this chapter, in accordance with section 25-3501 or 25-3501A, Idaho Code, who has probable cause to believe there has been a violation of section 25-3504, 25-3505, 25- 3506, 25-3507, 25-3510 or 25-3511, Idaho Code, may take custody of the animal involved.

(2) If any animal is seized under this section, the owner or keeper shall be liable for the reasonable costs of the seizure and the care, keeping and disposal of the animal. Reasonable costs shall include, but shall not be limited to, transportation, medical, board, shelter and farrier costs.

(3) If any animal is in the possession of, and being held by, a law enforcement agency or animal care and control agency pursuant to the provisions of this chapter, pending the outcome of a criminal action charging a violation of this chapter, and prior to final disposition of the criminal charge, the animal care and control agency or law enforcement agency may file a petition in the criminal case requesting that the court issue an order forfeiting the animal to the law enforcement agency or animal care and control agency. The petitioner shall serve a true copy of the petition upon the defendant.

(4) Upon receipt of a petition pursuant to subsection (3) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within fourteen (14) days after the filing of the petition, or as soon as practicable. The hearing shall be limited to the question of forfeiture of the animal.

(5) At a hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of this chapter. A prior finding of probable cause to proceed on the criminal case will create a permissive inference that probable cause exists for the forfeiture proceeding. After the hearing, if the court finds probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within seventy-two (72) hours of the hearing, posts a security deposit or bond with the municipal or county treasurer in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, for the care of the animal for at least thirty (30) days inclusive of the day of the initial seizure and may order anticipated costs up to the time set for trial on the criminal case if requested by the petitioner. If, after the hearing, the court finds that no probable cause exists, the animal shall be returned to the owner or keeper of the animal, and the owner or keeper shall not be responsible for any costs of the seizure, care or treatment, unless the person later pleads guilty to or is found guilty of a violation of this chapter.

(6) At the end of the time for which expenses are covered by the security deposit or bond, if the person owning or keeping the animal desires to prevent disposition of the animal, the owner or keeper shall post a new security deposit or bond with the municipal or county treasurer which must be received before the expiration date of the previous security deposit or bond. The court may correct, alter or otherwise adjust the new security deposit or bond upon a motion made before the expiration date of the previous security deposit or bond, provided however, no person may file more than one (1) motion seeking an adjustment to the new security deposit or bond.

(7) If a security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may draw from that security deposit or bond reasonable costs in keeping and caring for the animal from the date of the seizure to the date of final disposition of the animal in the criminal action.

(8) At the end of the time for which expenses are covered by the security deposit or bond, or if no security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may determine disposition of the animal. The owner or keeper of the animal shall be liable for all unpaid reasonable costs of the care, keeping or disposal of the animal. Posting of the security deposit or bond shall not prevent the law enforcement agency or animal care and control agency from disposing of the seized or impounded animal before the expiration of the period covered by the security deposit or bond if the court orders the forfeiture of the animal or the owner relinquishes the animal.

(9) Upon resolution of the criminal action, remaining funds deposited with the municipal or county treasurer which have not, and will not be expended in the care, keeping or disposal of the animal shall be remitted to the owner or keeper of the animal.

(10) Irrespective of any other provision of this section, if in the written determination of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured or diseased, and therefore not likely to recover, it may be immediately euthanized.

(11) No proceeding under this section shall be used as a basis for a continuance or to delay the criminal case nor shall proceedings in the criminal case, other than dismissal, be used as a basis to delay or continue the forfeiture proceeding as provided for in this section. Proceedings under this section are of a civil nature and governed by the Idaho rules of civil procedure except as to limitations upon the discovery process. Due to the need to conduct any proceeding necessary under this section in an expeditious manner, and the right of any criminal defendant to avoid self-incrimination, any and all discovery requests shall be granted only under authority of the court. Discovery shall be authorized with the intent to provide the necessary information relating directly to the evidence for the probable cause proceeding. In no event shall discovery mechanisms be used to unreasonably burden the opposing party. Discovery mechanisms shall not include the deposition of any party, witness or representative, the use of interrogatories, or the demand to inspect any records outside the immediate reports and financial accountings for the animal in question.

ANIMAL PROTECTION LAWS OF ILLINOIS

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Illinois's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Illinois may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

ILLINOIS

1. GENERAL PROHIBITIONS*	<p>(1) Owner's duties 510 ILL. COMP. STAT. 70/3</p> <p>(2) Cruel treatment 510 ILL. COMP. STAT. 70/3.01</p> <p>(3) Aggravated cruelty to companion animals 510 ILL. COMP. STAT. 70/3.02</p> <p>(4) Torture 510 ILL. COMP. STAT. 70/3.03</p> <p>(5) Depiction of animal cruelty 510 ILL. COMP. STAT. 70/3.03-1</p> <p>(6) Poisoning 510 ILL. COMP. STAT. 70/6</p> <p>(7) Confinement of animals in motor vehicles 510 ILL. COMP. STAT. 70/7.1</p>
<i>Animals Covered in Definition</i>	<p>“[E]very living creature, domestic or wild, but does not include man” 510 ILL. COMP. STAT. 70/2.01</p> <p>“‘Companion animal’ means an animal that is commonly considered to be, or is considered by the owner to be, a pet. ‘Companion animal’ includes, but is not limited to, canines, felines, and equines.” 510 ILL. COMP. STAT. 70/2.01a</p>

ILLINOIS*continued*

Classification of Crimes

(1)
[1st offense]:
Class B misdemeanor

[2nd and subsequent offenses]:
Class 4 felony

(2)
[1st offense]:
Class A misdemeanor

[2nd offense and subsequent offenses]:
Class 4 felony

(3)
[1st offense]:
Class 4 felony

[2nd offense and subsequent offenses]:
Class 3 felony

(4)
Class 3 felony

(5)
[1st offense]:
Class A misdemeanor

[2nd offense and subsequent offenses]:
Class 4 felony

(6)
[1st offense]:
Class A misdemeanor

[2nd offense and subsequent offenses]:
Class 4 felony

ILLINOIS <i>continued</i>	
<i>Classification of Crimes</i> <i>continued</i>	<p>(7) [1st offense]: Class C misdemeanor</p> <p>[2nd offense and subsequent offenses]: Class B misdemeanor</p>
2. MAXIMUM PENALTIES ^{**}	<p>[Class C misdemeanor]: 30 days imprisonment <i>and</i> \$1,500 fine 730 ILL. COMP. STAT.5/5-4.5-65</p> <p>[Class B misdemeanor]: 6 months imprisonment <i>and</i> \$1,500 fine 730 ILL. COMP. STAT.5/5-4.5-60</p> <p>[Class A misdemeanor]: 1 year imprisonment <i>and</i> \$2,500 fine 730 ILL. COMP. STAT.5/5-4.5-55</p> <p>[Class 4 felony]: 3 years imprisonment 730 ILL. COMP. STAT. 5/5-4.5-45 <i>and</i> \$25,000 fine 730 ILL. COMP. STAT. 5/5-4.5-50</p> <p>[Class 3 felony]: 5 years imprisonment 730 ILL. COMP. STAT. 5/5-4.5-40 <i>and</i> \$25,000 fine</p>

	730 ILL. COMP. STAT. 5/5-4.5-50
ILLINOIS <i>continued</i>	
3. EXEMPTIONS ***	<p>3, 4, 5, 6 510 ILL. COMP. STAT. 70/13</p> <p>9 510 ILL. COMP. STAT. 70/3.02 510 ILL. COMP. STAT. 70/16.1</p> <p>1, 2, 3, 4, 5, 9 510 ILL. COMP. STAT. 70/3.03</p> <p>2, 4, 7, 9 510 ILL. COMP. STAT. 70/3.03-1</p> <p>1 510 ILL. COMP. STAT. 70/6</p> <p>2 510 ILL. COMP. STAT. 70/10</p> <p>1, 4 720 ILL. COMP. STAT. 5/12-35</p>
4. COUNSELING / EVALUATIONS †	<p>Evaluation and treatment may be ordered; required in cases where offender is a juvenile or animal hoarders. 510 ILL. COMP. STAT. 70/3 510 ILL. COMP. STAT. 70/3.01 510 ILL. COMP. STAT. 70/3.02 510 ILL. COMP. STAT. 70/3.03-1</p> <p>Evaluation and treatment required in sentencing for animal torture. 510 ILL. COMP. STAT. 70/3.03</p> <p>Evaluation and counseling may be ordered. 720 ILL. COMP. STAT. 5/12-35</p>

ILLINOIS <i>continued</i>	
5. PROTECTIVE ORDERS[†]	725 ILL. COMP. STAT. 5/112A-14
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>Security deposit to cover costs of care for impounded animals may be ordered. 510 ILL. COMP. STAT. 70/3.05 510 ILL. COMP. STAT. 70/4.02</p> <p>Any outstanding costs incurred for costs of care pending the disposition of the case and any costs incurred in disposing of the animals must be borne by the person convicted. 510 ILL. COMP. STAT. 70/3.06 510 ILL. COMP. STAT. 70/4.02</p> <p>Impoundment expenses constitute lien on impounded animals. 510 ILL. COMP. STAT. 70/12</p> <p>Any expense incurred in the impoundment shall remain outstanding until satisfied by the owner or the person from whom the animal or animals were impounded. 510 ILL. COMP. STAT. 70/12</p> <p>Court may order offender to make reimbursement for any reasonable costs incurred for the care and maintenance of the animal. 720 ILL. COMP. STAT. 5/12-35</p> <p>Restitution is required for some offenses, and discretionary in all others. 730 ILL. COMP. STAT. 5/5-5-6</p>

ILLINOIS <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION	<p>Any law enforcement officer making an arrest for certain offenses involving companion animals, may lawfully take possession of the companion animals in the possession of the person arrested. 510 ILL. COMP. STAT. 70/3.04</p> <p>Court may ordered person charged to care for animals that are the basis of the charge without their removal from their existing location. Law enforcement, Department investigator, humane and animal control officers may be authorized to supervise. 510 ILL. COMP. STAT. 70/3.05</p> <p>Animals, equipment, and certain vehicles and conveyances used in the violation shall be seized. 510 ILL. COMP. STAT. 70/4.01, 70/4.02 720 ILL. COMP. STAT. 5/26-5</p> <p>After receiving complaints alleging animal abuse, law enforcement, state department of agriculture investigators, and approved humane investigators may search certain premises 510 ILL. COMP. STAT. 70/10</p> <p>A failure to take ordered corrective action permits humane officer to request authorization to impound animals. 510 ILL. COMP. STAT. 70/11</p> <p>Department of agriculture may impound animals. 510 ILL. COMP. STAT. 70/12</p>

	<p>Court may order the seizure of all animals involved in the alleged violation as a condition of bond. 720 ILL. COMP. STAT. 5/12-35</p>
<p>ILLINOIS<i>continued</i></p>	
<p>8. FORFEITURE / POSSESSION[†]</p>	<p>Pre-trial forfeiture may be ordered in certain cases. 510 ILL. COMP. STAT. 70/3.04</p> <p>Impounded animals are forfeited if defendant fails to post a required security; defendant or any person residing in defendant's household may not adopt any such forfeited animals. 510 ILL. COMP. STAT. 70/3.05</p> <p>Upon conviction, the court may order animal victim forfeited, and may prohibit future ownership of animals by the offender and certain other persons in the same household. 510 ILL. COMP. STAT. 70/3.04</p> <p>Upon conviction, seized companion animals and animals use for fighting are forfeited. 510 ILL. COMP. STAT. 70/3.06</p> <p>Certain vehicles or conveyance used in the violation shall be offered for sale at public auction, with the proceeds going to the county. 510 ILL. COMP. STAT. 70/4.01 720 ILL. COMP. STAT. 5/26-5</p> <p>Upon conviction all animals used in fighting shall be forfeited; the defendant or any person residing in the defendant's household may not adopt any such forfeited animals. 510 ILL. COMP. STAT. 70/4.02</p> <p>Hearing officer has authority over disposition of impounded animals if owner requests</p>

	<p>hearing; animals not claimed within 7 days may be forfeited. 510 ILL. COMP. STAT. 70/12</p>
<p>ILLINOIS<i>continued</i></p>	
<p>8. FORFEITURE / POSSESSION[†] <i>continued</i></p>	<p>Court may order the offender and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, not to own, harbor, or have custody or control of any other animals for a certain period of time. 720 ILL. COMP. STAT. 5/26-5</p> <p>Upon conviction for sexual assault of an animal, the court may order that defendant not harbor animals or reside in any household where animals are present; and to relinquish and permanently forfeit all animals residing in the household. 720 ILL. COMP. STAT. 5/12-35</p> <p>Certain felons may not own, possess, have custody or reside with non-sterilized or “vicious” dogs for a period of ten years following release from incarceration. 720 ILL. COMP. STAT. 5/12-36</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>Animal control officers and Illinois Department of Agriculture Bureau of Animal Health and Welfare field investigators must report suspected child abuse and neglect; all mandatory child abuse and neglect reporters may report suspected animal abuse and neglect. 325 ILL. COMP. STAT. 5/4</p> <p>Certain social service professionals must report suspected animal abuse and neglect. 325 ILL. COMP. STAT.5/11.8</p>

ILLINOIS <i>continued</i>	
<p>9. CROSS ENFORCEMENT / REPORTING <i>continued</i></p>	<p>Animal control officers and other animal-related professionals must report suspected child abuse; select social service professionals must report suspected animal abuse and neglect; both are immune from civil and criminal liability for good faith reporting, and their identity is confidential. 510 ILL. COMP. STAT. 70/18</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>Any veterinarian who observes or is presented with an animal for the treatment of aggravated cruelty or torture must file a report and has immunity from civil or criminal liability for reports made in good faith. 225 ILL. COMP. STAT. 115/25.19 510 ILL. COMP. STAT. 70/3.07</p> <p>Any veterinarian who is presented with an animal for treatment of injuries or wounds resulting from fighting in violation of the law shall file a report and has immunity from civil or criminal liability for reports made in good faith. 510 ILL. COMP. STAT. 70/4.01, 70/4.02 720 ILL. COMP. STAT. 5/26-5</p> <p>Veterinarian assisting in certain investigations and acting in good faith are immune from any civil or criminal liability. 510 ILL. COMP. STAT. 70/10</p> <p>Any veterinarian, and other person, who in good faith provides emergency care or treatment to an animal due to an emergency or a disaster has civil immunity.</p>

	<p>510 ILL. COMP. STAT. 70/16.5</p> <p>No exception to the mandatory reporting requirement for suspected acts of aggravated cruelty, torture, and animal fighting.</p> <p>225 ILL. COMP. STAT. 115/25.19</p>
<p>ILLINOIS<i>continued</i></p>	
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Upon receiving a complaint of a suspected violation, a Department investigator, any law enforcement official, or an approved humane investigator has specific authority to investigate the complaint.</p> <p>510 ILL. COMP. STAT. 70/10</p>
<p>12. SEXUAL ASSAULT</p>	<p>Sexual conduct or contact with an animal is a Class 4 felony; or a Class 3 felony if committed in the presence of a minor or if the offense causes serious physical injury or death to the victim.</p> <p>720 ILL. COMP. STAT. 5/12-35</p>
<p>13. FIGHTING</p>	<p>Security for costs of care may be ordered for animal seized.</p> <p>510 ILL. COMP. STAT. 70/3.05</p> <p>Upon conviction, all seized animals are forfeited.</p> <p>510 ILL. COMP. STAT. 70/3.06</p> <p>Various animal fighting activities are felonies.</p> <p>510 ILL. COMP. STAT. 70/4.01</p> <p>720 ILL. COMP. STAT. 5/26-5</p> <p>Any law enforcement officer making an arrest shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any animal</p>

	fighting provisions. 510 ILL. COMP. STAT. 70/4.02
<i>Other Felony Provisions Affecting Animals</i> [†]	Injuring or killing police animals, service animals or search and rescue dogs is a felony. 510 ILL. COMP. STAT. 70/4.04
ILLINOIS <i>continued</i>	
NOTES	Civil cause of action available for recovery of pecuniary, non-economic (pain, suffering, loss of companionship, emotional distress, etc.) and punitive damages as a result of certain mistreatment and aggravated cruelty. 510 ILL. COMP. STAT. 70/16.3 <i>Note: Available in Section 14 “Referenced Statutes”</i>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡ This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

510 ILL. COMP. STAT. 70/2.01 (2012). Animal.

“Animal” means every living creature, domestic or wild, but does not include man.

510 ILL. COMP. STAT. 70/2.01a (2012). Companion animal.

“Companion animal” means an animal that is commonly considered to be, or is considered by the owner to be, a pet. “Companion animal” includes, but is not limited to, canines, felines, and equines.

510 ILL. COMP. STAT. 70/2.03 (2012). Department investigator; approved humane investigator.

“Department investigator” or “approved humane investigator” means a person employed by or approved by the Department to determine whether there has been a violation of this Act or an animal control warden or animal control administrator appointed under the Animal Control Act.

510 ILL. COMP. STAT. 70/2.10 (2012). Companion animal hoarder.

“Companion animal hoarder” means a person who (i) possesses a large number of companion animals; (ii) fails to or is unable to provide what he or she is required to provide under Section 3 of this Act; (iii) keeps the companion animals in a severely overcrowded environment; and (iv) displays an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals’ and owner’s health and well-being.

510 ILL. COMP. STAT. 70/2.06 (2012). Owner defined.

“Owner” means any person who (a) has a right of property in an animal, (b) keeps or harbors an animal, (c) has an animal in his care, or (d) acts as custodian of an animal.

510 ILL. COMP. STAT. 70/3 (2012). Owner's duties.

Each owner shall provide for each of his animals:

- (a) sufficient quantity of good quality, wholesome food and water;*
- (b) adequate shelter and protection from the weather;*
- (c) veterinary care when needed to prevent suffering; and*
- (d) humane care and treatment.*

A person convicted of violating this Section is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony with every day that a violation continues constituting a separate offense. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.01 (2012). Cruel treatment.

No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal.

No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

A person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent conviction for a violation of this Section is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evidence. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.02 (2012). Aggravated cruelty.

(a) *No person may intentionally commit an act that causes a companion animal to suffer serious injury or death. Aggravated cruelty does not include euthanasia of a companion animal through recognized methods approved by the Department of Agriculture unless prohibited under subsection (b).*

(b) No individual, except a licensed veterinarian as exempted under Section 3.09, may knowingly or intentionally euthanize or authorize the euthanasia of a companion animal by use of carbon monoxide.

(c) A person convicted of violating Section 3.02 is guilty of a Class 4 felony. A second or subsequent violation is a Class 3 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03 (2012). Animal torture.

(a) *A person commits animal torture when that person without legal justification knowingly or intentionally tortures an animal. For purposes of this Section, and subject to subsection (b), "torture" means infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the animal.*

(b) For the purposes of this Section, "animal torture" does not include any death, harm, or injury caused to any animal by any of the following activities:

(1) any hunting, fishing, trapping, or other activity allowed under the Wildlife Code, the Wildlife Habitat Management Areas Act, or the Fish and Aquatic Life Code;

(2) any alteration or destruction of any animal done by any person or unit of government pursuant to statute, ordinance, court order, or the direction of a licensed veterinarian;

(3) any alteration or destruction of any animal by any person for any legitimate purpose, including, but not limited to: castration, culling, declawing, defanging, ear cropping, euthanasia, gelding, grooming, neutering, polling, shearing, shoeing, slaughtering, spaying, tail docking, and vivisection; and

(4) any other activity that may be lawfully done to an animal.

(c) A person convicted of violating this Section is guilty of a Class 3 felony. As a condition of the sentence imposed under this Section, the court shall order the offender to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03-1 (2012). Depiction of animal cruelty.

(a) *“Depiction of animal cruelty” means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording, that would constitute a violation of Section 3.01, 3.02, 3.03, or 4.01 of the Humane Care for Animals Act or Section 26- 5 of the Criminal Code of 1961.*

(b) *No person may knowingly create, sell, market, offer to market or sell, or possess a depiction of animal cruelty. No person may place that depiction in commerce for commercial gain or entertainment. This Section does not apply when the depiction has religious, political, scientific, educational, law enforcement or humane investigator training, journalistic, artistic, or historical value; or involves rodeos, sanctioned livestock events, or normal husbandry practices.*

The creation, sale, marketing, offering to sell or market, or possession of the depiction of animal cruelty is illegal regardless of whether the maiming, mutilation, torture, wounding, abuse, killing, or any other conduct took place in this State.

(c) Any person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person’s expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile, the court shall order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/6 (2012). Poisoning prohibited.

No person may knowingly poison or cause to be poisoned any dog or other domestic animal. The only exception will be by written permit from the Department for the purpose of controlling diseases transmissible to humans or other animals and only when all other methods and means have been exhausted. Such a written permit shall name the person or persons conducting the poisoning, specify the products to be used, give the boundaries of the area involved, and specify the precautionary measures to be employed to insure the safety of humans and other animals.

This Section does not prohibit the use of a euthanasia drug by a euthanasia agency for the purpose of animal euthanasia, provided that the euthanasia drug is used by or under the direction of a licensed veterinarian or certified euthanasia technician, all as defined in and subject to the Humane Euthanasia in Animal Shelters Act.

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

510 ILL. COMP. STAT. 70/7.1 (2012). Confinement in motor vehicle.

No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible.

A person convicted of violating this Section is guilty of a Class C misdemeanor. A second or subsequent violation is a Class B misdemeanor.

2. PENALTIES

510 ILL. COMP. STAT. 70/3 (2012). Owner's duties.

Each owner shall provide for each of his animals:

- (a) sufficient quantity of good quality, wholesome food and water;
- (b) adequate shelter and protection from the weather;
- (c) veterinary care when needed to prevent suffering; and
- (d) humane care and treatment.

A person convicted of violating this Section is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony with every day that a violation continues constituting a separate offense. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.01 (2012). Cruel treatment.

No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal.

No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

A person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent conviction for a violation of this Section is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evidence. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.02 (2012). Aggravated cruelty.

(a) No person may intentionally commit an act that causes a companion animal to suffer serious injury or death. Aggravated cruelty does not include euthanasia of a companion animal through recognized methods approved by the Department of Agriculture unless prohibited under subsection (b).

(b) No individual, except a licensed veterinarian as exempted under Section 3.09, may knowingly or intentionally euthanize or authorize the euthanasia of a companion animal by use of carbon monoxide.

(c) A person convicted of violating Section 3.02 is guilty of a Class 4 felony. A second or subsequent violation is a Class 3 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03 (2012). Animal torture.

(a) A person commits animal torture when that person without legal justification knowingly or intentionally tortures an animal. For purposes of this Section, and subject to subsection (b), "torture" means infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the animal.

(b) For the purposes of this Section, "animal torture" does not include any death, harm, or injury caused to any animal by any of the following activities:

(1) any hunting, fishing, trapping, or other activity allowed under the Wildlife Code, the Wildlife Habitat Management Areas Act, or the Fish and Aquatic Life Code;

(2) any alteration or destruction of any animal done by any person or unit of government pursuant to statute, ordinance, court order, or the direction of a licensed veterinarian;

(3) any alteration or destruction of any animal by any person for any legitimate purpose, including, but not limited to: castration, culling, declawing, defanging, ear cropping, euthanasia, gelding, grooming, neutering, polling, shearing, shoeing, slaughtering, spaying, tail docking, and vivisection; and

(4) any other activity that may be lawfully done to an animal.

(c) A person convicted of violating this Section is guilty of a Class 3 felony. As a condition of the sentence imposed under this Section, the court shall order the offender to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03-1 (2012). Depiction of animal cruelty.

(a) “Depiction of animal cruelty” means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording, that would constitute a violation of Section 3.01, 3.02, 3.03, or 4.01 of the Humane Care for Animals Act or Section 26- 5 of the Criminal Code of 1961.

(b) No person may knowingly create, sell, market, offer to market or sell, or possess a depiction of animal cruelty. No person may place that depiction in commerce for commercial gain or entertainment. This Section does not apply when the depiction has religious, political, scientific, educational, law enforcement or humane investigator training, journalistic, artistic, or historical value; or involves rodeos, sanctioned livestock events, or normal husbandry practices.

The creation, sale, marketing, offering to sell or market, or possession of the depiction of animal cruelty is illegal regardless of whether the maiming, mutilation, torture, wounding, abuse, killing, or any other conduct took place in this State.

(c) Any person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person’s expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile, the court shall order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/6 (2012). Poisoning prohibited.

No person may knowingly poison or cause to be poisoned any dog or other domestic animal. The only exception will be by written permit from the Department for the purpose of controlling diseases transmissible to humans or other animals and only when all other methods and means have been exhausted. Such a written permit shall name the person or persons conducting the poisoning, specify the products to be used, give the boundaries of the area involved, and specify the precautionary measures to be employed to insure the safety of humans and other animals.

This Section does not prohibit the use of a euthanasia drug by a euthanasia agency for the purpose of animal euthanasia, provided that the euthanasia drug is used by or under the direction of a licensed veterinarian or certified euthanasia technician, all as defined in and subject to the Humane Euthanasia in Animal Shelters Act.

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

510 ILL. COMP. STAT. 70/7.1 (2012). Confinement in motor vehicle.

No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible.

A person convicted of violating this Section is guilty of a Class C misdemeanor. A second or subsequent violation is a Class B misdemeanor.

510 ILL. COMP. STAT. 70/17 (2012). Penalties.

(a) Any person convicted of any act of abuse or neglect or of violating any other provision of this Act, for which a penalty is not otherwise provided, or any rule, regulation, or order of the Department pursuant thereto, is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony with every day that a violation continues constituting a separate offense.

(b) The Department may enjoin a person from a continuing violation of this Act.

730 ILL. COMP. STAT. 5/5-4.5-40 (2012). Class 3 Felonies; Sentence.

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than 2 years and not more than 5 years. The sentence of imprisonment for an extended term Class 3 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 5 years and not more than 10 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

730 ILL. COMP. STAT.5/5-4.5-45 (2012). Class 4 felonies; sentence.

For a Class 4 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than one year and not more than 3 years. The sentence of imprisonment for an extended term Class 4 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 3 years and not more than 6 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/57-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-40(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4. 5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(1) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

730 ILL. COMP. STAT. 5/5-4.5-50 (2012).Sentence provisions; all felonies.

Except as otherwise provided, for all felonies:

(a) NO SUPERVISION. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may not defer further proceedings and the imposition of a sentence and may not enter an order for supervision of the defendant.

(b) FELONY FINES. An offender may be sentenced to pay a fine not to exceed, for each offense, \$25,000 or the amount specified in the offense, whichever is greater, or if the offender is a corporation, \$50,000 or the amount specified in the offense, whichever is greater. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(c) REASONS FOR SENTENCE STATED. The sentencing judge in each felony conviction shall set forth his or her reasons for imposing the particular sentence entered in the case, as provided in Section 5-4-1 (730 ILCS 5/5-4-1). Those reasons may include any mitigating or aggravating factors specified in this Code, or the lack of any such factors, as well as any other mitigating or aggravating factors that the judge sets forth on the record that are consistent with the purposes and principles of sentencing set out in this Code.

(d) MOTION TO REDUCE SENTENCE. A motion to reduce a sentence may be made, or the court may reduce a sentence without motion, within 30 days after the sentence is imposed. A defendant's challenge to the correctness of a sentence or to any aspect of the sentencing hearing shall be made by a written motion filed with the circuit court clerk within 30 days following the imposition of sentence. A motion not filed within that 30-day period is not timely. The court may not increase a sentence once it is imposed. A notice of motion must be filed with the motion. The notice of motion shall set the motion on the court's calendar on a date certain within a reasonable time after the date of filing.

If a motion filed pursuant to this subsection is timely filed, the proponent of the motion shall exercise due diligence in seeking a determination on the motion and the court shall thereafter decide the motion within a reasonable time.

If a motion filed pursuant to this subsection is timely filed, then for purposes of perfecting an appeal, a final judgment is not considered to have been entered until the motion to reduce the sentence has been decided by order entered by the trial court.

(e) CONCURRENT SENTENCE; PREVIOUS UNEXPIRED FEDERAL OR OTHER-STATE SENTENCE. A defendant who has a previous and unexpired sentence of imprisonment imposed by another state or by any district court of the United States and who, after sentence for a crime in Illinois, must return to serve the unexpired prior sentence may have his or her sentence by the Illinois court ordered to be concurrent with the prior other-state or federal sentence. The court may order that any time served on the unexpired portion of the other-state or federal sentence, prior to his or her return to Illinois, shall be credited on his or her Illinois sentence. The appropriate official of the other state or the United States shall be furnished with a copy of the order imposing sentence, which shall provide that, when the offender is released from other-state or federal confinement, whether by parole or by termination of sentence, the offender shall be transferred by the Sheriff of the committing Illinois county to the Illinois Department of Corrections. The court shall cause the Department of Corrections to be notified of the sentence at the time of commitment and to be provided with copies of all records regarding the sentence.

(f) REDUCTION; PREVIOUS UNEXPIRED ILLINOIS SENTENCE. A defendant who has a previous and unexpired sentence of imprisonment imposed by an Illinois circuit court for a crime in this State and who is subsequently sentenced to a term of imprisonment by another state or by any district court of the United States and who has served a term of imprisonment imposed by the other state or district court of the United States, and must return to serve the unexpired prior sentence imposed by the Illinois circuit court, may apply to the Illinois circuit court that imposed sentence to have his or her sentence reduced.

The circuit court may order that any time served on the sentence imposed by the other state or district court of the United States be credited on his or her Illinois sentence. The application for reduction of a sentence under this subsection shall be made within 30 days after the defendant has completed the sentence imposed by the other state or district court of the United States.

(g) NO REQUIRED BIRTH CONTROL. A court may not impose a sentence or disposition that requires the defendant to be implanted or injected with or to use any form of birth control.

730 ILL. COMP. STAT.5/5-4.5-55 (2012). Class A misdemeanors; sentence.

For a Class A misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of less than one year.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of less than one year, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed \$2,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 ILL. COMP. STAT.5/5-4.5-60 (2012).Class B misdemeanors; sentence.

For a Class B misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not more than 6 months.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 6 months or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed \$1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 ILL. COMP. STAT.5/5-4.5-65 (2012). Class C misdemeanors; sentence.

For a Class C misdemeanor:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not more than 30 days.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 30 days or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) IMPACT INCARCERATION. See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. A fine not to exceed \$1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

3. EXEMPTIONS

510 ILL. COMP. STAT. 70/3.02 (2012). Aggravated cruelty.

(a) No person may intentionally commit an act that causes a companion animal to suffer serious injury or death. *Aggravated cruelty does not include euthanasia of a companion animal through recognized methods approved by the Department of Agriculture unless prohibited under subsection (b).*

(b) No individual, except a licensed veterinarian as exempted under Section 3.09, may knowingly or intentionally euthanize or authorize the euthanasia of a companion animal by use of carbon monoxide.

(c) A person convicted of violating Section 3.02 is guilty of a Class 4 felony. A second or subsequent violation is a Class 3 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03 (2012). Animal torture.

(a) A person commits animal torture when that person without legal justification knowingly or intentionally tortures an animal. For purposes of this Section, and subject to subsection (b), "torture" means infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the animal.

(b) *For the purposes of this Section, "animal torture" does not include any death, harm, or injury caused to any animal by any of the following activities:*

(1) any hunting, fishing, trapping, or other activity allowed under the Wildlife Code, the Wildlife Habitat Management Areas Act, or the Fish and Aquatic Life Code;

(2) any alteration or destruction of any animal done by any person or unit of government pursuant to statute, ordinance, court order, or the direction of a licensed veterinarian;

(3) any alteration or destruction of any animal by any person for any legitimate purpose, including, but not limited to: castration, culling, declawing, defanging, ear cropping, euthanasia, gelding, grooming, neutering, polling, shearing, shoeing, slaughtering, spaying, tail docking, and vivisection; and

(4) *any other activity that may be lawfully done to an animal.*

(c) A person convicted of violating this Section is guilty of a Class 3 felony. As a condition of the sentence imposed under this Section, the court shall order the offender to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03-1 (2012). Depiction of animal cruelty.

(a) “Depiction of animal cruelty” means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording, that would constitute a violation of Section 3.01, 3.02, 3.03, or 4.01 of the Humane Care for Animals Act or Section 26- 5 of the Criminal Code of 1961.

(b) No person may knowingly create, sell, market, offer to market or sell, or possess a depiction of animal cruelty. No person may place that depiction in commerce for commercial gain or entertainment. *This Section does not apply when the depiction has religious, political, scientific, educational, law enforcement or humane investigator training, journalistic, artistic, or historical value; or involves rodeos, sanctioned livestock events, or normal husbandry practices.*

The creation, sale, marketing, offering to sell or market, or possession of the depiction of animal cruelty is illegal regardless of whether the maiming, mutilation, torture, wounding, abuse, killing, or any other conduct took place in this State.

(c) Any person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person’s expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile, the court shall order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/6 (2012). Poisoning prohibited.

No person may knowingly poison or cause to be poisoned any dog or other domestic animal. The only exception will be by written permit from the Department for the purpose of controlling diseases transmissible to humans or other animals and only when all other methods and means have been exhausted. Such a written permit shall name the person or persons conducting the poisoning, specify the products to be used, give the boundaries of the area involved, and specify the precautionary measures to be employed to insure the safety of humans and other animals.

This Section does not prohibit the use of a euthanasia drug by a euthanasia agency for the purpose of animal euthanasia, provided that the euthanasia drug is used by or under the direction of a licensed veterinarian or certified euthanasia technician, all as defined in and subject to the Humane Euthanasia in Animal Shelters Act.

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

510 ILL. COMP. STAT. 70/10 (2012). Investigation of complaints.

(a) Upon receiving a complaint of a suspected violation of this Act, a Department investigator, any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter during normal business hours upon any premises where the animal or animals described in the complaint are housed or kept, provided such entry shall not be made into any building which is a person's residence, except by search warrant or court order. *Institutions operating under federal license to conduct laboratory experimentation utilizing animals for research or medical purposes are, however, exempt from the provisions of this Section.* State's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the Department. No employee or representative of the Department shall enter a livestock management facility unless sanitized footwear is used, or unless the owner or operator of the facility waives this requirement. The employee or representative must also use any other reasonable disease prevention procedures or equipment provided by the owner or operator of the facility. The animal control administrator and animal control wardens appointed under the Animal Control Act shall be authorized to make investigations complying with this Section for alleged violations of Sections 3, 3.01, 3.02, and 3.03 pertaining to companion animals. The animals impounded shall remain under the jurisdiction of the animal control administrator and be held in an animal shelter licensed under the Animal Welfare Act.

(b) Any veterinarian acting in good faith is immune from any civil or criminal liability resulting from his or her actions under this Section. The good faith on the part of the veterinarian is presumed.

510 ILL. COMP. STAT. 70/13 (2012). Normal husbandry practices—construction with other acts.

Nothing in this Act affects normal, good husbandry practices utilized by any person in the production of food, companion or work animals, or in the extermination of undesirable pests. In case of any alleged conflict between this Act, or regulations adopted hereunder, and the “Wildlife Code of Illinois” [735 ILL. COMP. STAT. 5/3-101] or “An Act to define and require the use of humane methods in the handling, preparation for slaughter, and slaughter of livestock for meat or meat products to be offered for sale”, approved July 26, 1967, as amended [735 ILL. COMP. STAT. 5/3-101], the provisions of those Acts shall prevail.

720 ILL. COMP. STAT. 5/12-35 (2012). Sexual conduct or sexual contact with an animal.

- (a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.
- (b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.
- (c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.
- (d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.
- (e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.
- (f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:
 - (1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.
 - (2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.
 - (3) Undergo a psychological evaluation and counseling at defendant’s expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

“Animal” means every creature, either alive or dead, other than a human being.

“Sexual conduct” means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

“Sexual contact” means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

510 ILL. COMP. STAT. 70/16.1 (2012). Defenses.

It is not a defense to violations of this Act for the person committing the violation to assert that he or she had rights of ownership in the animal that was the victim of the violation.

4. COUNSELING / EVALUATIONS

510 ILL. COMP. STAT. 70/3 (2012). Owner's duties.

Each owner shall provide for each of his animals:

- (a) sufficient quantity of good quality, wholesome food and water;
- (b) adequate shelter and protection from the weather;
- (c) veterinary care when needed to prevent suffering; and
- (d) humane care and treatment.

A person convicted of violating this Section is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony with every day that a violation continues constituting a separate offense. *In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.*

510 ILL. COMP. STAT. 70/3.01 (2012). Cruel treatment.

No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal.

No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

A person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent conviction for a violation of this Section is a Class 4 felony. *In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evidence. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.*

510 ILL. COMP. STAT. 70/3.02 (2012). Aggravated cruelty.

(a) No person may intentionally commit an act that causes a companion animal to suffer serious injury or death. Aggravated cruelty does not include euthanasia of a companion animal through recognized methods approved by the Department of Agriculture unless prohibited under subsection (b).

(b) No individual, except a licensed veterinarian as exempted under Section 3.09, may knowingly or intentionally euthanize or authorize the euthanasia of a companion animal by use of carbon monoxide.

(c) A person convicted of violating Section 3.02 is guilty of a Class 4 felony. A second or subsequent violation is a Class 3 felony. *In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.*

510 ILL. COMP. STAT. 70/3.03 (2012). Animal torture.

(a) A person commits animal torture when that person without legal justification knowingly or intentionally tortures an animal. For purposes of this Section, and subject to subsection (b), "torture" means infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the animal.

(b) For the purposes of this Section, "animal torture" does not include any death, harm, or injury caused to any animal by any of the following activities:

(1) any hunting, fishing, trapping, or other activity allowed under the Wildlife Code, the Wildlife Habitat Management Areas Act, or the Fish and Aquatic Life Code;

(2) any alteration or destruction of any animal done by any person or unit of government pursuant to statute, ordinance, court order, or the direction of a licensed veterinarian;

(3) any alteration or destruction of any animal by any person for any legitimate purpose, including, but not limited to: castration, culling, declawing, defanging, ear cropping, euthanasia, gelding, grooming, neutering, polling, shearing, shoeing, slaughtering, spaying, tail docking, and vivisection; and

(4) any other activity that may be lawfully done to an animal.

(c) A person convicted of violating this Section is guilty of a Class 3 felony. *As a condition of the sentence imposed under this Section, the court shall order the offender to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.*

510 ILL. COMP. STAT. 70/3.03-1 (2012). Depiction of animal cruelty.

(a) “Depiction of animal cruelty” means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording, that would constitute a violation of Section 3.01, 3.02, 3.03, or 4.01 of the Humane Care for Animals Act or Section 26- 5 of the Criminal Code of 1961.

(b) No person may knowingly create, sell, market, offer to market or sell, or possess a depiction of animal cruelty. No person may place that depiction in commerce for commercial gain or entertainment. This Section does not apply when the depiction has religious, political, scientific, educational, law enforcement or humane investigator training, journalistic, artistic, or historical value; or involves rodeos, sanctioned livestock events, or normal husbandry practices.

The creation, sale, marketing, offering to sell or market, or possession of the depiction of animal cruelty is illegal regardless of whether the maiming, mutilation, torture, wounding, abuse, killing, or any other conduct took place in this State.

(c) Any person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony. *In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person’s expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile, the court shall order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.*

720 ILL. COMP. STAT. 5/12-35 (2012). Sexual conduct or sexual contact with an animal.

(a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.

(b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.

(c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.

(d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.

(f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:

(1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.

(2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

“Animal” means every creature, either alive or dead, other than a human being.

“Sexual conduct” means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

“Sexual contact” means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

5. PROTECTIVE ORDERS

725 ILL. COMP. STAT.5/112A-14(2012).Order of protection; remedies.

(a) Issuance of order. If the court finds that petitioner has been abused by a family or household member, as defined in this Article, an order of protection prohibiting such abuse shall issue; provided that petitioner must also satisfy the requirements of one of the following Sections, as appropriate: Section 112A-17 on emergency orders, Section 112A-18 on interim orders, or Section 112A-19 on plenary orders. Petitioner shall not be denied an order of protection because petitioner or respondent is a minor. The court, when determining whether or not to issue an order of protection, shall not require physical manifestations of abuse on the person of the victim. Modification and extension of prior orders of protection shall be in accordance with this Article.

(b) Remedies and standards. The remedies to be included in an order of protection shall be determined in accordance with this Section and one of the following Sections, as appropriate: Section 112A-17 on emergency orders, Section 112A-18 on interim orders, and Section 112A-19 on plenary orders. The remedies listed in this subsection shall be in addition to other civil or criminal remedies available to petitioner.

(1) Prohibition of abuse. Prohibit respondent's harassment, interference with personal liberty, intimidation of a dependent, physical abuse or willful deprivation, as defined in this Article, if such abuse has occurred or otherwise appears likely to occur if not prohibited.

(2) Grant of exclusive possession of residence. Prohibit respondent from entering or remaining in any residence, household, or premises of the petitioner, including one owned or leased by respondent, if petitioner has a right to occupancy thereof. The grant of exclusive possession of the residence, household, or premises shall not affect title to real property, nor shall the court be limited by the standard set forth in Section 701 of the Illinois Marriage and Dissolution of Marriage Act.

(A) Right to occupancy. A party has a right to occupancy of a residence or household if it is solely or jointly owned or leased by that party, that party's spouse, a person with a legal duty to support that party or a minor child in that party's care, or by any person or entity other than the opposing party that authorizes that party's occupancy (e.g., a domestic violence shelter). Standards set forth in subparagraph (B) shall not preclude equitable relief.

(B) Presumption of hardships. If petitioner and respondent each has the right to occupancy of a residence or household, the court shall balance (i) the hardships to respondent and any minor child or dependent adult in respondent's care resulting from entry of this remedy with (ii) the hardships to petitioner and any minor child or dependent adult in petitioner's care resulting from continued exposure to the risk of abuse (should petitioner remain at the residence or household) or from loss of possession of the residence or household (should petitioner leave to avoid the risk of abuse). When determining the balance of hardships, the court shall also take into account the accessibility of the residence or household. Hardships need not be balanced if respondent does not have a right to occupancy.

The balance of hardships is presumed to favor possession by petitioner unless the presumption is rebutted by a preponderance of the evidence, showing that the hardships to respondent substantially outweigh the hardships to petitioner and any minor child or dependent adult in petitioner's care. The court, on the request of petitioner or on its own motion, may order respondent to provide suitable, accessible, alternate housing for petitioner instead of excluding respondent from a mutual residence or household.

(3) Stay away order and additional prohibitions. Order respondent to stay away from petitioner or any other person protected by the order of protection, or prohibit respondent from entering or remaining present at petitioner's school, place of employment, or other specified places at times when petitioner is present, or both, if reasonable, given the balance of hardships. Hardships need not be balanced for the court to enter a stay away order or prohibit entry if respondent has no right to enter the premises.

If an order of protection grants petitioner exclusive possession of the residence, or prohibits respondent from entering the residence, or orders respondent to stay away from petitioner or other protected persons, then the court may allow respondent access to the residence to remove items of clothing and personal adornment used exclusively by respondent, medications, and other items as the court directs. The right to access shall be exercised on only one occasion as the court directs and in the presence of an agreed-upon adult third party or law enforcement officer.

(4) Counseling. Require or recommend the respondent to undergo counseling for a specified duration with a social worker, psychologist, clinical psychologist, psychiatrist, family service agency, alcohol or substance abuse program, mental health center guidance counselor, agency providing services to elders, program designed for domestic violence abusers or any other guidance service the court deems appropriate. The court may order the respondent in any intimate partner relationship to report to an Illinois Department of Human Services protocol approved partner abuse intervention program for an assessment and to follow all recommended treatment.

(5) Physical care and possession of the minor child. In order to protect the minor child from abuse, neglect, or unwarranted separation from the person who has been the minor child's primary caretaker, or to otherwise protect the well-being of the minor child, the court may do either or both of the following: (i) grant petitioner physical care or possession of the minor child, or both, or (ii) order respondent to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis.

If a court finds, after a hearing, that respondent has committed abuse (as defined in Section 112A-3) of a minor child, there shall be a rebuttable presumption that awarding physical care to respondent would not be in the minor child's best interest.

(6) Temporary legal custody. Award temporary legal custody to petitioner in accordance with this Section, the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 1984, and this State's Uniform Child-Custody Jurisdiction and Enforcement Act.

If a court finds, after a hearing, that respondent has committed abuse (as defined in Section 112A-3) of a minor child, there shall be a rebuttable presumption that awarding temporary legal custody to respondent would not be in the child's best interest.

(7) Visitation. Determine the visitation rights, if any, of respondent in any case in which the court awards physical care or temporary legal custody of a minor child to petitioner. The court shall restrict or deny respondent's visitation with a minor child if the court finds that respondent has done or is likely to do any of the following: (i) abuse or endanger the minor child during visitation; (ii) use the visitation as an opportunity to abuse or harass petitioner or petitioner's family or household members; (iii) improperly conceal or detain the minor child; or (iv) otherwise act in a manner that is not in the best interests of the minor child. The court shall not be limited by the standards set forth in Section 607.1 of the Illinois Marriage and Dissolution of Marriage Act. If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. No order for visitation shall refer merely to the term "reasonable visitation".

Petitioner may deny respondent access to the minor child if, when respondent arrives for visitation, respondent is under the influence of drugs or alcohol and constitutes a threat to the safety and well-being of petitioner or petitioner's minor children or is behaving in a violent or abusive manner.

If necessary to protect any member of petitioner's family or household from future abuse, respondent shall be prohibited from coming to petitioner's residence to meet the minor child for visitation, and the parties shall submit to the court their recommendations for reasonable alternative arrangements for visitation. A person may be approved to supervise visitation only after filing an affidavit accepting that responsibility and acknowledging accountability to the court.

(8) Removal or concealment of minor child. Prohibit respondent from removing a minor child from the State or concealing the child within the State.

(9) Order to appear. Order the respondent to appear in court, alone or with a minor child, to prevent abuse, neglect, removal or concealment of the child, to return the child to the custody or care of the petitioner or to permit any court-ordered interview or examination of the child or the respondent.

(10) Possession of personal property. Grant petitioner exclusive possession of personal property and, if respondent has possession or control, direct respondent to promptly make it available to petitioner, if:

(i) petitioner, but not respondent, owns the property; or

(ii) the parties own the property jointly; sharing it would risk abuse of petitioner by respondent or is impracticable; and the balance of hardships favors temporary possession by petitioner.

If petitioner's sole claim to ownership of the property is that it is marital property, the court may award petitioner temporary possession thereof under the standards of subparagraph (ii) of this paragraph only if a proper proceeding has been filed under the Illinois Marriage and Dissolution of Marriage Act, as now or hereafter amended.

No order under this provision shall affect title to property.

(11) Protection of property. Forbid the respondent from taking, transferring, encumbering, concealing, damaging or otherwise disposing of any real or personal property, except as explicitly authorized by the court, if:

(i) petitioner, but not respondent, owns the property; or

(ii) the parties own the property jointly, and the balance of hardships favors granting this remedy.

If petitioner's sole claim to ownership of the property is that it is marital property, the court may grant petitioner relief under subparagraph (ii) of this paragraph only if a proper proceeding has been filed under the Illinois Marriage and Dissolution of Marriage Act, as now or hereafter amended.

The court may further prohibit respondent from improperly using the financial or other resources of an aged member of the family or household for the profit or advantage of respondent or of any other person.

(11.5) Protection of animals. Grant the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

(12) Order for payment of support. Order respondent to pay temporary support for the petitioner or any child in the petitioner's care or custody, when the respondent has a legal obligation to support that person, in accordance with the Illinois Marriage and Dissolution of Marriage Act, which shall govern, among other matters, the amount of support, payment through the clerk and withholding of income to secure payment. An order for child support may be granted to a petitioner with lawful physical care or custody of a child, or an order or agreement for physical care or custody, prior to entry of an order for legal custody. Such a support order shall expire upon entry of a valid order granting legal custody to another, unless otherwise provided in the custody order.

(13) Order for payment of losses. Order respondent to pay petitioner for losses suffered as a direct result of the abuse. Such losses shall include, but not be limited to, medical expenses, lost earnings or other support, repair or replacement of property damaged or taken, reasonable attorney's fees, court costs and moving or other travel expenses, including additional reasonable expenses for temporary shelter and restaurant meals.

(i) Losses affecting family needs. If a party is entitled to seek maintenance, child support or property distribution from the other party under the Illinois Marriage and Dissolution of Marriage Act, as now or hereafter amended, the court may order respondent to reimburse petitioner's actual losses, to the extent that such reimbursement would be "appropriate temporary relief", as authorized by subsection (a)(3) of Section 501 of that Act.

(ii) Recovery of expenses. In the case of an improper concealment or removal of a minor child, the court may order respondent to pay the reasonable expenses incurred or to be incurred in the search for and recovery of the minor child, including but not limited to legal fees, court costs, private investigator fees, and travel costs.

(14) Prohibition of entry. Prohibit the respondent from entering or remaining in the residence or household while the respondent is under the influence of alcohol or drugs and constitutes a threat to the safety and well-being of the petitioner or the petitioner's children.

(14.5) Prohibition of firearm possession.

(a) When a complaint is made under a request for an order of protection, that the respondent has threatened or is likely to use firearms illegally against the petitioner, the court shall examine on oath the petitioner, and any witnesses who may be produced. If the court is satisfied that there is any danger of the illegal use of firearms, and the respondent is present in court, it shall issue an order that any firearms in the possession of the respondent, except as provided in subsection (b), be turned over to the local law enforcement agency for safekeeping. If the court is satisfied that there is any danger of the illegal use of firearms, and the respondent is present in court, it shall issue an order that the respondent's firearm owner's identification card be turned over to the local law enforcement agency for safekeeping. If the court is satisfied that there is any danger of the illegal use of firearms, and if the respondent is not present in court, the court shall issue a warrant for seizure of the respondent's firearm owner's identification card and any firearm in the possession of the respondent, except as provided in subsection (b), be turned over to the local law enforcement agency for safekeeping. The period of safekeeping shall be for a stated period of time not to exceed 2 years. The firearm or firearms shall be returned to the respondent at the end of the stated period or at expiration of the order of protection, whichever is sooner.

(b) If the respondent is a peace officer as defined in Section 2-13 of the Criminal Code of 1961, the court shall order that any firearms used by the respondent in the performance of his or her duties as a peace officer be surrendered to the chief law enforcement executive of the agency in which the respondent is employed, who shall retain the firearms for safekeeping for the stated period not to exceed 2 years as set forth in the court order.

(c) Upon expiration of the period of safekeeping, if the firearms or firearm owner's identification card cannot be returned to respondent because respondent cannot be located, fails to respond to requests to retrieve the firearms, or is not lawfully eligible to possess a firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, use the firearms for training purposes, or for any other application as deemed appropriate by the local law enforcement agency; or that the firearms be turned over to a third party who is lawfully eligible to possess firearms, and who does not reside with respondent.

(15) Prohibition of access to records. If an order of protection prohibits respondent from having contact with the minor child, or if petitioner's address is omitted under subsection (b) of Section 112A-5, or if necessary to prevent abuse or wrongful removal or concealment of a minor child, the order shall deny respondent access to, and prohibit respondent from inspecting, obtaining, or attempting to inspect or obtain, school or any other records of the minor child who is in the care of petitioner.

(16) Order for payment of shelter services. Order respondent to reimburse a shelter providing temporary housing and counseling services to the petitioner for the cost of the services, as certified by the shelter and deemed reasonable by the court.

(17) Order for injunctive relief. Enter injunctive relief necessary or appropriate to prevent further abuse of a family or household member or to effectuate one of the granted remedies, if supported by the balance of hardships. If the harm to be prevented by the injunction is abuse or any other harm that one of the remedies listed in paragraphs (1) through (16) of this subsection is designed to prevent, no further evidence is necessary to establish that the harm is an irreparable injury.

(c) Relevant factors; findings.

(1) In determining whether to grant a specific remedy, other than payment of support, the court shall consider relevant factors, including but not limited to the following:

(i) the nature, frequency, severity, pattern and consequences of the respondent's past abuse of the petitioner or any family or household member, including the concealment of his or her location in order to evade service of process or notice, and the likelihood of danger of future abuse to petitioner or any member of petitioner's or respondent's family or household; and

(ii) the danger that any minor child will be abused or neglected or improperly removed from the jurisdiction, improperly concealed within the State or improperly separated from the child's primary caretaker.

(2) In comparing relative hardships resulting to the parties from loss of possession of the family home, the court shall consider relevant factors, including but not limited to the following:

(i) availability, accessibility, cost, safety, adequacy, location and other characteristics of alternate housing for each party and any minor child or dependent adult in the party's care;

(ii) the effect on the party's employment; and

(iii) the effect on the relationship of the party, and any minor child or dependent adult in the party's care, to family, school, church and community.

(3) Subject to the exceptions set forth in paragraph (4) of this subsection, the court shall make its findings in an official record or in writing, and shall at a minimum set forth the following:

(i) That the court has considered the applicable relevant factors described in paragraphs (1) and (2) of this subsection.

(ii) Whether the conduct or actions of respondent, unless prohibited, will likely cause irreparable harm or continued abuse.

(iii) Whether it is necessary to grant the requested relief in order to protect petitioner or other alleged abused persons.

(4) For purposes of issuing an ex parte emergency order of protection, the court, as an alternative to or as a supplement to making the findings described in paragraphs (c)(3)(i) through (c)(3)(iii) of this subsection, may use the following procedure:

When a verified petition for an emergency order of protection in accordance with the requirements of Sections 112A-5 and 112A-17 is presented to the court, the court shall examine petitioner on oath or affirmation. An emergency order of protection shall be issued by the court if it appears from the contents of the petition and the examination of petitioner that the averments are sufficient to indicate abuse by respondent and to support the granting of relief under the issuance of the emergency order of protection.

(5) Never married parties. No rights or responsibilities for a minor child born outside of marriage attach to a putative father until a father and child relationship has been established under the Illinois Parentage Act of 1984. Absent such an adjudication, no putative father shall be granted temporary custody of the minor child, visitation with the minor child, or physical care and possession of the minor child, nor shall an order of payment for support of the minor child be entered.

(d) Balance of hardships; findings. If the court finds that the balance of hardships does not support the granting of a remedy governed by paragraph (2), (3), (10), (11), or (16) of subsection (b) of this Section, which may require such balancing, the court's findings shall so indicate and shall include a finding as to whether granting the remedy will result in hardship to respondent that would substantially outweigh the hardship to petitioner from denial of the remedy. The findings shall be an official record or in writing.

(e) Denial of remedies. Denial of any remedy shall not be based, in whole or in part, on evidence that:

- (1) Respondent has cause for any use of force, unless that cause satisfies the standards for justifiable use of force provided by Article VII of the Criminal Code of 1961;
- (2) Respondent was voluntarily intoxicated;
- (3) Petitioner acted in self-defense or defense of another, provided that, if petitioner utilized force, such force was justifiable under Article VII of the Criminal Code of 1961;
- (4) Petitioner did not act in self-defense or defense of another;
- (5) Petitioner left the residence or household to avoid further abuse by respondent;
- (6) Petitioner did not leave the residence or household to avoid further abuse by respondent;
- (7) Conduct by any family or household member excused the abuse by respondent, unless that same conduct would have excused such abuse if the parties had not been family or household members.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

510 ILL. COMP. STAT. 70/3.05 (2012). Security for companion animals and animals used for fighting purposes.

(a) In the case of companion animals as defined in Section 2.01a or animals used for fighting purposes in violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961, the animal control or animal shelter having custody of the animal or animals may file a petition with the court requesting that the person from whom the animal or animals are seized, or the owner of the animal or animals, be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control or animal shelter in caring for and providing for the animal or animals pending the disposition of the charges. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal or animals for 30 days. The amount of the security shall be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized animal or animals and the cost of caring for the animal or animals. If security has been posted in accordance with this Section, the animal control or animal shelter may draw from the security the actual costs incurred by the agency in caring for the seized animal or animals.

(b) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant and the State's Attorney for the county in which the animal or animals were seized. The petitioner must also serve a true copy of the petition on any interested person. For the purposes of this subsection, "interested person" means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal or animals that are the subject of the petition. The court must set a hearing date to determine any interested parties. The court may waive for good cause shown the posting of security.

(c) If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the animal or animals are forfeited by operation of law and the animal control or animal shelter having control of the animal or animals must dispose of the animal or animals through adoption or must humanely euthanize the animal. In no event may the defendant or any person residing in the defendant's household adopt the animal or animals.

(d) *The impounding organization may file a petition with the court upon the expiration of the 30-day period requesting the posting of additional security. The court may order the person from whom the animal or animals were seized, or the owner of the animal or animals, to post additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal or animals were seized.*

(e) In no event may the security prevent the impounding organization having custody and care of the animal or animals from disposing of the animal or animals before the expiration of the 30-day period covered by the security if the court makes a final determination of the charges against the person from whom the animal or animals were seized. *Upon the adjudication of the charges, the person who posted the security is entitled to a refund of the security, in whole or in part, for any expenses not incurred by the impounding organization.*

(f) Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, animal control officer, Department investigator, or an approved humane investigator may be authorized by an order of the court to make regular visits to the place where the animal or animals are being kept to ascertain if the animal or animals are receiving necessary food, water, shelter, and care. Nothing in this Section prevents any law enforcement officer, Department investigator, or approved humane investigator from applying for a warrant under this Section to seize any animal or animals being held by the person charged pending the adjudication of the charges if it is determined that the animal or animals are not receiving the necessary food, water, shelter, or care.

(g) Nothing in this Act shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to an animal control or animal shelter in lieu of posting security or proceeding to a forfeiture hearing. Voluntary relinquishment shall have no effect on the criminal charges that may be pursued by the appropriate authorities.

(h) *If an owner of a companion animal is acquitted by the court of charges made pursuant to this Act, the court shall further order that any security that has been posted for the animal shall be returned to the owner by the impounding organization.*

(i) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/3.06 (2012).Disposition of seized companion animals and animals used for fighting purposes.

(a) Upon the conviction of the person charged, all animals seized, if not previously ordered forfeited or previously forfeited by operation of law, are forfeited to the facility impounding the animals and must be humanely euthanized or adopted. *Any outstanding costs incurred by the impounding facility for boarding and treating the animals pending the disposition of the case and any costs incurred in disposing of the animals must be borne by the person convicted.*

(b) Any person authorized by this Section to care for an animal or animals, to treat an animal or animals, or to attempt to restore an animal or animals to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

(c) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/4.02 (2012).Arrests; reports.

(a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. When a law enforcement officer has taken possession of such animals, paraphernalia, implements or other property or things, he or she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in the complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if different from the person from whom the animals were seized and if known, and that the affiant has reason to believe and does believe, stating the ground of the belief, that the animals and property so taken were used or employed, or were about to be used or employed, in a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. He or she shall thereupon deliver an inventory of the property so taken to the court of competent jurisdiction. A law enforcement officer may humanely euthanize animals that are severely injured.

An owner whose animals are removed for a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the animals were seized, delivered by registered mail to his or her last known address.

The animal control or animal shelter having custody of the animals may file a petition with the court requesting that the person from whom the animals were seized or the owner of the animals be ordered to post security pursuant to Section 3.05 of this Act.

Upon the conviction of the person so charged, all animals shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. *Any outstanding costs incurred by the impounding facility in boarding and treating the animals pending the disposition of the case and disposing of the animals upon a conviction must be borne by the person convicted.* In no event may the animals be adopted by the defendant or anyone residing in his or her household. If the court finds that the State either failed to prove the criminal allegations or failed to prove that the animals were used in fighting, the court must direct the delivery of the animals and the other property not previously forfeited to the owner of the animals and property.

Any person authorized by this Section to care for an animal, to treat an animal, or to attempt to restore an animal to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering animal in exigent circumstances.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals and treatment administered, and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), is immune from any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

510 ILL. COMP. STAT. 70/12 (2012). Impounding animals; notice of impoundment.

(a) When an approved humane investigator, a Department investigator or a veterinarian finds that a violation of this Act has rendered an animal in such a condition that no remedy or corrective action by the owner is possible, the Department must impound or order the impoundment of the animal. If the violator fails or refuses to take corrective action necessary for compliance with Section 11 of this Act, the Department may impound the animal. If the animal is ordered impounded, it shall be impounded in a facility or at another location where the elements of good care as set forth in Section 3 of this Act can be provided, and where such animals shall be examined and treated by a licensed veterinarian or, if the animal is severely injured, diseased, or suffering, humanely euthanized. *Any expense incurred in the impoundment shall become a lien on the animals.*

(b) Emergency impoundment may be exercised in a life-threatening situation and the subject animals shall be conveyed directly to a licensed veterinarian for medical services necessary to sustain life or to be humanely euthanized as determined by the veterinarian. If such emergency procedure is taken by an animal control officer, the Department shall be notified.

(c) A notice of impoundment shall be given by the investigator to the violator, if known, in person or sent by certified or registered mail. If the investigator is not able to serve the violator in person or by registered or certified mail, the notice may be given by publication in a newspaper of general circulation in the county in which the violator's last known address is located. A copy of the notice shall be retained by the investigator and a copy forwarded immediately to the Department. The notice of impoundment shall include the following:

(1) A number assigned by the Department which will also be given to the impounding facility accepting the responsibility of the animal or animals.

(2) Listing of deficiencies noted.

(3) An accurate description of the animal or animals involved.

(4) Date on which the animal or animals were impounded.

(5) Signature of the investigator.

(6) A statement that: "The violator may request a hearing to appeal the impoundment. A person desiring a hearing shall contact the Department of Agriculture within 7 days from the date of impoundment" and the Department must hold an administrative hearing within 7 business days after receiving a request to appeal the impoundment. If the hearing cannot be held prior to the expiration of the 7-day impoundment period, the Department shall notify the impounding facility that it cannot sell, offer for adoption, or dispose of the animal or animals until a final decision is rendered and all of the appeal processes have expired.

If a hearing is requested by any owner of impounded animals, the Hearing Officer shall, after hearing the testimony of all interested parties, render a decision within 5 business days regarding the disposition of the impounded animals. This decision by the Hearing Officer shall have no effect on the criminal charges that may be filed with the appropriate authorities.

If an owner of a companion animal or animal used for fighting purposes requests a hearing, the animal control or animal shelter having control of the animal or animals may file a petition with the court in the county where the impoundment took place requesting that the person from whom the animal or animals were seized or the owner of the animal or animals be ordered to post security pursuant to subsections (a) and (b) of Section 3.05 of this Act.

If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the court must order the Department of Agriculture to hold a hearing on the impoundment within 5 business days. If, upon final administrative or judicial determination, it is found that it is not in the best interest of the animal or animals to be returned to the person from whom it was seized, the animal or animals are forfeited to the animal control or animal shelter having control of the animal or animals. If no petition for the posting of security is filed or a petition was filed and granted but the person failed to post security, any expense incurred in the impoundment shall remain outstanding until satisfied by the owner or the person from whom the animal or animals were impounded.

When the impoundment is not appealed, the animal or animals are forfeited and the animal control or animal shelter in charge of the animal or animals may lawfully and without liability provide for adoption of the animal or animals by a person other than the person who forfeited the animal or animals, or any person or persons dwelling in the same household as the person who forfeited the animal or animals, or it may humanely euthanize the animal or animals.

720 ILL. COMP. STAT. 5/12-35 (2012).Sexual conduct or sexual contact with an animal.

- (a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.
- (b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.
- (c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.
- (d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.
- (e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.
- (f) *In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:*
 - (1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.
 - (2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

“Animal” means every creature, either alive or dead, other than a human being.

“Sexual conduct” means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

“Sexual contact” means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

730 Ill. Comp.Stat. 5/5-5-6 (2012). Restitution.

In all convictions for offenses in violation of the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.] or of Section 11-501 of the Illinois Vehicle Code [625 ILCS 5/11-501] in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment. The sentence of the defendant to a term of imprisonment is not a mitigating factor that prevents the court from ordering the defendant to pay restitution. If the offender is sentenced to make restitution the

Court shall determine the restitution as hereinafter set forth:

(a) At the sentence hearing, the court shall determine whether the property may be restored in kind to the possession of the owner or the person entitled to possession thereof; or whether the defendant is possessed of sufficient skill to repair and restore property damaged; or whether the defendant should be required to make restitution in cash, for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the conduct of the defendant or another for whom the defendant is legally accountable under the provisions of Article V of the Criminal Code of 1961 [720 ILCS 5/5-1 et seq.].

(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. If a defendant is placed on supervision for, or convicted of, domestic battery, the defendant shall be required to pay restitution to any domestic violence shelter in which the victim and any other family or household members lived because of the domestic battery. The amount of the restitution shall equal the actual expenses of the domestic violence shelter in providing housing and any other services for the victim and any other family or household members living at the shelter. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of the sheriff in conducting the sale shall be paid to the defendant. The defendant convicted of domestic battery, if a person under 18 years of age was present and witnessed the domestic battery of the victim, is liable to pay restitution for the cost of any counseling required for the child at the discretion of the court.

(c) In cases where more than one defendant is accountable for the same criminal conduct that results in out-of-pocket expenses, losses, damages, or injuries, each defendant shall be ordered to pay restitution in the amount of the total actual out-of-pocket expenses, losses, damages, or injuries to the victim proximately caused by the conduct of all of the defendants who are legally accountable for the offense.

(1) In no event shall the victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages, or injuries, proximately caused by the conduct of all of the defendants.

(2) As between the defendants, the court may apportion the restitution that is payable in proportion to each co-defendant's culpability in the commission of the offense.

(3) In the absence of a specific order apportioning the restitution, each defendant shall bear his pro rata share of the restitution.

(4) As between the defendants, each defendant shall be entitled to a pro rata reduction in the total restitution required to be paid to the victim for amounts of restitution actually paid by co-defendants, and defendants who shall have paid more than their pro rata share shall be entitled to refunds to be computed by the court as additional amounts are paid by co-defendants.

(d) In instances where a defendant has more than one criminal charge pending against him in a single case, or more than one case, and the defendant stands convicted of one or more charges, a plea agreement negotiated by the State's Attorney and the defendants may require the defendant to make restitution to victims of charges that have been dismissed or which it is contemplated will be dismissed under the terms of the plea agreement, and under the agreement, the court may impose a sentence of restitution on the charge or charges of which the defendant has been convicted that would require the defendant to make restitution to victims of other offenses as provided in the plea agreement.

(e) The court may require the defendant to apply the balance of the cash bond, after payment of court costs, and any fine that may be imposed to the payment of restitution.

(f) Taking into consideration the ability of the defendant to pay, including any real or personal property or any other assets of the defendant, the court shall determine whether restitution shall be paid in a single payment or in installments, and shall fix a period of time not in excess of 5 years, except for violations of Sections 16-1.3 and 17-56 of the Criminal Code of 1961, or the period of time specified in subsection (f-1), not including periods of incarceration, within which payment of restitution is to be paid in full. Complete restitution shall be paid in as short a time period as possible. However, if the court deems it necessary and in the best interest of the victim, the court may extend beyond 5 years the period of time within which the payment of restitution is to be paid. If the defendant is ordered to pay restitution and the court orders that restitution is to be paid over a period greater than 6 months, the court shall order that the defendant make monthly payments; the court may waive this requirement of monthly payments only if there is a specific finding of good cause for waiver.

(f-1)

(1) In addition to any other penalty prescribed by law and any restitution ordered under this Section that did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of this subsection (f-1) if the victim has suffered physical injury as a result of the offense that is reasonably probable to require or has

required long-term physical health care for more than 3 months. As used in this subsection (f-1) “long-term physical health care” includes mental health care.

(2) The victim’s estimate of long-term physical health care costs may be made as part of a victim impact statement under Section 6 of the Rights of Crime Victims and Witnesses Act [725 ILCS 120/1 et seq.] or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.

(3) After a sentencing order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, enter an order for restitution for long-term physical care or modify the existing order for restitution for long-term physical care as to the amount of monthly payments. Any modification of the order shall be based only upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.

(g) In addition to the sentences provided for in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961, the court may order any person who is convicted of violating any of those Sections or who was charged with any of those offenses and which charge was reduced to another charge as a result of a plea agreement under subsection (d) of this Section to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense.

The payments shall be made by the defendant to the clerk of the circuit court and transmitted by the clerk to the appropriate person or agency as directed by the court. Except as otherwise provided in subsection (f-1), the order may require such payments to be made for a period not to exceed 5 years after sentencing, not including periods of incarceration.

(h) The judge may enter an order of withholding to collect the amount of restitution owed in accordance with Part 8 of Article XII of the Code of Civil Procedure [735 ILCS 5/12-801 et seq.].

(i) A sentence of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentence to make restitution shall be revoked unless the court shall find that the offender has had the financial ability to make restitution, and he has wilfully refused to do so. When the offender’s ability to pay restitution was established at the time an order of restitution was entered or

modified, or when the offender's ability to pay was based on the offender's willingness to make restitution as part of a plea agreement made at the time the order of restitution was entered or modified, there is a rebuttable presumption that the facts and circumstances considered by the court at the hearing at which the order of restitution was entered or modified regarding the offender's ability or willingness to pay restitution have not materially changed. If the court shall find that the defendant has failed to make restitution and that the failure is not wilful, the court may impose an additional period of time within which to make restitution. The length of the additional period shall not be more than 2 years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the conditions, and to revoke or further modify the sentence if the conditions of payment are violated during the additional period.

(j) The procedure upon the filing of a Petition to Revoke a sentence to make restitution shall be the same as the procedures set forth in Section 5-6-4 of this Code [730 ILCS 5/5-6-4] governing violation, modification, or revocation of Probation, of Conditional Discharge, or of Supervision.

(k) Nothing contained in this Section shall preclude the right of any party to proceed in a civil action to recover for any damages incurred due to the criminal misconduct of the defendant.

(l) Restitution ordered under this Section shall not be subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act [705 ILCS 105/27.5].

(m) A restitution order under this Section is a judgment lien in favor of the victim that:

(1) Attaches to the property of the person subject to the order;

(2) May be perfected in the same manner as provided in Part 3 of Article 9 of the Uniform Commercial Code [810 ILCS 5/9-301 et seq.];

(3) May be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) Expires in the same manner as a judgment lien created in a civil proceeding.

When a restitution order is issued under this Section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket.

(n) An order of restitution under this Section does not bar a civil action for:

(1) Damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damages that is the basis of restitution ordered by the court; and

(2) Other damages suffered by the victim.

The restitution order is not discharged by the completion of the sentence imposed for the offense.

A restitution order under this Section is not discharged by the liquidation of a person's estate by a receiver. A restitution order under this Section may be enforced in the same manner as judgment liens are enforced under Article XII of the Code of Civil Procedure [735 ILCS 5/12-101 et seq.].

The provisions of Section 2-1303 of the Code of Civil Procedure [735 ILCS 5/2-1303], providing for interest on judgments, apply to judgments for restitution entered under this Section.

7. SEIZURE / ON-SITE SUPERVISION

510 ILL. COMP. STAT. 70/3.04 (2012).Arrests and seizures.

(a) Any law enforcement officer making an arrest for an offense involving one or more companion animals under Section 3.01, 3.02, or 3.03 of this Act may lawfully take possession of some or all of the companion animals in the possession of the person arrested. The officer, after taking possession of the companion animals, must file with the court before whom the complaint is made against any person so arrested an affidavit stating the name of the person charged in the complaint, a description of the condition of the companion animal or companion animals taken, and the time and place the companion animal or companion animals were taken, together with the name of the person from whom the companion animal or companion animals were taken and name of the person who claims to own the companion animal or companion animals if different from the person from whom the companion animal or companion animals were seized. He or she must at the same time deliver an inventory of the companion animal or companion animals taken to the court of competent jurisdiction. The officer must place the companion animal or companion animals in the custody of an animal control or animal shelter and the agency must retain custody of the companion animal or companion animals subject to an order of the court adjudicating the charges on the merits and before which the person complained against is required to appear for trial. The State's Attorney may, within 14 days after the seizure, file a "petition for forfeiture prior to trial" before the court having criminal jurisdiction over the alleged charges, asking for permanent forfeiture of the companion animals seized. The petition shall be filed with the court, with copies served on the impounding agency, the owner, and anyone claiming an interest in the animals. In a "petition for forfeiture prior to trial", the burden is on the prosecution to prove by a preponderance of the evidence that the person arrested violated Section 3.01, 3.02, 3.03, or 4.01 of this Act or Section 26-5 of the Criminal Code of 1961.

(b) An owner whose companion animal or companion animals are removed by a law enforcement officer under this Section must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure, or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the companion animal or companion animals were seized, delivered by registered mail to his or her last known address.

(c) In addition to any other penalty provided by law, upon conviction for violating Sections 3, 3.01, 3.02, or 3.03 the court may order the convicted person to forfeit to an animal control or animal shelter the animal or animals that are the basis of the conviction. Upon an order of forfeiture, the convicted person is deemed to have permanently relinquished all rights to the animal or animals that are the basis of the conviction. The forfeited animal or animals shall be adopted or humanely euthanized. In no event may the convicted person or anyone residing in his or her household be permitted to adopt the forfeited animal or animals. The court, additionally, may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any other animals for a period of time that the court deems reasonable.

510 ILL. COMP. STAT. 70/3.05 (2012). Security for companion animals and animals used for fighting purposes.

(a) In the case of companion animals as defined in Section 2.01a or animals used for fighting purposes in violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961, the animal control or animal shelter having custody of the animal or animals may file a petition with the court requesting that the person from whom the animal or animals are seized, or the owner of the animal or animals, be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control or animal shelter in caring for and providing for the animal or animals pending the disposition of the charges. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal or animals for 30 days. The amount of the security shall be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized animal or animals and the cost of caring for the animal or animals. If security has been posted in accordance with this Section, the animal control or animal shelter may draw from the security the actual costs incurred by the agency in caring for the seized animal or animals.

(b) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant and the State's Attorney for the county in which the animal or animals were seized. The petitioner must also serve a true copy of the petition on any interested person. For the purposes of this subsection, "interested person" means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal or animals that are the subject of the petition. The court must set a hearing date to determine any interested parties. The court may waive for good cause shown the posting of security.

(c) If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the animal or animals are forfeited by operation of law and the animal control or animal shelter having control of the animal or animals must dispose of the animal or animals through adoption or must humanely euthanize the animal. In no event may the defendant or any person residing in the defendant's household adopt the animal or animals.

(d) The impounding organization may file a petition with the court upon the expiration of the 30-day period requesting the posting of additional security. The court may order the person from whom the animal or animals were seized, or the owner of the animal or animals, to post additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal or animals were seized.

(e) In no event may the security prevent the impounding organization having custody and care of the animal or animals from disposing of the animal or animals before the expiration of the 30-day period covered by the security if the court makes a final determination of the charges against the person from whom the animal or animals were seized. Upon the adjudication of the charges, the person who posted the security is entitled to a refund of the security, in whole or in part, for any expenses not incurred by the impounding organization.

(f) Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, animal control officer, Department investigator, or an approved humane investigator may be authorized by an order of the court to make regular visits to the place where the animal or animals are being kept to ascertain if the animal or animals are receiving necessary food, water, shelter, and care. Nothing in this Section prevents any law enforcement officer, Department investigator, or approved humane investigator from applying for a warrant under this Section to seize any animal or animals being held by the person charged pending the adjudication of the charges if it is determined that the animal or animals are not receiving the necessary food, water, shelter, or care.

(g) Nothing in this Act shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to an animal control or animal shelter in lieu of posting security or proceeding to a forfeiture hearing. Voluntary relinquishment shall have no effect on the criminal charges that may be pursued by the appropriate authorities.

(h) If an owner of a companion animal is acquitted by the court of charges made pursuant to this Act, the court shall further order that any security that has been posted for the animal shall be returned to the owner by the impounding organization.

(i) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/4.01 (2012).Animals in entertainment.

This Section does not apply when the only animals involved are dogs. (Section 26-5 of the Criminal Code of 1961, rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(4) A person convicted of violating subsection (1) of this Section is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(n) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

510 ILL. COMP. STAT. 70/4.02 (2012).Arrests; reports.

(a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. When a law enforcement officer has taken possession of such animals, paraphernalia, implements or other property or things, he or she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in the complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if different from the person from whom the animals were seized and if known, and that the affiant has reason to believe and does believe, stating the ground of the belief, that the animals and property so taken were used or employed, or were about to be used or employed, in a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. He or she shall thereupon deliver an inventory of the property so taken to the court of competent jurisdiction. A law enforcement officer may humanely euthanize animals that are severely injured.

An owner whose animals are removed for a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the animals were seized, delivered by registered mail to his or her last known address.

The animal control or animal shelter having custody of the animals may file a petition with the court requesting that the person from whom the animals were seized or the owner of the animals be ordered to post security pursuant to Section 3.05 of this Act.

Upon the conviction of the person so charged, all animals shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. Any outstanding costs incurred by the impounding facility in boarding and treating the animals pending the disposition of the case and disposing of the animals upon a conviction must be borne by the person convicted. In no event may the animals be adopted by the defendant or anyone residing in his or her household. If the court finds that the State either failed to prove the criminal allegations or failed to prove that the animals were used in fighting, the court must direct the delivery of the animals and the other property not previously forfeited to the owner of the animals and property.

Any person authorized by this Section to care for an animal, to treat an animal, or to attempt to restore an animal to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering animal in exigent circumstances.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals and treatment administered, and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), is immune from any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

510 ILL. COMP. STAT. 70/10 (2012).Investigation of complaints.

(a) Upon receiving a complaint of a suspected violation of this Act, a Department investigator, any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter during normal business hours upon any premises where the animal or animals described in the complaint are housed or kept, provided such entry shall not be made into any building which is a person's residence, except by search warrant or court order. Institutions operating under federal license to conduct laboratory experimentation utilizing animals for research or medical purposes are, however, exempt from the provisions of this Section. State's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the Department. No employee or representative of the Department shall enter a livestock management facility unless sanitized footwear is used, or unless the owner or operator of the facility waives this requirement. The employee or representative must also use any other reasonable disease prevention procedures or equipment provided by the owner or operator of the facility. The animal control administrator and animal control wardens appointed under the Animal Control Act shall be authorized to make investigations complying with this Section for alleged violations of Sections 3, 3.01, 3.02, and 3.03 pertaining to companion animals. The animals impounded shall remain under the jurisdiction of the animal control administrator and be held in an animal shelter licensed under the Animal Welfare Act.

(b) Any veterinarian acting in good faith is immune from any civil or criminal liability resulting from his or her actions under this Section. The good faith on the part of the veterinarian is presumed.

510 ILL. COMP. STAT. 70/11 (2012).Notification to violator; impoundment upon refusal or failure to take corrective action.

(a) If an investigation under Section 10 discloses that a violation of this Act has been committed, the approved humane investigator shall furnish the violator, if known, with a notice of violation, and state what action is necessary to come into compliance with this Act and that a maximum of 48 hours may be granted in which to take corrective action.

(b) If the violator fails or refuses to take corrective action necessary for compliance or if the violator is still unknown after an attempt to identify ownership, the humane investigator shall contact the Department and request authorization to impound the animal or animals. The Department will authorize impoundment if a review of facts gathered by the humane investigator indicates a violation of Section 3 of this Act has occurred and the violator, if known, has failed or refused to take corrective action necessary for compliance.

This Section shall not apply to violations committed under Section 4.01 of this Act.

510 ILL. COMP. STAT. 70/12 (2012). Impounding animals; notice of impoundment.

(a) *When an approved humane investigator, a Department investigator or a veterinarian finds that a violation of this Act has rendered an animal in such a condition that no remedy or corrective action by the owner is possible, the Department must impound or order the impoundment of the animal. If the violator fails or refuses to take corrective action necessary for compliance with Section 11 of this Act, the Department may impound the animal. If the animal is ordered impounded, it shall be impounded in a facility or at another location where the elements of good care as set forth in Section 3 of this Act can be provided, and where such animals shall be examined and treated by a licensed veterinarian or, if the animal is severely injured, diseased, or suffering, humanely euthanized. Any expense incurred in the impoundment shall become a lien on the animals.*

(b) *Emergency impoundment may be exercised in a life-threatening situation and the subject animals shall be conveyed directly to a licensed veterinarian for medical services necessary to sustain life or to be humanely euthanized as determined by the veterinarian. If such emergency procedure is taken by an animal control officer, the Department shall be notified.*

(c) *A notice of impoundment shall be given by the investigator to the violator, if known, in person or sent by certified or registered mail. If the investigator is not able to serve the violator in person or by registered or certified mail, the notice may be given by publication in a newspaper of general circulation in the county in which the violator's last known address is located. A copy of the notice shall be retained by the investigator and a copy forwarded immediately to the Department. The notice of impoundment shall include the following:*

(1) A number assigned by the Department which will also be given to the impounding facility accepting the responsibility of the animal or animals.

(2) Listing of deficiencies noted.

(3) An accurate description of the animal or animals involved.

(4) Date on which the animal or animals were impounded.

(5) Signature of the investigator.

(6) A statement that: “The violator may request a hearing to appeal the impoundment. A person desiring a hearing shall contact the Department of Agriculture within 7 days from the date of impoundment” and the Department must hold an administrative hearing within 7 business days after receiving a request to appeal the impoundment. If the hearing cannot be held prior to the expiration of the 7-day impoundment period, the Department shall notify the impounding facility that it cannot sell, offer for adoption, or dispose of the animal or animals until a final decision is rendered and all of the appeal processes have expired.

If a hearing is requested by any owner of impounded animals, the Hearing Officer shall, after hearing the testimony of all interested parties, render a decision within 5 business days regarding the disposition of the impounded animals. This decision by the Hearing Officer shall have no effect on the criminal charges that may be filed with the appropriate authorities.

If an owner of a companion animal or animal used for fighting purposes requests a hearing, the animal control or animal shelter having control of the animal or animals may file a petition with the court in the county where the impoundment took place requesting that the person from whom the animal or animals were seized or the owner of the animal or animals be ordered to post security pursuant to subsections (a) and (b) of Section 3.05 of this Act.

If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the court must order the Department of Agriculture to hold a hearing on the impoundment within 5 business days. If, upon final administrative or judicial determination, it is found that it is not in the best interest of the animal or animals to be returned to the person from whom it was seized, the animal or animals are forfeited to the animal control or animal shelter having control of the animal or animals. If no petition for the posting of security is filed or a petition was filed and granted but the person failed to post security, any expense incurred in the impoundment shall remain outstanding until satisfied by the owner or the person from whom the animal or animals were impounded.

When the impoundment is not appealed, the animal or animals are forfeited and the animal control or animal shelter in charge of the animal or animals may lawfully and without liability provide for adoption of the animal or animals by a person other than the person who forfeited the animal or animals, or any person or persons dwelling in the same household as the person who forfeited the animal or animals, or it may humanely euthanize the animal or animals.

720 ILL. COMP. STAT. 5/12-35 (2012).Sexual conduct or sexual contact with an animal.

(a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.

(b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.

(c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.

(d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.

(f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:

(1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.

(2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

“Animal” means every creature, either alive or dead, other than a human being.

“Sexual conduct” means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

“Sexual contact” means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

720 ILL. COMP. STAT. 5/26-5 (2012).Dog fighting.

(For other provisions that may apply to dog fighting, see the Humane Care for Animals Act. For provisions similar to this Section that apply to animals other than dogs, see in particular Section 4.01 of the Humane Care for Animals Act.)

(a) No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.

(c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

(c-5) No person may solicit a minor to violate this Section.

(d) No person may manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any human and dog, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(e) No person may own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering or entertainment.

(f) No person may knowingly make available any site, structure, or facility, whether enclosed or not, that he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog or knowingly manufacture, distribute, or deliver fittings to be used in a fight between 2 or more dogs or a dog and human.

(g) No person may knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(h) No person may tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs. This subsection (h) applies only when the dog is intended to be used in a dog fight.

(i) Penalties for violations of this Section shall be as follows:

(1) Any person convicted of violating subsection (a), (b), (c), or (h) of this Section is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$ 50,000.

(1.5) A person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 3 felony and may be fined an amount not to exceed \$50,000, if the dog participates in a dogfight and any of the following factors is present:

(i) the dogfight is performed in the presence of a person under 18 years of age;

(ii) the dogfight is performed for the purpose of or in the presence of illegal wagering activity; or

(iii) the dogfight is performed in furtherance of streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(1.7) A person convicted of violating subsection (c- 5) of this Section is guilty of a Class 4 felony.

(2) Any person convicted of violating subsection (d) or (e) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (d) or (e) of this Section is a Class 3 felony.

(2.5) Any person convicted of violating subsection (f) of this Section is guilty of a Class 4 felony. Any person convicted of violating subsection (f) of this section in which the site, structure, or facility made available to violate subsection (f) is located within 1,000 feet of a school, public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age is guilty of a class 3 felony for a first violation and a class 2 felony for a second or subsequent violation.

(3) Any person convicted of violating subsection (g) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (g) of this Section is a Class 3 felony. If a person under 13 years of age is present at any show, exhibition, program, or other activity prohibited in subsection (g), the parent, legal guardian, or other person who is 18 years of age or older who brings that person under 13 years of age to that show, exhibition, program, or other activity is guilty of a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation.

(i-5) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(j) Any dog or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 of the Humane Care for Animals Act when located at any show, exhibition, program, or other activity featuring or otherwise involving a dog fight for the purposes of sport, wagering, or entertainment.

(k) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(l) Any veterinarian in this State who is presented with a dog for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the dog was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department of Agriculture and cooperate by furnishing the owners' names, dates, and descriptions of the dog or dogs involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(m) In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.

(n) A violation of subsection (a) of this Section may be inferred from evidence that the accused possessed any device or equipment described in subsection (d), (e), or (h) of this Section, and also possessed any dog.

(o) When no longer required for investigations or court proceedings relating to the events described or depicted therein, evidence relating to convictions for violations of this Section shall be retained and made available for use in training peace officers in detecting and identifying violations of this Section. Such evidence shall be made available upon request to other law enforcement agencies and to schools certified under the Illinois Police Training Act.

(p) For the purposes of this section, “school” has the meaning ascribed to it in section 11-9.3 of this code; and “public park”, “playground”, “child care institution”, “day care center”, “part day child care facility”, “day care home”, “group day care home”, and “facility providing programs or services exclusively directed toward persons under 18 years of age” have the meanings ascribed to them in section 11-9.4 of this code.

8. FORFEITURE / POSSESSION

510 ILL. COMP. STAT. 70/3.04 (2012). Arrests and seizures.

(a) Any law enforcement officer making an arrest for an offense involving one or more companion animals under Section 3.01, 3.02, or 3.03 of this Act may lawfully take possession of some or all of the companion animals in the possession of the person arrested. The officer, after taking possession of the companion animals, must file with the court before whom the complaint is made against any person so arrested an affidavit stating the name of the person charged in the complaint, a description of the condition of the companion animal or companion animals taken, and the time and place the companion animal or companion animals were taken, together with the name of the person from whom the companion animal or companion animals were taken and name of the person who claims to own the companion animal or companion animals if different from the person from whom the companion animal or companion animals were seized. He or she must at the same time deliver an inventory of the companion animal or companion animals taken to the court of competent jurisdiction. The officer must place the companion animal or companion animals in the custody of an animal control or animal shelter and the agency must retain custody of the companion animal or companion animals subject to an order of the court adjudicating the charges on the merits and before which the person complained against is required to appear for trial. *The State's Attorney may, within 14 days after the seizure, file a "petition for forfeiture prior to trial" before the court having criminal jurisdiction over the alleged charges, asking for permanent forfeiture of the companion animals seized. The petition shall be filed with the court, with copies served on the impounding agency, the owner, and anyone claiming an interest in the animals. In a "petition for forfeiture prior to trial", the burden is on the prosecution to prove by a preponderance of the evidence that the person arrested violated Section 3.01, 3.02, 3.03, or 4.01 of this Act or Section 26-5 of the Criminal Code of 1961.*

(b) An owner whose companion animal or companion animals are removed by a law enforcement officer under this Section must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure, or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the companion animal or companion animals were seized, delivered by registered mail to his or her last known address.

(c) In addition to any other penalty provided by law, upon conviction for violating Sections 3, 3.01, 3.02, or 3.03 the court may order the convicted person to forfeit to an animal control or animal shelter the animal or animals that are the basis of the conviction. Upon an order of forfeiture, the convicted person is deemed to have permanently relinquished all rights to the animal or animals that are the basis of the conviction. The forfeited animal or animals shall be adopted or humanely euthanized. In no event may the convicted person or anyone residing in his or her household be permitted to adopt the forfeited animal or animals. The court, additionally, may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any other animals for a period of time that the court deems reasonable.

510 ILL. COMP. STAT. 70/3.05 (2012). Security for companion animals and animals used for fighting purposes.

(a) In the case of companion animals as defined in Section 2.01a or animals used for fighting purposes in violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961, the animal control or animal shelter having custody of the animal or animals may file a petition with the court requesting that the person from whom the animal or animals are seized, or the owner of the animal or animals, be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control or animal shelter in caring for and providing for the animal or animals pending the disposition of the charges. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal or animals for 30 days. The amount of the security shall be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized animal or animals and the cost of caring for the animal or animals. If security has been posted in accordance with this Section, the animal control or animal shelter may draw from the security the actual costs incurred by the agency in caring for the seized animal or animals.

(b) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant and the State's Attorney for the county in which the animal or animals were seized. The petitioner must also serve a true copy of the petition on any interested person. For the purposes of this subsection, "interested person" means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal or animals that are the subject of the petition. The court must set a hearing date to determine any interested parties. The court may waive for good cause shown the posting of security.

(c) If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the animal or animals are forfeited by operation of law and the animal control or animal shelter having control of the animal or animals must dispose of the animal or animals through adoption or must humanely euthanize the animal. In no event may the defendant or any person residing in the defendant's household adopt the animal or animals.

(d) The impounding organization may file a petition with the court upon the expiration of the 30-day period requesting the posting of additional security. The court may order the person from whom the animal or animals were seized, or the owner of the animal or animals, to post additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal or animals were seized.

(e) In no event may the security prevent the impounding organization having custody and care of the animal or animals from disposing of the animal or animals before the expiration of the 30-day period covered by the security if the court makes a final determination of the charges against the person from whom the animal or animals were seized. Upon the adjudication of the charges, the person who posted the security is entitled to a refund of the security, in whole or in part, for any expenses not incurred by the impounding organization.

(f) Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, animal control officer, Department investigator, or an approved humane investigator may be authorized by an order of the court to make regular visits to the place where the animal or animals are being kept to ascertain if the animal or animals are receiving necessary food, water, shelter, and care. Nothing in this Section prevents any law enforcement officer, Department investigator, or approved humane investigator from applying for a warrant under this Section to seize any animal or animals being held by the person charged pending the adjudication of the charges if it is determined that the animal or animals are not receiving the necessary food, water, shelter, or care.

(g) Nothing in this Act shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to an animal control or animal shelter in lieu of posting security or proceeding to a forfeiture hearing. Voluntary relinquishment shall have no effect on the criminal charges that may be pursued by the appropriate authorities.

(h) If an owner of a companion animal is acquitted by the court of charges made pursuant to this Act, the court shall further order that any security that has been posted for the animal shall be returned to the owner by the impounding organization.

(i) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/3.06 (2012).Disposition of seized companion animals and animals used for fighting purposes.

(a) *Upon the conviction of the person charged, all animals seized, if not previously ordered forfeited or previously forfeited by operation of law, are forfeited to the facility impounding the animals and must be humanely euthanized or adopted.* Any outstanding costs incurred by the impounding facility for boarding and treating the animals pending the disposition of the case and any costs incurred in disposing of the animals must be borne by the person convicted.

(b) Any person authorized by this Section to care for an animal or animals, to treat an animal or animals, or to attempt to restore an animal or animals to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

(c) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/4.01 (2012).Animals in entertainment.

This Section does not apply when the only animals involved are dogs. (Section 26-5 of the Criminal Code of 1961, rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(4) A person convicted of violating subsection (l) of this Section is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(n) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

510 ILL. COMP. STAT. 70/4.02 (2012). Arrests; reports.

(a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. When a law enforcement officer has taken possession of such animals, paraphernalia, implements or other property or things, he or she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in the complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if different from the person from whom the animals were seized and if known, and that the affiant has reason to believe and does believe, stating the ground of the belief, that the animals and property so taken were used or employed, or were about to be used or employed, in a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. He or she shall thereupon deliver an inventory of the property so taken to the court of competent jurisdiction. A law enforcement officer may humanely euthanize animals that are severely injured.

An owner whose animals are removed for a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the animals were seized, delivered by registered mail to his or her last known address.

The animal control or animal shelter having custody of the animals may file a petition with the court requesting that the person from whom the animals were seized or the owner of the animals be ordered to post security pursuant to Section 3.05 of this Act.

Upon the conviction of the person so charged, all animals shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. Any outstanding costs incurred by the impounding facility in boarding and treating the animals pending the disposition of the case and disposing of the animals upon a conviction must be borne by the person convicted. In no event may the animals be adopted by the defendant or anyone residing in his or her household. If the court finds that the State either failed to prove the criminal allegations or failed to prove that the animals were used in fighting, the court must direct the delivery of the animals and the other property not previously forfeited to the owner of the animals and property.

Any person authorized by this Section to care for an animal, to treat an animal, or to attempt to restore an animal to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering animal in exigent circumstances.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals and treatment administered, and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), is immune from any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

510 ILL. COMP. STAT. 70/12 (2012). Impounding animals; notice of impoundment.

(a) When an approved humane investigator, a Department investigator or a veterinarian finds that a violation of this Act has rendered an animal in such a condition that no remedy or corrective action by the owner is possible, the Department must impound or order the impoundment of the animal. If the violator fails or refuses to take corrective action necessary for compliance with Section 11 of this Act, the Department may impound the animal. If the animal is ordered impounded, it shall be impounded in a facility or at another location where the elements of good care as set forth in Section 3 of this Act can be provided, and where such animals shall be examined and treated by a licensed veterinarian or, if the animal is severely injured, diseased, or suffering, humanely euthanized. Any expense incurred in the impoundment shall become a lien on the animals.

(b) Emergency impoundment may be exercised in a life-threatening situation and the subject animals shall be conveyed directly to a licensed veterinarian for medical services necessary to sustain life or to be humanely euthanized as determined by the veterinarian. If such emergency procedure is taken by an animal control officer, the Department shall be notified.

(c) A notice of impoundment shall be given by the investigator to the violator, if known, in person or sent by certified or registered mail. If the investigator is not able to serve the violator in person or by registered or certified mail, the notice may be given by publication in a newspaper of general circulation in the county in which the violator's last known address is located. A copy of the notice shall be retained by the investigator and a copy forwarded immediately to the Department. The notice of impoundment shall include the following:

(1) A number assigned by the Department which will also be given to the impounding facility accepting the responsibility of the animal or animals.

(2) Listing of deficiencies noted.

(3) An accurate description of the animal or animals involved.

(4) Date on which the animal or animals were impounded.

(5) Signature of the investigator.

(6) A statement that: "The violator may request a hearing to appeal the impoundment. A person desiring a hearing shall contact the Department of Agriculture within 7 days from the date of impoundment" and the Department must hold an administrative hearing within 7 business days after receiving a request to appeal the impoundment. If the hearing cannot be held prior to the expiration of the 7-day impoundment period, the Department shall notify the impounding facility that it cannot sell, offer for adoption, or dispose of the animal or animals until a final decision is rendered and all of the appeal processes have expired.

If a hearing is requested by any owner of impounded animals, the Hearing Officer shall, after hearing the testimony of all interested parties, render a decision within 5 business days regarding the disposition of the impounded animals. This decision by the Hearing Officer shall have no effect on the criminal charges that may be filed with the appropriate authorities.

If an owner of a companion animal or animal used for fighting purposes requests a hearing, the animal control or animal shelter having control of the animal or animals may file a petition with the court in the county where the impoundment took place requesting that the person from whom the animal or animals were seized or the owner of the animal or animals be ordered to post security pursuant to subsections (a) and (b) of Section 3.05 of this Act.

If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. *If the person ordered to post security does not do so, the court must order the Department of Agriculture to hold a hearing on the impoundment within 5 business days. If, upon final administrative or judicial determination, it is found that it is not in the best interest of the animal or animals to be returned to the person from whom it was seized, the animal or animals are forfeited to the animal control or animal shelter having control of the animal or animals.* If no petition for the posting of security is filed or a petition was filed and granted but the person failed to post security, any expense incurred in the impoundment shall remain outstanding until satisfied by the owner or the person from whom the animal or animals were impounded.

When the impoundment is not appealed, the animal or animals are forfeited and the animal control or animal shelter in charge of the animal or animals may lawfully and without liability provide for adoption of the animal or animals by a person other than the person who forfeited the animal or animals, or any person or persons dwelling in the same household as the person who forfeited the animal or animals, or it may humanely euthanize the animal or animals.

720 ILL. COMP. STAT. 5/12-35 (2012).Sexual conduct or sexual contact with an animal.

- (a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.
- (b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.
- (c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.
- (d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.

(f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:

(1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.

(2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

“Animal” means every creature, either alive or dead, other than a human being.

“Sexual conduct” means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

“Sexual contact” means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

720 ILL. COMP. STAT. 5/26-5 (2012).Dog fighting.

(For other provisions that may apply to dog fighting, see the Humane Care for Animals Act. For provisions similar to this Section that apply to animals other than dogs, see in particular Section 4.01 of the Humane Care for Animals Act.)

(a) No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.

(c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

(c-5) No person may solicit a minor to violate this Section.

(d) No person may manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any human and dog, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(e) No person may own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering or entertainment.

(f) No person may knowingly make available any site, structure, or facility, whether enclosed or not, that he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog or knowingly manufacture, distribute, or deliver fittings to be used in a fight between 2 or more dogs or a dog and human.

(g) No person may knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(h) No person may tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs. This subsection (h) applies only when the dog is intended to be used in a dog fight.

(i) Penalties for violations of this Section shall be as follows:

(1) Any person convicted of violating subsection (a), (b), (c), or (h) of this Section is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$ 50,000.

(1.5) A person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 3 felony and may be fined an amount not to exceed \$50,000, if the dog participates in a dogfight and any of the following factors is present:

(i) the dogfight is performed in the presence of a person under 18 years of age;

(ii) the dogfight is performed for the purpose of or in the presence of illegal wagering activity; or

(iii) the dogfight is performed in furtherance of streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(1.7) A person convicted of violating subsection (c- 5) of this Section is guilty of a Class 4 felony.

(2) Any person convicted of violating subsection (d) or (e) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (d) or (e) of this Section is a Class 3 felony.

(2.5) Any person convicted of violating subsection (f) of this Section is guilty of a Class 4 felony. Any person convicted of violating subsection (f) of this section in which the site, structure, or facility made available to violate subsection (f) is located within 1,000 feet of a school, public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age is guilty of a class 3 felony for a first violation and a class 2 felony for a second or subsequent violation.

(3) Any person convicted of violating subsection (g) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (g) of this Section is a Class 3 felony. If a person under 13 years of age is present at any show, exhibition, program, or other activity prohibited in subsection (g), the parent, legal guardian, or other person who is 18 years of age or older who brings that person under 13 years of age to that show, exhibition, program, or other activity is guilty of a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation.

(i-5) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(j) Any dog or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 of the Humane Care for Animals Act when located at any show, exhibition, program, or other activity featuring or otherwise involving a dog fight for the purposes of sport, wagering, or entertainment.

(k) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(l) Any veterinarian in this State who is presented with a dog for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the dog was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department of Agriculture and cooperate by furnishing the owners' names, dates, and descriptions of the dog or dogs involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(m) In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.

(n) A violation of subsection (a) of this Section may be inferred from evidence that the accused possessed any device or equipment described in subsection (d), (e), or (h) of this Section, and also possessed any dog.

(o) When no longer required for investigations or court proceedings relating to the events described or depicted therein, evidence relating to convictions for violations of this Section shall be retained and made available for use in training peace officers in detecting and identifying violations of this Section. Such evidence shall be made available upon request to other law enforcement agencies and to schools certified under the Illinois Police Training Act.

(p) For the purposes of this section, “school” has the meaning ascribed to it in section 11-9.3 of this code; and “public park”, “playground”, “child care institution”, “day care center”, “part day child care facility”, “day care home”, “group day care home”, and “facility providing programs or services exclusively directed toward persons under 18 years of age” have the meanings ascribed to them in section 11-9.4 of this code.

720 ILL. COMP. STAT. 5/12-36 (2012). Possession of unsterilized or vicious dogs by felons prohibited.

(a) For a period of 10 years commencing upon the release of a person from incarceration, it is unlawful for a person convicted of a forcible felony, a felony violation of the Humane Care for Animals Act, a felony violation of Section 26 - 5 of this Code, a felony violation of Article 24 of this Code, a felony violation of Class 3 or higher of the Illinois Controlled Substances Act, a felony violation of Class 3 or higher of the Cannabis Control Act, or a felony violation of Class 2 or higher of the Methamphetamine Control and Community Protection Act, to knowingly own, possess, have custody of, or reside in a residence with, either:

(1) anunsplayed or unneutered dog or puppy older than 12 weeks of age; or

(2) irrespective of whether the dog has been spayed or neutered, any dog that has been determined to be a vicious dog under Section 15 of the Animal Control Act.

(b) Any dog owned, possessed by, or in the custody of a person convicted of a felony, as described in subsection (a), must be microchipped for permanent identification.

(c) Sentence. A person who violates this Section is guilty of a Class A misdemeanor.

(d) It is an affirmative defense to prosecution under this Section that the dog in question is neutered or spayed, or that the dog in question was neutered or spayed within 7 days of the defendant being charged with a violation of this Section. Medical records from, or the certificate of, a doctor of veterinary medicine licensed to practice in the State of Illinois who has personally examined or operated upon the dog, unambiguously indicating whether the dog in question has been spayed or neutered, shall be prima facie true and correct, and shall be sufficient evidence of whether the dog in question has been spayed or neutered. This subsection (d) is not applicable to any dog that has been determined to be a vicious dog under Section 15 of the Animal Control Act.

9. CROSS ENFORCEMENT / REPORTING

325 ILL. COMP. STAT. 5/4 (2012). Persons required to report; privileged communications; transmitting false report.

Sec. 4. *Persons required to report; privileged communications; transmitting false report.* Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatrist, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel (including administrators and both certified and non-certified school employees), educational advocate assigned to a child pursuant to the School Code, member of a school board or the Chicago Board of Education or the governing body of a private school (but only to the extent required in accordance with other provisions of this Section expressly concerning the duty of school board members to report suspected child abuse), truant officers, social worker, social services administrator, domestic violence program personnel, registered nurse, licensed practical nurse, genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational program or facility personnel, law enforcement officer, licensed professional counselor, licensed clinical professional counselor, registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Department of Healthcare and Family Services, Juvenile Justice, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code [305 ILCS 5/1-1 et seq.], probation officer, *animal control officer or Illinois Department of Agriculture Bureau of Animal Health and Welfare field investigator*, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of “abused child” in Section 3 of this Act [325 ILCS 5/3] shall immediately report or cause a report to be made to the Department.

Any physician, physician’s assistant, registered nurse, licensed practical nurse, medical technician, certified nursing assistant, social worker, or licensed professional counselor of any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives having reasonable cause to believe a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Notwithstanding any other provision of this Act, if an employee of a school district has made a report or caused a report to be made to the Department under this Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because he or she is an applicant for employment with the requesting school district, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under this Act. Only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department may be disclosed by the general superintendent of the school district to which the request for information concerning the applicant is made, and this fact may be disclosed only in cases where the employee and the general superintendent have not been informed by the Department that the allegations were unfounded. An employee of a school district who is or has been the subject of a report made pursuant to this Act during his or her employment with the school district must be informed by that school district that if he or she applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report.

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act or constitute grounds for

failure to share information or documents with the Department during the course of a child abuse or neglect investigation. If requested by the professional, the Department shall confirm in writing that the information or documents disclosed by the professional were gathered in the course of a child abuse or neglect investigation.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure [735 ILCS 5/8-803].

Any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives shall provide to all office personnel copies of written information and training materials about abuse and neglect and the requirements of this Act that are provided to employees of the office, clinic, or physical location who are required to make reports to the Department under this Act, and instruct such office personnel to bring to the attention of an employee of the office, clinic, or physical location who is required to make reports to the Department under this Act any reasonable suspicion that a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child. In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act.

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the "Criminal Code of 1961" [720 ILCS 5/26-1]. A violation of this provision is a Class 4 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian or custodian accepts and practices such beliefs.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended [105 ILCS 5/26-1 et seq.].

Nothing in this Act prohibits a mandated reporter who reasonably believes that an animal is being abused or neglected in violation of the Humane Care for Animals Act [510 ILCS 70/1 et seq.] from reporting animal abuse or neglect to the Department of Agriculture's Bureau of Animal Health and Welfare.

A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution [Ill. Const. (1970) Art. VII, § 6] on the concurrent exercise by home rule units of powers and functions exercised by the State.

For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

325 ILL. COMP. STAT.5/11.8 (2012). Cross-reporting.

(a) Investigation Specialists, Intact Family Specialists, and Placement Specialists employed by the Department of Children and Family Services who reasonably believe that an animal observed by them when in their professional or official capacity is being abused or neglected in violation of the Humane Care for Animals Act [510 ILCS 70/1 et seq.] must immediately make a written or oral report to the Department of Agriculture's Bureau of Animal Health and Welfare. However, the Department of Children and Family Services may not discipline an Investigation Specialist, an Intact Family Specialist, or a Placement Specialist for failing to make such a report if the Specialist determines that making the report would interfere with the performance of his or her child welfare protection duties.

(b) A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution [920 ILCS 7/6] on the concurrent exercise by home rule units of powers and functions exercised by the State.

510 ILL. COMP. STAT. 70/18 (2012). Cross-reporting.

(a) An animal control officer, Department investigator, or approved humane investigator who has reasonable cause to suspect or believe that a child is being abused or neglected or is in danger of being abused or neglected must immediately make a written or oral report to the Department of Children and Family Services.

(b) Investigation Specialists, Intact Family Specialists, and Placement Specialists employed by the Department of Children and Family Services who reasonably believe that an animal observed by them when in their professional or official capacity is being abused or neglected in violation of this Act must immediately make a written or oral report to the Department of Agriculture's Bureau of Animal Health and Welfare. However, the Department of Children and Family Services may not discipline an Investigation Specialist, an Intact Family Specialist, or a Placement Specialist for failing to make such a report if the Specialist determines that making the report would interfere with the performance of his or her child welfare protection duties.

(c) Except for willful and wanton misconduct, any person, institution, or agency described in subsection (a) or (b), participating in good faith in the making of a report or referral, or in the investigation of such a report or referral, or in making a disclosure of information concerning reports of abuse or neglect under this Act, shall have immunity from any liability, civil, criminal, or otherwise, that might result by reason of such actions.

(d) The identity of any person who reports animal abuse or neglect under subsection (a) or (b) shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law.

(e) A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

10. VETERINARIAN REPORTING / IMMUNITY

225 ILL. COMP. STAT. 115/25.19 (2012). Mandatory Reporting.

Nothing in this act exempts a licensee from the mandatory reporting requirements regarding suspected acts of aggravated cruelty, torture, and animal fighting imposed under Sections 3.07 and 4.01 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

510 ILL. COMP. STAT. 70/3.07 (2012). Veterinarian reports; humane euthanasia.

Any veterinarian in this State who observes or is presented with an animal or animals for the treatment of aggravated cruelty under Section 3.02 or torture under Section 3.03 of this Act must file a report with the Department and cooperate with the Department by furnishing the owner's name, the date of receipt of the animal or animals and any treatment administered, and a description of the animal or animals involved, including a microchip number if applicable. Any veterinarian who in good faith makes a report, as required by this Section, has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be presumed.

An animal control warden, animal control administrator, approved humane investigator, or animal shelter employee may humanely euthanize severely injured, diseased, or suffering animals in exigent circumstances.

510 ILL. COMP. STAT. 70/4.01 (2012). Animals in entertainment.

This Section does not apply when the only animals involved are dogs. (Section 26-5 of the Criminal Code of 1961, rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies

with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(4) A person convicted of violating subsection (l) of this Section is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(n) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

510 ILL. COMP. STAT. 70/4.02 (2012).Arrests; reports.

(a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. When a law enforcement officer has taken possession of such animals, paraphernalia, implements or other property or things, he or she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in the complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if different from the person from whom the animals were seized and if known, and that the affiant has reason to believe and does believe, stating the ground of the belief, that the animals and property so taken were used or employed, or were about to be used or employed, in a

violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. He or she shall thereupon deliver an inventory of the property so taken to the court of competent jurisdiction. A law enforcement officer may humanely euthanize animals that are severely injured.

An owner whose animals are removed for a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the animals were seized, delivered by registered mail to his or her last known address.

The animal control or animal shelter having custody of the animals may file a petition with the court requesting that the person from whom the animals were seized or the owner of the animals be ordered to post security pursuant to Section 3.05 of this Act.

Upon the conviction of the person so charged, all animals shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. Any outstanding costs incurred by the impounding facility in boarding and treating the animals pending the disposition of the case and disposing of the animals upon a conviction must be borne by the person convicted. In no event may the animals be adopted by the defendant or anyone residing in his or her household. If the court finds that the State either failed to prove the criminal allegations or failed to prove that the animals were used in fighting, the court must direct the delivery of the animals and the other property not previously forfeited to the owner of the animals and property.

Any person authorized by this Section to care for an animal, to treat an animal, or to attempt to restore an animal to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering animal in exigent circumstances.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals and treatment administered, and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), is immune from any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

510 ILL. COMP. STAT. 70/10 (2012).Investigation of complaints.

(a) Upon receiving a complaint of a suspected violation of this Act, a Department investigator, any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter during normal business hours upon any premises where the animal or animals described in the complaint are housed or kept, provided such entry shall not be made into any building which is a person's residence, except by search warrant or court order. Institutions operating under federal license to conduct laboratory experimentation utilizing animals for research or medical purposes are, however, exempt from the provisions of this Section. State's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the Department. No employee or representative of the Department shall enter a livestock management facility unless sanitized footwear is used, or unless the owner or operator of the facility waives this requirement. The employee or representative must also use any other reasonable disease prevention procedures or equipment provided by the owner or operator of the facility. The animal control administrator and animal control wardens appointed under the Animal Control Act shall be authorized to make investigations complying with this Section for alleged violations of Sections 3, 3.01, 3.02, and 3.03 pertaining to companion animals. The animals impounded shall remain under the jurisdiction of the animal control administrator and be held in an animal shelter licensed under the Animal Welfare Act.

(b) Any veterinarian acting in good faith is immune from any civil or criminal liability resulting from his or her actions under this Section. The good faith on the part of the veterinarian is presumed.

720 ILL. COMP. STAT. 5/26-5 (2012).Dog fighting.

(For other provisions that may apply to dog fighting, see the Humane Care for Animals Act. For provisions similar to this Section that apply to animals other than dogs, see in particular Section 4.01 of the Humane Care for Animals Act.)

(a) No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.

(c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

(c-5) No person may solicit a minor to violate this Section.

(d) No person may manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any human and dog, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(e) No person may own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering or entertainment.

(f) No person may knowingly make available any site, structure, or facility, whether enclosed or not, that he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog or knowingly manufacture, distribute, or deliver fittings to be used in a fight between 2 or more dogs or a dog and human.

(g) No person may knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(h) No person may tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs. This subsection (h) applies only when the dog is intended to be used in a dog fight.

(i) Penalties for violations of this Section shall be as follows:

(1) Any person convicted of violating subsection (a), (b), (c), or (h) of this Section is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$ 50,000.

(1.5) A person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 3 felony and may be fined an amount not to exceed \$50,000, if the dog participates in a dogfight and any of the following factors is present:

(i) the dogfight is performed in the presence of a person under 18 years of age;

(ii) the dogfight is performed for the purpose of or in the presence of illegal wagering activity; or

(iii) the dogfight is performed in furtherance of streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(1.7) A person convicted of violating subsection (c- 5) of this Section is guilty of a Class 4 felony.

(2) Any person convicted of violating subsection (d) or (e) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (d) or (e) of this Section is a Class 3 felony.

(2.5) Any person convicted of violating subsection (f) of this Section is guilty of a Class 4 felony. Any person convicted of violating subsection (f) of this section in which the site, structure, or facility made available to violate subsection (f) is located within 1,000 feet of a school, public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age is guilty of a class 3 felony for a first violation and a class 2 felony for a second or subsequent violation.

(3) Any person convicted of violating subsection (g) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (g) of this Section is a Class 3 felony. If a person under 13 years of age is present at any show, exhibition, program, or other activity prohibited in subsection (g), the parent, legal guardian, or other person who is 18 years of age or older who brings that person under 13 years of age to that show, exhibition, program, or other activity is guilty of a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation.

(i-5) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(j) Any dog or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 of the Humane Care for Animals Act when located at any show, exhibition, program, or other activity featuring or otherwise involving a dog fight for the purposes of sport, wagering, or entertainment.

(k) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(l) Any veterinarian in this State who is presented with a dog for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the dog was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department of Agriculture and cooperate by furnishing the owners' names, dates, and descriptions of the dog or dogs involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(m) In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.

(n) A violation of subsection (a) of this Section may be inferred from evidence that the accused possessed any device or equipment described in subsection (d), (e), or (h) of this Section, and also possessed any dog.

(o) When no longer required for investigations or court proceedings relating to the events described or depicted therein, evidence relating to convictions for violations of this Section shall be retained and made available for use in training peace officers in detecting and identifying violations of this Section. Such evidence shall be made available upon request to other law enforcement agencies and to schools certified under the Illinois Police Training Act.

(p) For the purposes of this section, "school" has the meaning ascribed to it in section 11-9.3 of this code; and "public park", "playground", "child care institution", "day care center", "part day child care facility", "day care home", "group day care home", and "facility providing programs or services exclusively directed toward persons under 18 years of age" have the meanings ascribed to them in section 11-9.4 of this code.

11. LAW ENFORCEMENT POLICIES

510 ILL. COMP. STAT. 70/10 (2012). Investigation of complaints.

(a) *Upon receiving a complaint of a suspected violation of this Act, a Department investigator, any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter during normal business hours upon any premises where the animal or animals described in the complaint are housed or kept, provided such entry shall not be made into any building which is a person's residence, except by search warrant or court order. Institutions operating under federal license to conduct laboratory experimentation utilizing animals for research or medical purposes are, however, exempt from the provisions of this Section. State's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the Department. No employee or representative of the Department shall enter a livestock management facility unless sanitized footwear is used, or unless the owner or operator of the facility waives this requirement. The employee or representative must also use any other reasonable disease prevention procedures or equipment provided by the owner or operator of the facility. The animal control administrator and animal control wardens appointed under the Animal Control Act shall be authorized to make investigations complying with this Section for alleged violations of Sections 3, 3.01, 3.02, and 3.03 pertaining to companion animals. The animals impounded shall remain under the jurisdiction of the animal control administrator and be held in an animal shelter licensed under the Animal Welfare Act.*

(b) Any veterinarian acting in good faith is immune from any civil or criminal liability resulting from his or her actions under this Section. The good faith on the part of the veterinarian is presumed.

12. SEXUAL ASSAULT

720 ILL. COMP. STAT. 5/12-35 (2012). Sexual conduct or sexual contact with an animal.

(a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.

(b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.

(c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.

(d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.

(f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:

(1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.

(2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

“Animal” means every creature, either alive or dead, other than a human being.

“Sexual conduct” means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

“Sexual contact” means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

13. FIGHTING

510 ILL. COMP. STAT. 70/3.05 (2012). Security for companion animals and animals used for fighting purposes.

(a) *In the case of companion animals as defined in Section 2.01a or animals used for fighting purposes in violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961, the animal control or animal shelter having custody of the animal or animals may file a petition with the court requesting that the person from whom the animal or animals are seized, or the owner of the animal or animals, be ordered to post security.* The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control or animal shelter in caring for and providing for the animal or animals pending the disposition of the charges. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal or animals for 30 days. The amount of the security shall be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized animal or animals and the cost of caring for the animal or animals. If security has been posted in accordance with this Section, the animal control or animal shelter may draw from the security the actual costs incurred by the agency in caring for the seized animal or animals.

(b) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant and the State's Attorney for the county in which the animal or animals were seized. The petitioner must also serve a true copy of the petition on any interested person. For the purposes of this subsection, "interested person" means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal or animals that are the subject of the petition. The court must set a hearing date to determine any interested parties. The court may waive for good cause shown the posting of security.

(c) If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the animal or animals are forfeited by operation of law and the animal control or animal shelter having control of the animal or animals must dispose of the animal or animals through adoption or must humanely euthanize the animal. In no event may the defendant or any person residing in the defendant's household adopt the animal or animals.

(d) The impounding organization may file a petition with the court upon the expiration of the 30-day period requesting the posting of additional security. The court may order the person from whom the animal or animals were seized, or the owner of the animal or animals, to post additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal or animals were seized.

(e) In no event may the security prevent the impounding organization having custody and care of the animal or animals from disposing of the animal or animals before the expiration of the 30-day period covered by the security if the court makes a final determination of the charges against the person from whom the animal or animals were seized. Upon the adjudication of the charges, the person who posted the security is entitled to a refund of the security, in whole or in part, for any expenses not incurred by the impounding organization.

(f) Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, animal control officer, Department investigator, or an approved humane investigator may be authorized by an order of the court to make regular visits to the place where the animal or animals are being kept to ascertain if the animal or animals are receiving necessary food, water, shelter, and care. Nothing in this Section prevents any law enforcement officer, Department investigator, or approved humane investigator from applying for a warrant under this Section to seize any animal or animals being held by the person charged pending the adjudication of the charges if it is determined that the animal or animals are not receiving the necessary food, water, shelter, or care.

(g) Nothing in this Act shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to an animal control or animal shelter in lieu of posting security or proceeding to a forfeiture hearing. Voluntary relinquishment shall have no effect on the criminal charges that may be pursued by the appropriate authorities.

(h) If an owner of a companion animal is acquitted by the court of charges made pursuant to this Act, the court shall further order that any security that has been posted for the animal shall be returned to the owner by the impounding organization.

(i) *The provisions of this Section only pertain to companion animals and animals used for fighting purposes.*

510 ILL. COMP. STAT. 70/3.06 (2012).Disposition of seized companion animals and animals used for fighting purposes.

(a) Upon the conviction of the person charged, all animals seized, if not previously ordered forfeited or previously forfeited by operation of law, are forfeited to the facility impounding the animals and must be humanely euthanized or adopted. Any outstanding costs incurred by the impounding facility for boarding and treating the animals pending the disposition of the case and any costs incurred in disposing of the animals must be borne by the person convicted.

(b) Any person authorized by this Section to care for an animal or animals, to treat an animal or animals, or to attempt to restore an animal or animals to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

(c) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/4.01 (2012).Animals in entertainment.

This Section does not apply when the only animals involved are dogs. (Section 26-5 of the Criminal Code of 1961, rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a),

(b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(4) A person convicted of violating subsection (l) of this Section is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(n) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

510 ILL. COMP. STAT. 70/4.02 (2012).Arrests; reports.

(a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. When a law enforcement officer has taken possession of such animals, paraphernalia, implements or other property or things, he or she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in the complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if different from the person from whom the animals were seized and if known, and that the affiant has reason to believe and does believe, stating the ground of the belief, that the animals and property so taken were used or employed, or were about to be used or employed, in a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. He or she shall thereupon deliver an inventory of the property so taken to the court of competent jurisdiction. A law enforcement officer may humanely euthanize animals that are severely injured.

An owner whose animals are removed for a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the animals were seized, delivered by registered mail to his or her last known address.

The animal control or animal shelter having custody of the animals may file a petition with the court requesting that the person from whom the animals were seized or the owner of the animals be ordered to post security pursuant to Section 3.05 of this Act.

Upon the conviction of the person so charged, all animals shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. Any outstanding costs incurred by the impounding facility in boarding and treating the animals pending the disposition of the case and disposing of the animals upon a conviction must be borne by the person convicted. In no event may the animals be adopted by the defendant or anyone residing in his or her household. If the court finds that the State either failed to prove the criminal allegations or failed to prove that the animals were used in fighting, the court must direct the delivery of the animals and the other property not previously forfeited to the owner of the animals and property.

Any person authorized by this Section to care for an animal, to treat an animal, or to attempt to restore an animal to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering animal in exigent circumstances.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals and treatment administered, and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), is immune from any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

720 ILL. COMP. STAT. 5/26-5 (2012).Dog fighting.

(For other provisions that may apply to dog fighting, see the Humane Care for Animals Act. For provisions similar to this Section that apply to animals other than dogs, see in particular Section 4.01 of the Humane Care for Animals Act.)

(a) No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.

(c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

(c-5) No person may solicit a minor to violate this Section.

(d) No person may manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any human and dog, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(e) No person may own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering or entertainment.

(f) No person may knowingly make available any site, structure, or facility, whether enclosed or not, that he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog or knowingly manufacture, distribute, or deliver fittings to be used in a fight between 2 or more dogs or a dog and human.

(g) No person may knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(h) No person may tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs. This subsection (h) applies only when the dog is intended to be used in a dog fight.

(i) Penalties for violations of this Section shall be as follows:

(1) Any person convicted of violating subsection (a), (b), (c), or (h) of this Section is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$ 50,000.

(1.5) A person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 3 felony and may be fined an amount not to exceed \$50,000, if the dog participates in a dogfight and any of the following factors is present:

(i) the dogfight is performed in the presence of a person under 18 years of age;

(ii) the dogfight is performed for the purpose of or in the presence of illegal wagering activity; or

(iii) the dogfight is performed in furtherance of streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(1.7) A person convicted of violating subsection (c-5) of this Section is guilty of a Class 4 felony.

(2) Any person convicted of violating subsection (d) or (e) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (d) or (e) of this Section is a Class 3 felony.

(2.5) Any person convicted of violating subsection (f) of this Section is guilty of a Class 4 felony. Any person convicted of violating subsection (f) of this section in which the site, structure, or facility made available to violate subsection (f) is located within 1,000 feet of a school, public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age is guilty of a class 3 felony for a first violation and a class 2 felony for a second or subsequent violation.

(3) Any person convicted of violating subsection (g) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (g) of this Section is a Class 3 felony. If a person under 13 years of age is present at any show, exhibition, program, or other activity prohibited in subsection (g), the parent, legal guardian, or other person who is 18 years of age or older who brings that person under 13 years of age to that show, exhibition, program, or other activity is guilty of a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation.

(i-5) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(j) Any dog or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 of the Humane Care for Animals Act when located at any show, exhibition, program, or other activity featuring or otherwise involving a dog fight for the purposes of sport, wagering, or entertainment.

(k) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(l) Any veterinarian in this State who is presented with a dog for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the dog was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department of Agriculture and cooperate by furnishing the owners' names, dates, and descriptions of the dog or dogs involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(m) In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.

(n) A violation of subsection (a) of this Section may be inferred from evidence that the accused possessed any device or equipment described in subsection (d), (e), or (h) of this Section, and also possessed any dog.

(o) When no longer required for investigations or court proceedings relating to the events described or depicted therein, evidence relating to convictions for violations of this Section shall be retained and made available for use in training peace officers in detecting and identifying violations of this Section. Such evidence shall be made available upon request to other law enforcement agencies and to schools certified under the Illinois Police Training Act.

(p) For the purposes of this section, "school" has the meaning ascribed to it in section 11-9.3 of this code; and "public park", "playground", "child care institution", "day care center", "part day child care facility", "day care home", "group day care home", and "facility providing programs or services exclusively directed toward persons under 18 years of age" have the meanings ascribed to them in section 11-9.4 of this code.

14. REFERENCED STATUTES

225 ILL. COMP. STAT. 115/25.19 (2012). Mandatory Reporting.

Nothing in this act exempts a licensee from the mandatory reporting requirements regarding suspected acts of aggravated cruelty, torture, and animal fighting imposed under Sections 3.07 and 4.01 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.

325 ILL. COMP. STAT. 5/4 (2012). Persons required to report; privileged communications; transmitting false report.

Sec. 4. Persons required to report; privileged communications; transmitting false report. Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatrist, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel (including administrators and both certified and non-certified school employees), educational advocate assigned to a child pursuant to the School Code, member of a school board or the Chicago Board of Education or the governing body of a private school (but only to the extent required in accordance with other provisions of this Section expressly concerning the duty of school board members to report suspected child abuse), truant officers, social worker, social services administrator, domestic violence program personnel, registered nurse, licensed practical nurse, genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational program or facility personnel, law enforcement officer, licensed professional counselor, licensed clinical professional counselor, registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Department of Healthcare and Family Services, Juvenile Justice, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code [305 ILCS 5/1-1 et seq.], probation officer, animal control officer or Illinois Department of Agriculture Bureau of Animal Health and Welfare field investigator, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of “abused child” in Section 3 of this Act [325 ILCS 5/3] shall immediately report or cause a report to be made to the Department.

Any physician, physician's assistant, registered nurse, licensed practical nurse, medical technician, certified nursing assistant, social worker, or licensed professional counselor of any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives having reasonable cause to believe a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Notwithstanding any other provision of this Act, if an employee of a school district has made a report or caused a report to be made to the Department under this Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because he or she is an applicant for employment with the requesting school district, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under this Act. Only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department may be disclosed by the general superintendent of the school district to which the request for information concerning the applicant is made, and this fact may be disclosed only in cases where the employee and the general superintendent have not been informed by the Department that the allegations were unfounded. An employee of a school district who is or has been the subject of a report made pursuant to this Act during his or her employment with the school district must be informed by that school district that if he or she applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report.

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or

other religious institution, or his designated agent to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act or constitute grounds for failure to share information or documents with the Department during the course of a child abuse or neglect investigation. If requested by the professional, the Department shall confirm in writing that the information or documents disclosed by the professional were gathered in the course of a child abuse or neglect investigation.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure [735 ILCS 5/8-803].

Any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives shall provide to all office personnel copies of written information and training materials about abuse and neglect and the requirements of this Act that are provided to employees of the office, clinic, or physical location who are required to make reports to the Department under this Act, and instruct such office personnel to bring to the attention of an employee of the office, clinic, or physical location who is required to make reports to the Department under this Act any reasonable suspicion that a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child. In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

The Department shall provide copies of this Act, upon request, to all employers employing persons who shall be required under the provisions of this Section to report under this Act.

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the "Criminal Code of 1961" [720 ILCS 5/26-1]. A violation of this provision is a Class 4 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a

second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian or custodian accepts and practices such beliefs.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended [105 ILCS 5/26-1 et seq.].

Nothing in this Act prohibits a mandated reporter who reasonably believes that an animal is being abused or neglected in violation of the Humane Care for Animals Act [510 ILCS 70/1 et seq.] from reporting animal abuse or neglect to the Department of Agriculture's Bureau of Animal Health and Welfare.

A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution [Ill. Const. (1970) Art. VII, § 6] on the concurrent exercise by home rule units of powers and functions exercised by the State.

For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

325 ILL. COMP. STAT.5/11.8 (2012). Cross-reporting.

(a) Investigation Specialists, Intact Family Specialists, and Placement Specialists employed by the Department of Children and Family Services who reasonably believe that an animal observed by them when in their professional or official capacity is being abused or neglected in violation of the Humane Care for Animals Act [510 ILCS 70/1 et seq.] must immediately make a written or oral report to the Department of Agriculture's Bureau of Animal Health and Welfare. However, the Department of Children and Family Services may not discipline an Investigation Specialist, an Intact Family Specialist, or a Placement Specialist for failing to make such a report if the Specialist determines that making the report would interfere with the performance of his or her child welfare protection duties.

(b) A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution [920 ILCS 7/6] on the concurrent exercise by home rule units of powers and functions exercised by the State.

510 ILL. COMP. STAT. 70/2.01 (2012). Animal.

“Animal” means every living creature, domestic or wild, but does not include man.

510 ILL. COMP. STAT. 70/2.01a (2012). Companion animal.

“Companion animal” means an animal that is commonly considered to be, or is considered by the owner to be, a pet. “Companion animal” includes, but is not limited to, canines, felines, and equines.

510 ILL. COMP. STAT. 70/2.03 (2012). Department investigator; approved humane investigator.

“Department investigator” or “approved humane investigator” means a person employed by or approved by the Department to determine whether there has been a violation of this Act or an animal control warden or animal control administrator appointed under the Animal Control Act.

510 ILL. COMP. STAT. 70/2.10 (2012). Companion animal hoarder.

“Companion animal hoarder” means a person who (i) possesses a large number of companion animals; (ii) fails to or is unable to provide what he or she is required to provide under Section 3 of this Act; (iii) keeps the companion animals in a severely overcrowded environment; and (iv) displays an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals’ and owner’s health and well-being.

510 ILL. COMP. STAT. 70/2.06 (2012). Owner defined.

“Owner” means any person who (a) has a right of property in an animal, (b) keeps or harbors an animal, (c) has an animal in his care, or (d) acts as custodian of an animal.

510 ILL. COMP. STAT. 70/3 (2012). Owner's duties.

Each owner shall provide for each of his animals:

- (a) sufficient quantity of good quality, wholesome food and water;
- (b) adequate shelter and protection from the weather;
- (c) veterinary care when needed to prevent suffering; and
- (d) humane care and treatment.

A person convicted of violating this Section is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony with every day that a violation continues constituting a separate offense. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.01 (2012). Cruel treatment.

No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal.

No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

A person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent conviction for a violation of this Section is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evidence. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.02 (2012). Aggravated cruelty.

(a) No person may intentionally commit an act that causes a companion animal to suffer serious injury or death. Aggravated cruelty does not include euthanasia of a companion animal through recognized methods approved by the Department of Agriculture unless prohibited under subsection (b).

(b) No individual, except a licensed veterinarian as exempted under Section 3.09, may knowingly or intentionally euthanize or authorize the euthanasia of a companion animal by use of carbon monoxide.

(c) A person convicted of violating Section 3.02 is guilty of a Class 4 felony. A second or subsequent violation is a Class 3 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person's expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03 (2012). Animal torture.

(a) A person commits animal torture when that person without legal justification knowingly or intentionally tortures an animal. For purposes of this Section, and subject to subsection (b), "torture" means infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering, or agony of the animal.

(b) For the purposes of this Section, "animal torture" does not include any death, harm, or injury caused to any animal by any of the following activities:

(1) any hunting, fishing, trapping, or other activity allowed under the Wildlife Code, the Wildlife Habitat Management Areas Act, or the Fish and Aquatic Life Code;

(2) any alteration or destruction of any animal done by any person or unit of government pursuant to statute, ordinance, court order, or the direction of a licensed veterinarian;

(3) any alteration or destruction of any animal by any person for any legitimate purpose, including, but not limited to: castration, culling, declawing, defanging, ear cropping, euthanasia, gelding, grooming, neutering, polling, shearing, shoeing, slaughtering, spaying, tail docking, and vivisection; and

(4) any other activity that may be lawfully done to an animal.

(c) A person convicted of violating this Section is guilty of a Class 3 felony. As a condition of the sentence imposed under this Section, the court shall order the offender to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.03-1 (2012).Depiction of animal cruelty.

(a) “Depiction of animal cruelty” means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording, that would constitute a violation of Section 3.01, 3.02, 3.03, or 4.01 of the Humane Care for Animals Act or Section 26- 5 of the Criminal Code of 1961.

(b) No person may knowingly create, sell, market, offer to market or sell, or possess a depiction of animal cruelty. No person may place that depiction in commerce for commercial gain or entertainment. This Section does not apply when the depiction has religious, political, scientific, educational, law enforcement or humane investigator training, journalistic, artistic, or historical value; or involves rodeos, sanctioned livestock events, or normal husbandry practices.

The creation, sale, marketing, offering to sell or market, or possession of the depiction of animal cruelty is illegal regardless of whether the maiming, mutilation, torture, wounding, abuse, killing, or any other conduct took place in this State.

(c) Any person convicted of violating this Section is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony. In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment at the convicted person’s expense that the court determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile, the court shall order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.

510 ILL. COMP. STAT. 70/3.04 (2012).Arrests and seizures.

(a) Any law enforcement officer making an arrest for an offense involving one or more companion animals under Section 3.01, 3.02, or 3.03 of this Act may lawfully take possession of some or all of the companion animals in the possession of the person arrested. The officer, after taking possession of the companion animals, must file with the court before whom the complaint is made against any person so arrested an affidavit stating the name of the person charged in the complaint, a description of the condition of the companion animal or companion animals taken, and the time and place the companion animal or companion animals were taken, together with the name of the person from whom the companion animal or companion animals were taken and name of the person who claims to own the companion animal or companion animals if different

from the person from whom the companion animal or companion animals were seized. He or she must at the same time deliver an inventory of the companion animal or companion animals taken to the court of competent jurisdiction. The officer must place the companion animal or companion animals in the custody of an animal control or animal shelter and the agency must retain custody of the companion animal or companion animals subject to an order of the court adjudicating the charges on the merits and before which the person complained against is required to appear for trial. The State's Attorney may, within 14 days after the seizure, file a "petition for forfeiture prior to trial" before the court having criminal jurisdiction over the alleged charges, asking for permanent forfeiture of the companion animals seized. The petition shall be filed with the court, with copies served on the impounding agency, the owner, and anyone claiming an interest in the animals. In a "petition for forfeiture prior to trial", the burden is on the prosecution to prove by a preponderance of the evidence that the person arrested violated Section 3.01, 3.02, 3.03, or 4.01 of this Act or Section 26-5 of the Criminal Code of 1961.

(b) An owner whose companion animal or companion animals are removed by a law enforcement officer under this Section must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure, or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the companion animal or companion animals were seized, delivered by registered mail to his or her last known address.

(c) In addition to any other penalty provided by law, upon conviction for violating Sections 3, 3.01, 3.02, or 3.03 the court may order the convicted person to forfeit to an animal control or animal shelter the animal or animals that are the basis of the conviction. Upon an order of forfeiture, the convicted person is deemed to have permanently relinquished all rights to the animal or animals that are the basis of the conviction. The forfeited animal or animals shall be adopted or humanely euthanized. In no event may the convicted person or anyone residing in his or her household be permitted to adopt the forfeited animal or animals. The court, additionally, may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any other animals for a period of time that the court deems reasonable.

510 ILL. COMP. STAT. 70/3.05 (2012). Security for companion animals and animals used for fighting purposes.

(a) In the case of companion animals as defined in Section 2.01a or animals used for fighting purposes in violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961, the animal control or animal shelter having custody of the animal or animals may file a petition with the court requesting that the person from whom the animal or animals are seized, or the owner of the animal or animals, be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control or animal shelter in caring for and providing for the animal or animals pending the disposition of the charges. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal or animals for 30 days. The amount of the security shall be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized animal or animals and the cost of caring for the animal or animals. If security has been posted in accordance with this Section, the animal control or animal shelter may draw from the security the actual costs incurred by the agency in caring for the seized animal or animals.

(b) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant and the State's Attorney for the county in which the animal or animals were seized. The petitioner must also serve a true copy of the petition on any interested person. For the purposes of this subsection, "interested person" means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal or animals that are the subject of the petition. The court must set a hearing date to determine any interested parties. The court may waive for good cause shown the posting of security.

(c) If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the animal or animals are forfeited by operation of law and the animal control or animal shelter having control of the animal or animals must dispose of the animal or animals through adoption or must humanely euthanize the animal. In no event may the defendant or any person residing in the defendant's household adopt the animal or animals.

(d) The impounding organization may file a petition with the court upon the expiration of the 30-day period requesting the posting of additional security. The court may order the person from whom the animal or animals were seized, or the owner of the animal or animals, to post additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal or animals were seized.

(e) In no event may the security prevent the impounding organization having custody and care of the animal or animals from disposing of the animal or animals before the expiration of the 30-day period covered by the security if the court makes a final determination of the charges against the person from whom the animal or animals were seized. Upon the adjudication of the charges, the person who posted the security is entitled to a refund of the security, in whole or in part, for any expenses not incurred by the impounding organization.

(f) Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, animal control officer, Department investigator, or an approved humane investigator may be authorized by an order of the court to make regular visits to the place where the animal or animals are being kept to ascertain if the animal or animals are receiving necessary food, water, shelter, and care. Nothing in this Section prevents any law enforcement officer, Department investigator, or approved humane investigator from applying for a warrant under this Section to seize any animal or animals being held by the person charged pending the adjudication of the charges if it is determined that the animal or animals are not receiving the necessary food, water, shelter, or care.

(g) Nothing in this Act shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to an animal control or animal shelter in lieu of posting security or proceeding to a forfeiture hearing. Voluntary relinquishment shall have no effect on the criminal charges that may be pursued by the appropriate authorities.

(h) If an owner of a companion animal is acquitted by the court of charges made pursuant to this Act, the court shall further order that any security that has been posted for the animal shall be returned to the owner by the impounding organization.

(i) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/3.06 (2012).Disposition of seized companion animals and animals used for fighting purposes.

(a) Upon the conviction of the person charged, all animals seized, if not previously ordered forfeited or previously forfeited by operation of law, are forfeited to the facility impounding the animals and must be humanely euthanized or adopted. Any outstanding costs incurred by the impounding facility for boarding and treating the animals pending the disposition of the case and any costs incurred in disposing of the animals must be borne by the person convicted.

(b) Any person authorized by this Section to care for an animal or animals, to treat an animal or animals, or to attempt to restore an animal or animals to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

(c) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

510 ILL. COMP. STAT. 70/3.07 (2012).Veterinarian reports; humane euthanasia.

Any veterinarian in this State who observes or is presented with an animal or animals for the treatment of aggravated cruelty under Section 3.02 or torture under Section 3.03 of this Act must file a report with the Department and cooperate with the Department by furnishing the owner's name, the date of receipt of the animal or animals and any treatment administered, and a description of the animal or animals involved, including a microchip number if applicable. Any veterinarian who in good faith makes a report, as required by this Section, has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be presumed.

An animal control warden, animal control administrator, approved humane investigator, or animal shelter employee may humanely euthanize severely injured, diseased, or suffering animals in exigent circumstances.

510 ILL. COMP. STAT. 70/4.01 (2012).Animals in entertainment.

This Section does not apply when the only animals involved are dogs. (Section 26- 5 of the Criminal Code of 1961, rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a Class 3 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(4) A person convicted of violating subsection (l) of this Section is guilty of a Class 4 felony for the first offense. A second or subsequent violation is a class 3 felony.

(n) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

510 ILL. COMP. STAT. 70/4.02 (2012).Arrests; reports.

(a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 shall lawfully take possession of all animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. When a law enforcement officer has taken possession of such animals, paraphernalia, implements or other property or things, he or she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in the complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and name of the person who claims to own such property, if different from the person from whom the animals were seized and if known, and that the affiant has reason to believe and does believe, stating the ground of the belief, that the animals and property so taken were used or employed, or were about to be used or employed, in a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961. He or she shall thereupon deliver an inventory of the property so taken to the court of competent jurisdiction. A law enforcement officer may humanely euthanize animals that are severely injured.

An owner whose animals are removed for a violation of Section 4.01 of this Act or Section 26-5 of the Criminal Code of 1961 must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be posted at the place of seizure or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the animals were seized, delivered by registered mail to his or her last known address.

The animal control or animal shelter having custody of the animals may file a petition with the court requesting that the person from whom the animals were seized or the owner of the animals be ordered to post security pursuant to Section 3.05 of this Act.

Upon the conviction of the person so charged, all animals shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. Any outstanding costs incurred by the impounding facility in boarding and treating the animals pending the disposition of the case and disposing of the animals upon a conviction must be borne by the person convicted. In no event may the animals be adopted by the defendant or anyone residing in his or her household. If the court finds that the State either failed to prove the criminal allegations or failed to prove that the animals were used in fighting, the court must direct the delivery of the animals and the other property not previously forfeited to the owner of the animals and property.

Any person authorized by this Section to care for an animal, to treat an animal, or to attempt to restore an animal to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering animal in exigent circumstances.

(b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals and treatment administered, and descriptions of the animal or animals involved. Any veterinarian who in good faith makes a report, as required by this subsection (b), is immune from any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of any such veterinarian shall be presumed.

510 ILL. COMP. STAT. 70/6 (2012). Poisoning prohibited.

No person may knowingly poison or cause to be poisoned any dog or other domestic animal. The only exception will be by written permit from the Department for the purpose of controlling diseases transmissible to humans or other animals and only when all other methods and means have been exhausted. Such a written permit shall name the person or persons conducting the poisoning, specify the products to be used, give the boundaries of the area involved, and specify the precautionary measures to be employed to insure the safety of humans and other animals.

This Section does not prohibit the use of a euthanasia drug by a euthanasia agency for the purpose of animal euthanasia, provided that the euthanasia drug is used by or under the direction of a licensed veterinarian or certified euthanasia technician, all as defined in and subject to the Humane Euthanasia in Animal Shelters Act.

A person convicted of violating this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

510 ILL. COMP. STAT. 70/7.1 (2012). Confinement in motor vehicle.

No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible.

A person convicted of violating this Section is guilty of a Class C misdemeanor. A second or subsequent violation is a Class B misdemeanor.

510 ILL. COMP. STAT. 70/10 (2012).Investigation of complaints.

(a) Upon receiving a complaint of a suspected violation of this Act, a Department investigator, any law enforcement official, or an approved humane investigator may, for the purpose of investigating the allegations of the complaint, enter during normal business hours upon any premises where the animal or animals described in the complaint are housed or kept, provided such entry shall not be made into any building which is a person's residence, except by search warrant or court order. Institutions operating under federal license to conduct laboratory experimentation utilizing animals for research or medical purposes are, however, exempt from the provisions of this Section. State's Attorneys and law enforcement officials shall provide such assistance as may be required in the conduct of such investigations. Any such investigation requiring legal procedures shall be immediately reported to the Department. No employee or representative of the Department shall enter a livestock management facility unless sanitized footwear is used, or unless the owner or operator of the facility waives this requirement. The employee or representative must also use any other reasonable disease prevention procedures or equipment provided by the owner or operator of the facility. The animal control administrator and animal control wardens appointed under the Animal Control Act shall be authorized to make investigations complying with this Section for alleged violations of Sections 3, 3.01, 3.02, and 3.03 pertaining to companion animals. The animals impounded shall remain under the jurisdiction of the animal control administrator and be held in an animal shelter licensed under the Animal Welfare Act.

(b) Any veterinarian acting in good faith is immune from any civil or criminal liability resulting from his or her actions under this Section. The good faith on the part of the veterinarian is presumed.

510 ILL. COMP. STAT. 70/11 (2012).Notification to violator; impoundment upon refusal or failure to take corrective action.

(a) If an investigation under Section 10 discloses that a violation of this Act has been committed, the approved humane investigator shall furnish the violator, if known, with a notice of violation, and state what action is necessary to come into compliance with this Act and that a maximum of 48 hours may be granted in which to take corrective action.

(b) If the violator fails or refuses to take corrective action necessary for compliance or if the violator is still unknown after an attempt to identify ownership, the humane investigator shall contact the Department and request authorization to impound the animal or animals. The Department will authorize impoundment if a review of facts gathered by the humane investigator indicates a violation of Section 3 of this Act has occurred and the violator, if known, has failed or refused to take corrective action necessary for compliance.

This Section shall not apply to violations committed under Section 4.01 of this Act.

510 ILL. COMP. STAT. 70/12 (2012). Impounding animals; notice of impoundment.

(a) When an approved humane investigator, a Department investigator or a veterinarian finds that a violation of this Act has rendered an animal in such a condition that no remedy or corrective action by the owner is possible, the Department must impound or order the impoundment of the animal. If the violator fails or refuses to take corrective action necessary for compliance with Section 11 of this Act, the Department may impound the animal. If the animal is ordered impounded, it shall be impounded in a facility or at another location where the elements of good care as set forth in Section 3 of this Act can be provided, and where such animals shall be examined and treated by a licensed veterinarian or, if the animal is severely injured, diseased, or suffering, humanely euthanized. Any expense incurred in the impoundment shall become a lien on the animals.

(b) Emergency impoundment may be exercised in a life-threatening situation and the subject animals shall be conveyed directly to a licensed veterinarian for medical services necessary to sustain life or to be humanely euthanized as determined by the veterinarian. If such emergency procedure is taken by an animal control officer, the Department shall be notified.

(c) A notice of impoundment shall be given by the investigator to the violator, if known, in person or sent by certified or registered mail. If the investigator is not able to serve the violator in person or by registered or certified mail, the notice may be given by publication in a newspaper of general circulation in the county in which the violator's last known address is located. A copy of the notice shall be retained by the investigator and a copy forwarded immediately to the Department. The notice of impoundment shall include the following:

- (1) A number assigned by the Department which will also be given to the impounding facility accepting the responsibility of the animal or animals.
- (2) Listing of deficiencies noted.
- (3) An accurate description of the animal or animals involved.
- (4) Date on which the animal or animals were impounded.

(5) Signature of the investigator.

(6) A statement that: “The violator may request a hearing to appeal the impoundment. A person desiring a hearing shall contact the Department of Agriculture within 7 days from the date of impoundment” and the Department must hold an administrative hearing within 7 business days after receiving a request to appeal the impoundment. If the hearing cannot be held prior to the expiration of the 7-day impoundment period, the Department shall notify the impounding facility that it cannot sell, offer for adoption, or dispose of the animal or animals until a final decision is rendered and all of the appeal processes have expired.

If a hearing is requested by any owner of impounded animals, the Hearing Officer shall, after hearing the testimony of all interested parties, render a decision within 5 business days regarding the disposition of the impounded animals. This decision by the Hearing Officer shall have no effect on the criminal charges that may be filed with the appropriate authorities.

If an owner of a companion animal or animal used for fighting purposes requests a hearing, the animal control or animal shelter having control of the animal or animals may file a petition with the court in the county where the impoundment took place requesting that the person from whom the animal or animals were seized or the owner of the animal or animals be ordered to post security pursuant to subsections (a) and (b) of Section 3.05 of this Act.

If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the court must order the Department of Agriculture to hold a hearing on the impoundment within 5 business days. If, upon final administrative or judicial determination, it is found that it is not in the best interest of the animal or animals to be returned to the person from whom it was seized, the animal or animals are forfeited to the animal control or animal shelter having control of the animal or animals. If no petition for the posting of security is filed or a petition was filed and granted but the person failed to post security, any expense incurred in the impoundment shall remain outstanding until satisfied by the owner or the person from whom the animal or animals were impounded.

When the impoundment is not appealed, the animal or animals are forfeited and the animal control or animal shelter in charge of the animal or animals may lawfully and without liability provide for adoption of the animal or animals by a person other than the person who forfeited the animal or animals, or any person or persons dwelling in the same household as the person who forfeited the animal or animals, or it may humanely euthanize the animal or animals.

510 ILL. COMP. STAT. 70/13 (2012). Normal husbandry practices—construction with other acts.

Nothing in this Act affects normal, good husbandry practices utilized by any person in the production of food, companion or work animals, or in the extermination of undesirable pests. In case of any alleged conflict between this Act, or regulations adopted hereunder, and the “Wildlife Code of Illinois” [735 ILL. COMP. STAT. 5/3-101] or “An Act to define and require the use of humane methods in the handling, preparation for slaughter, and slaughter of livestock for meat or meat products to be offered for sale”, approved July 26, 1967, as amended [735 ILL. COMP. STAT. 5/3-101], the provisions of those Acts shall prevail.

510 ILL. COMP. STAT. 70/16.1 (2012). Defenses.

It is not a defense to violations of this Act for the person committing the violation to assert that he or she had rights of ownership in the animal that was the victim of the violation.

510 ILL. COMP. STAT. 70/16.3 (2012). Civil actions.

Any person who has a right of ownership in an animal that is subjected to an act of aggravated cruelty under Section 3.02 or torture under Section 3.03 in violation of this Act or in an animal that is injured or killed as a result of actions taken by a person who acts in bad faith under subsection (b) of Section 3.06 or under Section 12 of this Act may bring a civil action to recover the damages sustained by that owner. Damages may include, but are not limited to, the monetary value of the animal, veterinary expenses incurred on behalf of the animal, any other expenses incurred by the owner in rectifying the effects of the cruelty, pain, and suffering of the animal, and emotional distress suffered by the owner. In addition to damages that may be proven, the owner is also entitled to punitive or exemplary damages of not less than \$500 but not more than \$25,000 for each act of abuse or neglect to which the animal was subjected. In addition, the court must award reasonable attorney’s fees and costs actually incurred by the owner in the prosecution of any action under this Section.

The remedies provided in this Section are in addition to any other remedies allowed by law.

In an action under this Section, the court may enter any injunctive orders reasonably necessary to protect animals from any further acts of abuse, neglect, or harassment by a defendant.

The statute of limitations for cruelty to animals is 2 years.

510 ILL. COMP. STAT. 70/16.5 (2012).Emergency care to an animal; immunity from civil liability.

Any person, including without limitation any person licensed under the Veterinary Medicine and Surgery Practice Act of 2004 or licensed as a veterinarian in any other state or territory of the United States, who in good faith provides emergency care or treatment without fee to an injured animal or an animal separated from its owner due to an emergency or a disaster is not liable for civil damages as a result of his or her acts or omissions in providing or arranging further care or treatment, except for willful or wanton misconduct.

510 ILL. COMP. STAT. 70/17 (2012).Penalties.

(a) Any person convicted of any act of abuse or neglect or of violating any other provision of this Act, for which a penalty is not otherwise provided, or any rule, regulation, or order of the Department pursuant thereto, is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony with every day that a violation continues constituting a separate offense.

(b) The Department may enjoin a person from a continuing violation of this Act.

510 ILL. COMP. STAT. 70/18 (2012). Cross-reporting.

(a) An animal control officer, Department investigator, or approved humane investigator who has reasonable cause to suspect or believe that a child is being abused or neglected or is in danger of being abused or neglected must immediately make a written or oral report to the Department of Children and Family Services.

(b) Investigation Specialists, Intact Family Specialists, and Placement Specialists employed by the Department of Children and Family Services who reasonably believe that an animal observed by them when in their professional or official capacity is being abused or neglected in violation of this Act must immediately make a written or oral report to the Department of Agriculture's Bureau of Animal Health and Welfare. However, the Department of Children and Family Services may not discipline an Investigation Specialist, an Intact Family Specialist, or a Placement Specialist for failing to make such a report if the Specialist determines that making the report would interfere with the performance of his or her child welfare protection duties.

(c) Except for willful and wanton misconduct, any person, institution, or agency described in subsection (a) or (b), participating in good faith in the making of a report or referral, or in the investigation of such a report or referral, or in making a disclosure of information concerning reports of abuse or neglect under this Act, shall have immunity from any liability, civil, criminal, or otherwise, that might result by reason of such actions.

(d) The identity of any person who reports animal abuse or neglect under subsection (a) or (b) shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law.

(e) A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

720 ILL. COMP. STAT. 5/12-35 (2012).Sexual conduct or sexual contact with an animal.

(a) A person may not knowingly engage in any sexual conduct or sexual contact with an animal.

(b) A person may not knowingly cause, aid, or abet another person to engage in any sexual conduct or sexual contact with an animal.

(c) A person may not knowingly permit any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control.

(d) A person may not knowingly engage in, promote, aid, or abet any activity involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony. A person who violates this Section in the presence of a person under 18 years of age or causes the animal serious physical injury or death is guilty of a Class 3 felony.

(f) In addition to the penalty imposed in subsection (e), the court may order that the defendant do any of the following:

(1) Not harbor animals or reside in any household where animals are present for a reasonable period of time or permanently, if necessary.

(2) Relinquish and permanently forfeit all animals residing in the household to a recognized or duly organized animal shelter or humane society.

(3) Undergo a psychological evaluation and counseling at defendant's expense.

(4) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of the animal involved in the sexual conduct or sexual contact in addition to any animals relinquished to the animal shelter or humane society.

(g) Nothing in this Section shall be construed to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(h) If the court has reasonable grounds to believe that a violation of this Section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation of this Section.

(i) In this Section:

“Animal” means every creature, either alive or dead, other than a human being.

“Sexual conduct” means any knowing touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

“Sexual contact” means any contact, however slight, between the sex organ or anus of a person and the sex organ, mouth, or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, for the purpose of sexual gratification or arousal of the person. Evidence of emission of semen is not required to prove sexual contact.

720 ILL. COMP. STAT. 5/12-36 (2012). Possession of unsterilized or vicious dogs by felons prohibited.

(a) For a period of 10 years commencing upon the release of a person from incarceration, it is unlawful for a person convicted of a forcible felony, a felony violation of the Humane Care for Animals Act, a felony violation of Section 26- 5 of this Code, a felony violation of Article 24 of this Code, a felony violation of Class 3 or higher of the Illinois Controlled Substances Act, a felony violation of Class 3 or higher of the Cannabis Control Act, or a felony violation of Class 2 or higher of the Methamphetamine Control and Community Protection Act, to knowingly own, possess, have custody of, or reside in a residence with, either:

(1) unspayed or unneutered dog or puppy older than 12 weeks of age; or

(2) irrespective of whether the dog has been spayed or neutered, any dog that has been determined to be a vicious dog under Section 15 of the Animal Control Act.

(b) Any dog owned, possessed by, or in the custody of a person convicted of a felony, as described in subsection (a), must be microchipped for permanent identification.

(c) Sentence. A person who violates this Section is guilty of a Class A misdemeanor.

(d) It is an affirmative defense to prosecution under this Section that the dog in question is neutered or spayed, or that the dog in question was neutered or spayed within 7 days of the defendant being charged with a violation of this Section. Medical records from, or the certificate of, a doctor of veterinary medicine licensed to practice in the State of Illinois who has personally examined or operated upon the dog, unambiguously indicating whether the dog in question has been spayed or neutered, shall be prima facie true and correct, and shall be sufficient evidence of whether the dog in question has been spayed or neutered. This subsection (d) is not applicable to any dog that has been determined to be a vicious dog under Section 15 of the Animal Control Act.

720 ILL. COMP. STAT. 5/26-5(2012).Dog fighting.

(For other provisions that may apply to dog fighting, see the Humane Care for Animals Act. For provisions similar to this Section that apply to animals other than dogs, see in particular Section 4.01 of the Humane Care for Animals Act.)

(a) No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.

(c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

(c-5) No person may solicit a minor to violate this Section.

(d) No person may manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any human and dog, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(e) No person may own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering or entertainment.

(f) No person may knowingly make available any site, structure, or facility, whether enclosed or not, that he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog or knowingly manufacture, distribute, or deliver fittings to be used in a fight between 2 or more dogs or a dog and human.

(g) No person may knowingly attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(h) No person may tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs. This subsection (h) applies only when the dog is intended to be used in a dog fight.

(i) Penalties for violations of this Section shall be as follows:

(1) Any person convicted of violating subsection (a), (b), (c), or (h) of this Section is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed \$ 50,000.

(1.5) A person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 3 felony and may be fined an amount not to exceed \$50,000, if the dog participates in a dogfight and any of the following factors is present:

(i) the dogfight is performed in the presence of a person under 18 years of age;

(ii) the dogfight is performed for the purpose of or in the presence of illegal wagering activity; or

(iii) the dogfight is performed in furtherance of streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(1.7) A person convicted of violating subsection (c- 5) of this Section is guilty of a Class 4 felony.

(2) Any person convicted of violating subsection (d) or (e) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (d) or (e) of this Section is a Class 3 felony.

(2.5) Any person convicted of violating subsection (f) of this Section is guilty of a Class 4 felony. Any person convicted of violating subsection (f) of this section in which the site, structure, or facility made available to violate subsection (f) is located within 1,000 feet of a school, public park, playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age is guilty of a class 3 felony for a first violation and a class 2 felony for a second or subsequent violation.

(3) Any person convicted of violating subsection (g) of this Section is guilty of a Class 4 felony for a first violation. A second or subsequent violation of subsection (g) of this Section is a Class 3 felony. If a person under 13 years of age is present at any show, exhibition, program, or other activity prohibited in subsection (g), the parent, legal guardian, or other person who is 18 years of age or older who brings that person under 13 years of age to that show, exhibition, program, or other activity is guilty of a Class 3 felony for a first violation and a Class 2 felony for a second or subsequent violation.

(i-5) A person who commits a felony violation of this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(j) Any dog or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 of the Humane Care for Animals Act when located at any show, exhibition, program, or other activity featuring or otherwise involving a dog fight for the purposes of sport, wagering, or entertainment.

(k) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(l) Any veterinarian in this State who is presented with a dog for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the dog was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department of Agriculture and cooperate by furnishing the owners' names, dates, and descriptions of the dog or dogs involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(m) In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.

(n) A violation of subsection (a) of this Section may be inferred from evidence that the accused possessed any device or equipment described in subsection (d), (e), or (h) of this Section, and also possessed any dog.

(o) When no longer required for investigations or court proceedings relating to the events described or depicted therein, evidence relating to convictions for violations of this Section shall be retained and made available for use in training peace officers in detecting and identifying violations of this Section. Such evidence shall be made available upon request to other law enforcement agencies and to schools certified under the Illinois Police Training Act.

(p) For the purposes of this section, “school” has the meaning ascribed to it in section 11-9.3 of this code; and “public park”, “playground”, “child care institution”, “day care center”, “part day child care facility”, “day care home”, “group day care home”, and “facility providing programs or services exclusively directed toward persons under 18 years of age” have the meanings ascribed to them in section 11-9.4 of this code.

725 ILL. COMP. STAT.5/112A-14(2012).Order of protection; remedies.

(a) Issuance of order. If the court finds that petitioner has been abused by a family or household member, as defined in this Article, an order of protection prohibiting such abuse shall issue; provided that petitioner must also satisfy the requirements of one of the following Sections, as appropriate: Section 112A-17 on emergency orders, Section 112A-18 on interim orders, or Section 112A-19 on plenary orders. Petitioner shall not be denied an order of protection because petitioner or respondent is a minor. The court, when determining whether or not to issue an order of protection, shall not require physical manifestations of abuse on the person of the victim. Modification and extension of prior orders of protection shall be in accordance with this Article.

(b) Remedies and standards. The remedies to be included in an order of protection shall be determined in accordance with this Section and one of the following Sections, as appropriate: Section 112A-17 on emergency orders, Section 112A-18 on interim orders, and Section 112A-19 on plenary orders. The remedies listed in this subsection shall be in addition to other civil or criminal remedies available to petitioner.

(1) Prohibition of abuse. Prohibit respondent's harassment, interference with personal liberty, intimidation of a dependent, physical abuse or willful deprivation, as defined in this Article, if such abuse has occurred or otherwise appears likely to occur if not prohibited.

(2) Grant of exclusive possession of residence. Prohibit respondent from entering or remaining in any residence, household, or premises of the petitioner, including one owned or leased by respondent, if petitioner has a right to occupancy thereof. The grant of exclusive possession of the residence, household, or premises shall not affect title to real property, nor shall the court be limited by the standard set forth in Section 701 of the Illinois Marriage and Dissolution of Marriage Act.

(A) Right to occupancy. A party has a right to occupancy of a residence or household if it is solely or jointly owned or leased by that party, that party's spouse, a person with a legal duty to support that party or a minor child in that party's care, or by any person or entity other than the opposing party that authorizes that party's occupancy (e.g., a domestic violence shelter). Standards set forth in subparagraph (B) shall not preclude equitable relief.

(B) Presumption of hardships. If petitioner and respondent each has the right to occupancy of a residence or household, the court shall balance (i) the hardships to respondent and any minor child or dependent adult in respondent's care resulting from entry of this remedy with (ii) the hardships to petitioner and any minor child or dependent adult in petitioner's care resulting from continued exposure to the risk of abuse (should petitioner remain at the residence or household) or from loss of possession of the residence or household (should petitioner leave to avoid the risk of abuse). When determining the balance of hardships, the court shall also take into account the accessibility of the residence or household. Hardships need not be balanced if respondent does not have a right to occupancy.

The balance of hardships is presumed to favor possession by petitioner unless the presumption is rebutted by a preponderance of the evidence, showing that the hardships to respondent substantially outweigh the hardships to petitioner and any minor child or dependent adult in petitioner's care. The court, on the request of petitioner or on its own motion, may order respondent to provide suitable, accessible, alternate housing for petitioner instead of excluding respondent from a mutual residence or household.

(3) Stay away order and additional prohibitions. Order respondent to stay away from petitioner or any other person protected by the order of protection, or prohibit respondent from entering or remaining present at petitioner's school, place of employment, or other specified places at times when petitioner is present, or both, if reasonable, given the balance of hardships. Hardships need not be balanced for the court to enter a stay away order or prohibit entry if respondent has no right to enter the premises.

If an order of protection grants petitioner exclusive possession of the residence, or prohibits respondent from entering the residence, or orders respondent to stay away from petitioner or other protected persons, then the court may allow respondent access to the residence to remove items of clothing and personal adornment used exclusively by respondent, medications, and other items as the court directs. The right to access shall be exercised on only one occasion as the court directs and in the presence of an agreed-upon adult third party or law enforcement officer.

(4) Counseling. Require or recommend the respondent to undergo counseling for a specified duration with a social worker, psychologist, clinical psychologist, psychiatrist, family service agency, alcohol or substance abuse program, mental health center guidance counselor, agency providing services to elders, program designed for domestic violence abusers or any other guidance service the court deems appropriate. The court may order the respondent in any intimate partner relationship to report to an Illinois Department of Human Services protocol approved partner abuse intervention program for an assessment and to follow all recommended treatment.

(5) Physical care and possession of the minor child. In order to protect the minor child from abuse, neglect, or unwarranted separation from the person who has been the minor child's primary caretaker, or to otherwise protect the well-being of the minor child, the court may do either or both of the following: (i) grant petitioner physical care or possession of the minor child, or both, or (ii) order respondent to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis.

If a court finds, after a hearing, that respondent has committed abuse (as defined in Section 112A-3) of a minor child, there shall be a rebuttable presumption that awarding physical care to respondent would not be in the minor child's best interest.

(6) Temporary legal custody. Award temporary legal custody to petitioner in accordance with this Section, the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 1984, and this State's Uniform Child-Custody Jurisdiction and Enforcement Act.

If a court finds, after a hearing, that respondent has committed abuse (as defined in Section 112A-3) of a minor child, there shall be a rebuttable presumption that awarding temporary legal custody to respondent would not be in the child's best interest.

(7) Visitation. Determine the visitation rights, if any, of respondent in any case in which the court awards physical care or temporary legal custody of a minor child to petitioner. The court shall restrict or deny respondent's visitation with a minor child if the court finds that respondent has done or is likely to do any of the following: (i) abuse or endanger the minor child during visitation; (ii) use the visitation as an opportunity to abuse or harass petitioner or petitioner's family or household members; (iii) improperly conceal or detain the minor child; or (iv) otherwise act in a manner that is not in the best interests of the minor child. The court shall not be limited by the standards set forth in Section 607.1 of the Illinois Marriage and Dissolution of Marriage Act. If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. No order for visitation shall refer merely to the term "reasonable visitation".

Petitioner may deny respondent access to the minor child if, when respondent arrives for visitation, respondent is under the influence of drugs or alcohol and constitutes a threat to the safety and well-being of petitioner or petitioner's minor children or is behaving in a violent or abusive manner.

If necessary to protect any member of petitioner's family or household from future abuse, respondent shall be prohibited from coming to petitioner's residence to meet the minor child for visitation, and the parties shall submit to the court their recommendations for reasonable alternative arrangements for visitation. A person may be approved to supervise visitation only after filing an affidavit accepting that responsibility and acknowledging accountability to the court.

(8) Removal or concealment of minor child. Prohibit respondent from removing a minor child from the State or concealing the child within the State.

(9) Order to appear. Order the respondent to appear in court, alone or with a minor child, to prevent abuse, neglect, removal or concealment of the child, to return the child to the custody or care of the petitioner or to permit any court-ordered interview or examination of the child or the respondent.

(10) Possession of personal property. Grant petitioner exclusive possession of personal property and, if respondent has possession or control, direct respondent to promptly make it available to petitioner, if:

(i) petitioner, but not respondent, owns the property; or

(ii) the parties own the property jointly; sharing it would risk abuse of petitioner by respondent or is impracticable; and the balance of hardships favors temporary possession by petitioner.

If petitioner's sole claim to ownership of the property is that it is marital property, the court may award petitioner temporary possession thereof under the standards of subparagraph (ii) of this paragraph only if a proper proceeding has been filed under the Illinois Marriage and Dissolution of Marriage Act, as now or hereafter amended.

No order under this provision shall affect title to property.

(11) Protection of property. Forbid the respondent from taking, transferring, encumbering, concealing, damaging or otherwise disposing of any real or personal property, except as explicitly authorized by the court, if:

(i) petitioner, but not respondent, owns the property; or

(ii) the parties own the property jointly, and the balance of hardships favors granting this remedy.

If petitioner's sole claim to ownership of the property is that it is marital property, the court may grant petitioner relief under subparagraph (ii) of this paragraph only if a proper proceeding has been filed under the Illinois Marriage and Dissolution of Marriage Act, as now or hereafter amended.

The court may further prohibit respondent from improperly using the financial or other resources of an aged member of the family or household for the profit or advantage of respondent or of any other person.

(11.5) Protection of animals. Grant the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

(12) Order for payment of support. Order respondent to pay temporary support for the petitioner or any child in the petitioner's care or custody, when the respondent has a legal obligation to support that person, in accordance with the Illinois Marriage and Dissolution of Marriage Act, which shall govern, among other matters, the amount of support, payment through the clerk and withholding of income to secure payment. An order for child support may be granted to a petitioner with lawful physical care or custody of a child, or an order or agreement for physical care or custody, prior to entry of an order for legal custody. Such a support order shall expire upon entry of a valid order granting legal custody to another, unless otherwise provided in the custody order.

(13) Order for payment of losses. Order respondent to pay petitioner for losses suffered as a direct result of the abuse. Such losses shall include, but not be limited to, medical expenses, lost earnings or other support, repair or replacement of property damaged or taken, reasonable attorney's fees, court costs and moving or other travel expenses, including additional reasonable expenses for temporary shelter and restaurant meals.

(i) Losses affecting family needs. If a party is entitled to seek maintenance, child support or property distribution from the other party under the Illinois Marriage and Dissolution of Marriage Act, as now or hereafter amended, the court may order respondent to reimburse petitioner's actual losses, to the extent that such reimbursement would be "appropriate temporary relief", as authorized by subsection (a)(3) of Section 501 of that Act.

(ii) Recovery of expenses. In the case of an improper concealment or removal of a minor child, the court may order respondent to pay the reasonable expenses incurred or to be incurred in the search for and recovery of the minor child, including but not limited to legal fees, court costs, private investigator fees, and travel costs.

(14) Prohibition of entry. Prohibit the respondent from entering or remaining in the residence or household while the respondent is under the influence of alcohol or drugs and constitutes a threat to the safety and well-being of the petitioner or the petitioner's children.

(14.5) Prohibition of firearm possession.

(a) When a complaint is made under a request for an order of protection, that the respondent has threatened or is likely to use firearms illegally against the petitioner, the court shall examine on oath the petitioner, and any witnesses who may be produced. If the court is satisfied that there is any danger of the illegal use of firearms, and the respondent is present in court, it shall issue an order that any firearms in the possession of the respondent, except as provided in subsection (b), be turned over to the local law enforcement agency for safekeeping. If the court is satisfied that there is any danger of the illegal use of firearms, and the respondent is present in court, it shall issue an order that the respondent's firearm owner's identification card be turned over to the local law enforcement agency for safekeeping. If the court is satisfied that there is any danger of the illegal use of firearms, and if the respondent is not present in court, the court shall issue a warrant for seizure of the respondent's firearm owner's identification card and any firearm in the possession of the respondent, except as provided in subsection (b), be turned over to the local law enforcement agency for safekeeping. The period of safekeeping shall be for a stated period of time not to exceed 2 years. The firearm or firearms shall be returned to the respondent at the end of the stated period or at expiration of the order of protection, whichever is sooner.

(b) If the respondent is a peace officer as defined in Section 2-13 of the Criminal Code of 1961, the court shall order that any firearms used by the respondent in the performance of his or her duties as a peace officer be surrendered to the chief law enforcement executive of the agency in which the respondent is employed, who shall retain the firearms for safekeeping for the stated period not to exceed 2 years as set forth in the court order.

(c) Upon expiration of the period of safekeeping, if the firearms or firearm owner's identification card cannot be returned to respondent because respondent cannot be located, fails to respond to requests to retrieve the firearms, or is not lawfully eligible to possess a firearm, upon petition from the local law enforcement agency, the court may order the local law enforcement agency to destroy the firearms, use the firearms for training purposes, or for any other application as deemed appropriate by the local law enforcement agency; or that the firearms be turned over to a third party who is lawfully eligible to possess firearms, and who does not reside with respondent.

(15) Prohibition of access to records. If an order of protection prohibits respondent from having contact with the minor child, or if petitioner's address is omitted under subsection (b) of Section 112A-5, or if necessary to prevent abuse or wrongful removal or concealment of a minor child, the order shall deny respondent access to, and prohibit respondent from inspecting, obtaining, or attempting to inspect or obtain, school or any other records of the minor child who is in the care of petitioner.

(16) Order for payment of shelter services. Order respondent to reimburse a shelter providing temporary housing and counseling services to the petitioner for the cost of the services, as certified by the shelter and deemed reasonable by the court.

(17) Order for injunctive relief. Enter injunctive relief necessary or appropriate to prevent further abuse of a family or household member or to effectuate one of the granted remedies, if supported by the balance of hardships. If the harm to be prevented by the injunction is abuse or any other harm that one of the remedies listed in paragraphs (1) through (16) of this subsection is designed to prevent, no further evidence is necessary to establish that the harm is an irreparable injury.

(c) Relevant factors; findings.

(1) In determining whether to grant a specific remedy, other than payment of support, the court shall consider relevant factors, including but not limited to the following:

(i) the nature, frequency, severity, pattern and consequences of the respondent's past abuse of the petitioner or any family or household member, including the concealment of his or her location in order to evade service of process or notice, and the likelihood of danger of future abuse to petitioner or any member of petitioner's or respondent's family or household; and

(ii) the danger that any minor child will be abused or neglected or improperly removed from the jurisdiction, improperly concealed within the State or improperly separated from the child's primary caretaker.

(2) In comparing relative hardships resulting to the parties from loss of possession of the family home, the court shall consider relevant factors, including but not limited to the following:

(i) availability, accessibility, cost, safety, adequacy, location and other characteristics of alternate housing for each party and any minor child or dependent adult in the party's care;

(ii) the effect on the party's employment; and

(iii) the effect on the relationship of the party, and any minor child or dependent adult in the party's care, to family, school, church and community.

(3) Subject to the exceptions set forth in paragraph (4) of this subsection, the court shall make its findings in an official record or in writing, and shall at a minimum set forth the following:

(i) That the court has considered the applicable relevant factors described in paragraphs (1) and (2) of this subsection.

(ii) Whether the conduct or actions of respondent, unless prohibited, will likely cause irreparable harm or continued abuse.

(iii) Whether it is necessary to grant the requested relief in order to protect petitioner or other alleged abused persons.

(4) For purposes of issuing an ex parte emergency order of protection, the court, as an alternative to or as a supplement to making the findings described in paragraphs (c)(3)(i) through (c)(3)(iii) of this subsection, may use the following procedure:

When a verified petition for an emergency order of protection in accordance with the requirements of Sections 112A-5 and 112A-17 is presented to the court, the court shall examine petitioner on oath or affirmation. An emergency order of protection shall be issued by the court if it appears from the contents of the petition and the examination of petitioner that the averments are sufficient to indicate abuse by respondent and to support the granting of relief under the issuance of the emergency order of protection.

(5) Never married parties. No rights or responsibilities for a minor child born outside of marriage attach to a putative father until a father and child relationship has been established under the Illinois Parentage Act of 1984. Absent such an adjudication, no putative father shall be granted temporary custody of the minor child, visitation with the minor child, or physical care and possession of the minor child, nor shall an order of payment for support of the minor child be entered.

(d) Balance of hardships; findings. If the court finds that the balance of hardships does not support the granting of a remedy governed by paragraph (2), (3), (10), (11), or (16) of subsection (b) of this Section, which may require such balancing, the court's findings shall so indicate and shall include a finding as to whether granting the remedy will result in hardship to respondent that would substantially outweigh the hardship to petitioner from denial of the remedy. The findings shall be an official record or in writing.

(e) Denial of remedies. Denial of any remedy shall not be based, in whole or in part, on evidence that:

(1) Respondent has cause for any use of force, unless that cause satisfies the standards for justifiable use of force provided by Article VII of the Criminal Code of 1961;

(2) Respondent was voluntarily intoxicated;

(3) Petitioner acted in self-defense or defense of another, provided that, if petitioner utilized force, such force was justifiable under Article VII of the Criminal Code of 1961;

(4) Petitioner did not act in self-defense or defense of another;

(5) Petitioner left the residence or household to avoid further abuse by respondent;

(6) Petitioner did not leave the residence or household to avoid further abuse by respondent;

(7) Conduct by any family or household member excused the abuse by respondent, unless that same conduct would have excused such abuse if the parties had not been family or household members.

730 ILL. COMP. STAT.5/5-4.5-40 (2012). Class 3 Felonies; Sentence.

(a) **TERM.** The sentence of imprisonment shall be a determinate sentence of not less than 2 years and not more than 5 years. The sentence of imprisonment for an extended term Class 3 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 5 years and not more than 10 years.

(b) **PERIODIC IMPRISONMENT.** A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) **IMPACT INCARCERATION.** See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) **PROBATION; CONDITIONAL DISCHARGE.** Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) **FINE.** Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) **RESTITUTION.** See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) **CONCURRENT OR CONSECUTIVE SENTENCE.** The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) **DRUG COURT.** See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) **CREDIT FOR HOME DETENTION.** See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) **EARLY RELEASE; GOOD CONDUCT.** See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) **ELECTRONIC HOME DETENTION.** See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

730 ILL. COMP. STAT.5/5-4.5-45 (2012). Class 4 felonies; sentence.

For a Class 4 felony:

(a) TERM. The sentence of imprisonment shall be a determinate sentence of not less than one year and not more than 3 years. The sentence of imprisonment for an extended term Class 4 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 3 years and not more than 6 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of up to 18 months, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/57-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the impact incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 30 months. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-40(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4. 5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be one year upon release from imprisonment.

730 ILL. COMP. STAT. 5/5-4.5-50 (2012).Sentence provisions; all felonies.

Except as otherwise provided, for all felonies:

(a) NO SUPERVISION. The court, upon a plea of guilty or a stipulation by the defendant of the facts supporting the charge or a finding of guilt, may not defer further proceedings and the imposition of a sentence and may not enter an order for supervision of the defendant.

(b) FELONY FINES. An offender may be sentenced to pay a fine not to exceed, for each offense, \$25,000 or the amount specified in the offense, whichever is greater, or if the offender is a corporation, \$50,000 or the amount specified in the offense, whichever is greater. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(c) REASONS FOR SENTENCE STATED. The sentencing judge in each felony conviction shall set forth his or her reasons for imposing the particular sentence entered in the case, as provided in Section 5-4-1 (730 ILCS 5/5-4-1). Those reasons may include any mitigating or aggravating factors specified in this Code, or the lack of any such factors, as well as any other mitigating or aggravating factors that the judge sets forth on the record that are consistent with the purposes and principles of sentencing set out in this Code.

(d) MOTION TO REDUCE SENTENCE. A motion to reduce a sentence may be made, or the court may reduce a sentence without motion, within 30 days after the sentence is imposed. A defendant's challenge to the correctness of a sentence or to any aspect of the sentencing hearing shall be made by a written motion filed with the circuit court clerk within 30 days following the imposition of sentence. A motion not filed within that 30-day period is not timely. The court may not increase a sentence once it is imposed. A notice of motion must be filed with the motion. The notice of motion shall set the motion on the court's calendar on a date certain within a reasonable time after the date of filing.

If a motion filed pursuant to this subsection is timely filed, the proponent of the motion shall exercise due diligence in seeking a determination on the motion and the court shall thereafter decide the motion within a reasonable time.

If a motion filed pursuant to this subsection is timely filed, then for purposes of perfecting an appeal, a final judgment is not considered to have been entered until the motion to reduce the sentence has been decided by order entered by the trial court.

(e) **CONCURRENT SENTENCE; PREVIOUS UNEXPIRED FEDERAL OR OTHER-STATE SENTENCE.** A defendant who has a previous and unexpired sentence of imprisonment imposed by another state or by any district court of the United States and who, after sentence for a crime in Illinois, must return to serve the unexpired prior sentence may have his or her sentence by the Illinois court ordered to be concurrent with the prior other-state or federal sentence. The court may order that any time served on the unexpired portion of the other-state or federal sentence, prior to his or her return to Illinois, shall be credited on his or her Illinois sentence. The appropriate official of the other state or the United States shall be furnished with a copy of the order imposing sentence, which shall provide that, when the offender is released from other-state or federal confinement, whether by parole or by termination of sentence, the offender shall be transferred by the Sheriff of the committing Illinois county to the Illinois Department of Corrections. The court shall cause the Department of Corrections to be notified of the sentence at the time of commitment and to be provided with copies of all records regarding the sentence.

(f) **REDUCTION; PREVIOUS UNEXPIRED ILLINOIS SENTENCE.** A defendant who has a previous and unexpired sentence of imprisonment imposed by an Illinois circuit court for a crime in this State and who is subsequently sentenced to a term of imprisonment by another state or by any district court of the United States and who has served a term of imprisonment imposed by the other state or district court of the United States, and must return to serve the unexpired prior sentence imposed by the Illinois circuit court, may apply to the Illinois circuit court that imposed sentence to have his or her sentence reduced.

The circuit court may order that any time served on the sentence imposed by the other state or district court of the United States be credited on his or her Illinois sentence. The application for reduction of a sentence under this subsection shall be made within 30 days after the defendant has completed the sentence imposed by the other state or district court of the United States.

(g) **NO REQUIRED BIRTH CONTROL.** A court may not impose a sentence or disposition that requires the defendant to be implanted or injected with or to use any form of birth control.

730 ILL. COMP. STAT.5/5-4.5-55 (2012). Class A misdemeanors; sentence.

For a Class A misdemeanor:

(a) **TERM.** The sentence of imprisonment shall be a determinate sentence of less than one year.

(b) **PERIODIC IMPRISONMENT.** A sentence of periodic imprisonment shall be for a definite term of less than one year, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) **IMPACT INCARCERATION.** See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) **PROBATION; CONDITIONAL DISCHARGE.** Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) **FINE.** A fine not to exceed \$2,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) **RESTITUTION.** See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) **CONCURRENT OR CONSECUTIVE SENTENCE.** The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) **DRUG COURT.** See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) **CREDIT FOR HOME DETENTION.** See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) **EARLY RELEASE; GOOD CONDUCT.** See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) **ELECTRONIC HOME DETENTION.** See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 ILL. COMP. STAT.5/5-4.5-60 (2012). Class B misdemeanors; sentence.

For a Class B misdemeanor:

(a) **TERM.** The sentence of imprisonment shall be a determinate sentence of not more than 6 months.

(b) **PERIODIC IMPRISONMENT.** A sentence of periodic imprisonment shall be for a definite term of up to 6 months or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) **IMPACT INCARCERATION.** See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) **PROBATION; CONDITIONAL DISCHARGE.** Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) **FINE.** A fine not to exceed \$1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) **RESTITUTION.** See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) **CONCURRENT OR CONSECUTIVE SENTENCE.** The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) **DRUG COURT.** See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) **CREDIT FOR HOME DETENTION.** See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) **EARLY RELEASE; GOOD CONDUCT.** See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) **ELECTRONIC HOME DETENTION.** See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 ILL. COMP. STAT.5/5-4.5-65 (2012). Class C misdemeanors; sentence.

For a Class C misdemeanor:

(a) **TERM.** The sentence of imprisonment shall be a determinate sentence of not more than 30 days.

(b) **PERIODIC IMPRISONMENT.** A sentence of periodic imprisonment shall be for a definite term of up to 30 days or as otherwise provided in Section 5-7-1 (730 ILCS 5/5-7-1).

(c) **IMPACT INCARCERATION.** See Section 5-8-1.2 (730 ILCS 5/5-8-1.2) concerning eligibility for the county impact incarceration program.

(d) **PROBATION; CONDITIONAL DISCHARGE.** Except as provided in Section 5-6-2 (730 ILCS 5/5-6-2), the period of probation or conditional discharge shall not exceed 2 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3).

(e) **FINE.** A fine not to exceed \$1,500 for each offense or the amount specified in the offense, whichever is greater, may be imposed. A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment. See Article 9 of Chapter V (730 ILCS 5/Ch. V, Art. 9) for imposition of additional amounts and determination of amounts and payment.

(f) **RESTITUTION.** See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) **CONCURRENT OR CONSECUTIVE SENTENCE.** The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4).

(h) **DRUG COURT.** See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) **CREDIT FOR HOME DETENTION.** See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) **EARLY RELEASE; GOOD CONDUCT.** See the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) **ELECTRONIC HOME DETENTION.** See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

730 Ill. Comp.Stat. 5/5-5-6 (2012). Restitution.

In all convictions for offenses in violation of the Criminal Code of 1961 [720 ILCS 5/1-1 et seq.] or of Section 11-501 of the Illinois Vehicle Code [625 ILCS 5/11-501] in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section. In all other cases, except cases in which restitution is required under this Section, the court must at the sentence hearing determine whether restitution is an appropriate sentence to be imposed on each defendant convicted of an offense. If the court determines that an order directing the offender to make restitution is appropriate, the offender may be sentenced to make restitution. The court may consider restitution an appropriate sentence to be imposed on each defendant convicted of an offense in addition to a sentence of imprisonment. The sentence of the defendant to a term of imprisonment is not a mitigating factor that prevents the court from ordering the defendant to pay restitution. If the offender is sentenced to make restitution the

Court shall determine the restitution as hereinafter set forth:

(a) At the sentence hearing, the court shall determine whether the property may be restored in kind to the possession of the owner or the person entitled to possession thereof; or whether the defendant is possessed of sufficient skill to repair and restore property damaged; or whether the defendant should be required to make restitution in cash, for out-of-pocket expenses, damages, losses, or injuries found to have been proximately caused by the conduct of the defendant or another for whom the defendant is legally accountable under the provisions of Article V of the Criminal Code of 1961 [720 ILCS 5/5-1 et seq.].

(b) In fixing the amount of restitution to be paid in cash, the court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant; and after granting the credit, the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. If a defendant is placed on supervision for, or convicted of, domestic battery, the defendant shall be required to pay restitution to any domestic violence shelter in which the victim and any other family or household members lived because of the domestic battery. The amount of the restitution shall equal the actual expenses of the domestic violence shelter in providing housing and any other services for the victim and any other family or household members living at the shelter. If a defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of a defendant to the extent necessary to satisfy the order of restitution and dispose of the property by public sale. All proceeds from such sale in excess of the amount of restitution plus court costs and the costs of the sheriff in conducting the sale shall be paid to the defendant. The defendant convicted of domestic battery, if a person under 18 years of age was present and witnessed the domestic battery of the victim, is liable to pay restitution for the cost of any counseling required for the child at the discretion of the court.

(c) In cases where more than one defendant is accountable for the same criminal conduct that results in out-of-pocket expenses, losses, damages, or injuries, each defendant shall be ordered to pay restitution in the amount of the total actual out-of-pocket expenses, losses, damages, or injuries to the victim proximately caused by the conduct of all of the defendants who are legally accountable for the offense.

(1) In no event shall the victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages, or injuries, proximately caused by the conduct of all of the defendants.

(2) As between the defendants, the court may apportion the restitution that is payable in proportion to each co-defendant's culpability in the commission of the offense.

(3) In the absence of a specific order apportioning the restitution, each defendant shall bear his pro rata share of the restitution.

(4) As between the defendants, each defendant shall be entitled to a pro rata reduction in the total restitution required to be paid to the victim for amounts of restitution actually paid by co-defendants, and defendants who shall have paid more than their pro rata share shall be entitled to refunds to be computed by the court as additional amounts are paid by co-defendants.

(d) In instances where a defendant has more than one criminal charge pending against him in a single case, or more than one case, and the defendant stands convicted of one or more charges, a plea agreement negotiated by the State's Attorney and the defendants may require the defendant to make restitution to victims of charges that have been dismissed or which it is contemplated will be dismissed under the terms of the plea agreement, and under the agreement, the court may impose a sentence of restitution on the charge or charges of which the defendant has been convicted that would require the defendant to make restitution to victims of other offenses as provided in the plea agreement.

(e) The court may require the defendant to apply the balance of the cash bond, after payment of court costs, and any fine that may be imposed to the payment of restitution.

(f) Taking into consideration the ability of the defendant to pay, including any real or personal property or any other assets of the defendant, the court shall determine whether restitution shall be paid in a single payment or in installments, and shall fix a period of time not in excess of 5 years, except for violations of Sections 16-1.3 and 17-56 of the Criminal Code of 1961, or the period of time specified in subsection (f-1), not including periods of incarceration, within which payment of restitution is to be paid in full. Complete restitution shall be paid in as short a time period as possible. However, if the court deems it necessary and in the best interest of the victim, the court may extend beyond 5 years the period of time within which the payment of restitution is to be paid. If the defendant is ordered to pay restitution and the court orders that restitution is to be paid over a period greater than 6 months, the court shall order that the defendant make monthly payments; the court may waive this requirement of monthly payments only if there is a specific finding of good cause for waiver.

(f-1)

(1) In addition to any other penalty prescribed by law and any restitution ordered under this Section that did not include long-term physical health care costs, the court may, upon conviction of any misdemeanor or felony, order a defendant to pay restitution to a victim in accordance with the provisions of this subsection (f-1) if the victim has suffered physical injury as a result of the offense that is reasonably probable to require or has required long-term physical health care for more than 3 months. As used in this subsection (f-1) "long-term physical health care" includes mental health care.

(2) The victim's estimate of long-term physical health care costs may be made as part of a victim impact statement under Section 6 of the Rights of Crime Victims and Witnesses Act [725 ILCS 120/1 et seq.] or made separately. The court shall enter the long-term physical health care restitution order at the time of sentencing. An order of restitution made under this subsection (f-1) shall fix a monthly amount to be paid by the defendant for as long as long-term physical health care of the victim is required as a result of the offense. The order may exceed the length of any sentence imposed upon the defendant for the criminal activity. The court shall include as a special finding in the judgment of conviction its determination of the monthly cost of long-term physical health care.

(3) After a sentencing order has been entered, the court may from time to time, on the petition of either the defendant or the victim, or upon its own motion, enter an order for restitution for long-term physical care or modify the existing order for restitution for long-term physical care as to the amount of monthly payments. Any modification of the order shall be based only upon a substantial change of circumstances relating to the cost of long-term physical health care or the financial condition of either the defendant or the victim. The petition shall be filed as part of the original criminal docket.

(g) In addition to the sentences provided for in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15, and 12-16, and subdivision (a)(4) of Section 11-14.4, of the Criminal Code of 1961, the court may order any person who is convicted of violating any of those Sections or who was charged with any of those offenses and which charge was reduced to another charge as a result of a plea agreement under subsection (d) of this Section to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric, or rehabilitative treatment or psychological counseling, prescribed for the victim or victims of the offense.

The payments shall be made by the defendant to the clerk of the circuit court and transmitted by the clerk to the appropriate person or agency as directed by the court. Except as otherwise provided in subsection (f-1), the order may require such payments to be made for a period not to exceed 5 years after sentencing, not including periods of incarceration.

(h) The judge may enter an order of withholding to collect the amount of restitution owed in accordance with Part 8 of Article XII of the Code of Civil Procedure [735 ILCS 5/12-801 et seq.].

(i) A sentence of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentence to make restitution shall be revoked unless the court shall find that the offender has had the financial ability to make restitution, and he has wilfully refused to do so. When the offender's ability to pay restitution was established at the time an order of restitution was entered or modified, or when the offender's ability to pay was based on the offender's willingness to make restitution as part of a plea agreement made at the time the order of restitution was entered or

modified, there is a rebuttable presumption that the facts and circumstances considered by the court at the hearing at which the order of restitution was entered or modified regarding the offender's ability or willingness to pay restitution have not materially changed. If the court shall find that the defendant has failed to make restitution and that the failure is not wilful, the court may impose an additional period of time within which to make restitution. The length of the additional period shall not be more than 2 years. The court shall retain all of the incidents of the original sentence, including the authority to modify or enlarge the conditions, and to revoke or further modify the sentence if the conditions of payment are violated during the additional period.

(j) The procedure upon the filing of a Petition to Revoke a sentence to make restitution shall be the same as the procedures set forth in Section 5-6-4 of this Code [730 ILCS 5/5-6-4] governing violation, modification, or revocation of Probation, of Conditional Discharge, or of Supervision.

(k) Nothing contained in this Section shall preclude the right of any party to proceed in a civil action to recover for any damages incurred due to the criminal misconduct of the defendant.

(l) Restitution ordered under this Section shall not be subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act [705 ILCS 105/27.5].

(m) A restitution order under this Section is a judgment lien in favor of the victim that:

(1) Attaches to the property of the person subject to the order;

(2) May be perfected in the same manner as provided in Part 3 of Article 9 of the Uniform Commercial Code [810 ILCS 5/9-301 et seq.];

(3) May be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) Expires in the same manner as a judgment lien created in a civil proceeding.

When a restitution order is issued under this Section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket.

(n) An order of restitution under this Section does not bar a civil action for:

(1) Damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damages that is the basis of restitution ordered by the court; and

(2) Other damages suffered by the victim.

The restitution order is not discharged by the completion of the sentence imposed for the offense.

A restitution order under this Section is not discharged by the liquidation of a person's estate by a receiver. A restitution order under this Section may be enforced in the same manner as judgment liens are enforced under Article XII of the Code of Civil Procedure [735 ILCS 5/12-101 et seq.].

The provisions of Section 2-1303 of the Code of Civil Procedure [735 ILCS 5/2-1303], providing for interest on judgments, apply to judgments for restitution entered under this Section.

ANIMAL PROTECTION LAWS OF INDIANA

1. GENERAL PROHIBITIONS
2. PENALTIES
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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Indiana's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Indiana may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

INDIANA

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Abandonment or neglect of vertebrate animals IND. CODE § 35-46-3-7</p> <p>(2) Torture, beating, mutilation of vertebrate animals IND. CODE § 35-46-3-12(b), (c)</p> <p>(3) Knowingly or intentionally killing a domestic animal without the consent of the owner IND. CODE § 35-46-3-12(d)(2)</p> <p>(4) Killing vertebrate animal with intent to threaten a family or household member IND. CODE § 35-46-3-12.5</p>
<p><i>Animals Covered in Definition</i></p>	<p>“Animal” does not include a human being. IND. CODE § 35-46-3-3</p>
<p><i>Classification of Crimes</i></p>	<p>(1) [1st offense]: Class A misdemeanor</p> <p>[Subsequent offenses, not including “harboring a non-immunized dog”]: Class D felony</p> <p>-----</p> <p>(2) [1st offense involving beating]: Class A misdemeanor</p> <p>[1st offense involving torturing or mutilating, and for subsequent beating offenses]: Class D felony</p> <p>-----</p> <p>(3), (4) Class D felony</p>

INDIANA*continued*

2. MAXIMUM PENALTIES ^{**}	Class A misdemeanor: 1 year imprisonment <i>and</i> \$5,000 fine IND. CODE § 35-50-3-2 ----- Class D felony: 3 years <i>and</i> \$10,000 fine IND. CODE § 35-50-2-7
3. EXEMPTIONS ^{***}	1, 2, 3, 4, 5, 6, 9 IND. CODE § 35-46-3-5 9 IND. CODE §§ 35-46-3-12(a), (d), (e) IND. CODE § 35-46-3-7(b), (c) 2, 5 IND. CODE § 35-46-3-15
4. COUNSELING / EVALUATIONS [†]	The court shall consider ordering psychological, behavioral, or other counseling for offenders. IND. CODE § 35-46-3-12(f)

INDIANA*continued*

5. PROTECTIVE ORDERS[†]

If the parole board prohibits a parolee from having contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

IND. CODE § 11-13-3-4(1)

“Crime involving domestic or family violence” includes a crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.

IND. CODE §§ 31-9-2-29.5, 35-31.5-2-76(14)

When there is a crime involving animal cruelty and a family or household member, a protective order may be issued.

IND. CODE § 34-26-5-2

As a condition of bail, the court may require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.

IND. CODE § 35-33-8-3.2(a)

As a condition of probation, the court may order the defendant to refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.

IND. CODE § 35-38-2-2.3(a)(17)

INDIANA <i>continued</i>	
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>Owner may prevent disposition of impounded animal by posting a renewable bond for costs of care within 10 days of impoundment. IND. CODE § 35-46-3-6(c),(d)</p> <p>Upon conviction the court may require cost of care to be paid. IND. CODE § 35-46-3-6(h)(1)</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>Law enforcement officer or other person with authority to impound may seize animal for probable cause; if court later determines no probable cause existed, the court shall order animal returned. IND. CODE §§ 35-46-3-6(b),(d)</p> <p>Upon filing of abuse charges, the state veterinarian or designee must investigate the condition of the mistreated animal and make a recommendation concerning a seizure. IND. CODE §§ 35-46-3-6(e)-(g)</p>
8. FORFEITURE / POSSESSION[†]	<p>As a condition of parole, the parole board may prohibit an offender from owning, harboring, or training an animal. IND. CODE § 11-13-3-4(l)</p> <p>As a condition of bail, the court may require a defendant to refrain from owning, harboring, or training an animal. IND. CODE § 35-33-8-3.2(a)(8)</p> <p>Failure to post or renew a bond for costs of care allows shelter to determine disposition of impounded animal, subject to court order. IND. CODE § 35-46-3-6(c)</p> <p>Upon conviction the court may order forfeiture of animal involved in the offense and any other animal in the care or custody of</p>

	<p>the offender. IND. CODE §§ 35-46-3-6(h)(2),(i)</p>
<p>INDIANA<i>continued</i></p>	
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>A veterinarian or veterinary technician who, in good faith and in the normal course of business, reports a suspected incident of animal cruelty is immune from civil or criminal liability for such reporting. IND. CODE § 25-38.1-4-8.5</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>State Board of Animal Health has the power and duty to assist law enforcement agencies investigating allegations of cruelty and neglect of animals. IND. CODE §15-17-3-13(30)</p> <p>Humane officer is to be appointed from members of police department and shall arrest persons violating humane statutes. IND. CODE § 36-8-3-18</p>
<p>12. SEXUAL ASSAULT</p>	<p>Directing, aiding, inducing, or causing a child under the age of sixteen to engage in sexual conduct with an animal other than a human being with intent to arouse or satisfy the sexual desires of a child or the older person is a felony. IND. CODE§ 35-42-4-5(b)</p> <p>Bestiality is a Class D felony. IND. CODE § 35-46-3-14</p>

INDIANA <i>continued</i>	
13. FIGHTING	<p>“Animal fighting contest” means a conflict with two or more animals, not accidental. IND. CODE§ 35-46-3-4</p> <p>“Animal fighting paraphernalia” means equipment used to train or condition animals for participation in an animal fighting contest. IND. CODE§ 35-46-3-4.3</p> <p>Purchasing or possessing animals for fighting is a Class D felony. IND. CODE§ 35-46-3-8</p> <p>Possession of animal fighting paraphernalia is a Class B misdemeanor for a first offense, a Class A misdemeanor for subsequent offenses. IND. CODE§ 35-46-3-8.5</p> <p>Various animal fighting activities are Class D felonies. IND. CODE §§ 35-46-3-9, -9.5</p> <p>Attending an animal fighting contest is a Class A misdemeanor for first offense, and a Class D felony if the offender has a prior animal cruelty or fighting conviction. IND. CODE § 35-46-3-10</p>

*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

†This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

IND. CODE §35-46-3-0.5 (2012). Definitions.

The following definitions apply throughout this chapter:

(1) *“Abandon” means to desert an animal or to leave the animal permanently in a place without making provision for adequate long term care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.*

(2) *“Beat” means to unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury. The term does not include reasonable training or disciplinary techniques.*

(3) *“Mutilate” means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal’s body parts or to render any part of the animal’s body useless. The term includes bodily injury involving:*

(A) serious permanent disfigurement;

(B) serious temporary disfigurement;

(C) permanent or protracted loss or impairment of the function of a bodily part or organ; or

(D) a fracture.

(4) *“Neglect” means:*

(A) endangering an animal’s health by failing to provide or arrange to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink;

(B) restraining an animal for more than a brief period in a manner that endangers the animal’s life or health by the use of a rope, chain, or tether that:

(i) is less than three (3) times the length of the animal;

(ii) is too heavy to permit the animal to move freely; or

(iii) causes the animal to choke;

(C) restraining an animal in a manner that seriously endangers the animal's life or health;

(D) failing to:

(i) provide reasonable care for; or

(ii) seek veterinary care for;

an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat; or

(E) leaving a dog or cat outside and exposed to:

(i) excessive heat without providing the animal with a means of shade from the heat; or

(ii) excessive cold if the animal is not provided with straw or another means of protection from the cold;

regardless of whether the animal is restrained or kept in a kennel.

(5) "Torture" means:

(A) to inflict extreme physical pain or injury on an animal with the intent of increasing or prolonging the animal's pain; or

(B) to administer poison to a domestic animal (as defined in section 12(d) of this chapter) or expose domestic animal to a poisonous substance with the intent that the domestic animal ingest the substance and suffer harm, pain, or physical injury.

IND. CODE § 35-46-3-3 (2012). "Animal" defined.

As used in this chapter, "animal" does not include a human being.

IND. CODE § 35-46-3-7 (2012).Abandonment or neglect of vertebrate animal.

(a) A person who:

(1) has a vertebrate animal in the person's custody; and

(2) recklessly, knowingly, or intentionally abandons or neglects the animal; commits cruelty to an animal, a Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.

(b) It is a defense to a prosecution for abandoning a vertebrate animal under this section that the person who had the animal in the person's custody reasonably believed that the vertebrate animal was capable of surviving on its own.

(c) For purposes of this section, an animal that is feral is not in a person's custody.

IND. CODE § 35-46-3-12 (2012).Beating vertebrate animal.

(a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

(1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and

(2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

(1) the person has a previous, unrelated conviction under this section; or

(2) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Class D felony.

(d) As used in this subsection, "domestic animal" means an animal that is not wild. The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species. A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.

(e) It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

(f) When a court imposes a sentence or enters a dispositional decree under this section, the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult; to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

IND. CODE § 35-46-3-12.5 (2012). Domestic violence animal cruelty.

A person who knowingly or intentionally kills a vertebrate animal with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member commits domestic violence animal cruelty, a Class D felony.

2. PENALTIES

IND. CODE § 35-50-2-7 (2012). Class D felony.

(a) A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

(1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony under IC 35-42-2- 1.3; or

(3) the offense is possession of child pornography (IC 35-42-4-4(c)).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

IND. CODE§ 35-50-3-2 (2012). Class A misdemeanor.

A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000).

3. EXEMPTIONS

IND. CODE § 35-46-3-5 (2012).Applicability of chapter—Exempt activities—Authorization for destruction of animal by electrocution.

(a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

- (1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.*
- (2) Conduct authorized under IC 15-20-2.*
- (3) Veterinary practices authorized by standards adopted under IC 25-38.1-2-14.*
- (4) Conduct authorized by a local ordinance.*
- (5) Acceptable farm management practices.*
- (6) Conduct authorized by IC 15-17, and rules adopted under IC 15-17 for state or federally inspected livestock slaughtering facilities and state or federal animal disease control programs.*
- (7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).*
- (8) Destruction of a vertebrate defined as a pest under IC 15-16-5-24.*
- (9) Destruction of or injury to a fish.*
- (10) Destruction of a vertebrate animal that is:*
 - (A) endangering, harassing, or threatening livestock or a domestic animal; or*
 - (B) destroying or damaging a person's property.*
- (11) Destruction of an animal by an animal control program, including an animal control facility, an animal shelter, or a humane society.*
- (12) Destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering.*
- (13) Conduct not resulting in serious injury or illness to the animal that is incidental to exhibiting an animal for show, competition, or display, or that is incidental to transporting the animal for show, competition, or display.*

(14) Parking an animal.

(15) Humane destruction of an animal that the person owns.

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

IND. CODE § 35-46-3-7 (2012).Abandonment or neglect of vertebrate animal.

(a) A person who:

(1) has a vertebrate animal in the person's custody; and

(2) recklessly, knowingly, or intentionally abandons or neglects the animal; commits cruelty to an animal, a Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.

(b) It is a defense to a prosecution for abandoning a vertebrate animal under this section that the person who had the animal in the person's custody reasonably believed that the vertebrate animal was capable of surviving on its own.

(c) For purposes of this section, an animal that is feral is not in a person's custody.

IND. CODE § 35-46-3-12 (2012).Beating vertebrate animal.

(a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

(1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and

(2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

(1) the person has a previous, unrelated conviction under this section; or

(2) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Class D felony.

(d) *As used in this subsection, "domestic animal" means an animal that is not wild. The term is limited to:*

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species. A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.

(e) *It is a defense to a prosecution under this section that the accused person:*

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

(f) When a court imposes a sentence or enters a dispositional decree under this section, the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult; to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

IND. CODE § 35-46-3-15 (2012). Applicability of section—Exemptions—Destruction of animal—Penalty.

(a) This section does not apply to the following:

(1) A state or federally inspected livestock slaughtering facility (for conduct authorized by IC 15-17-5 and rules adopted under that chapter).

(2) An animal disease diagnostic laboratory established under IC 21-46-3-1.

(3) A postsecondary educational institution.

(4) A research facility licensed by the United States Department of Agriculture.

(b) As used in this section, “animal” has the meaning set forth in IC 35-46-3-3.

(c) A person who knowingly or intentionally destroys or authorizes the destruction of an animal by:

(1) placing the animal in a decompression chamber and lowering the pressure of or the oxygen content in the air surrounding the animal; or

(2) electrocution;

commits a Class B misdemeanor.

4. COUNSELING / EVALUATIONS

IND. CODE § 35-46-3-12 (2012).Beating vertebrate animal.

(a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

(1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and

(2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

(1) the person has a previous, unrelated conviction under this section; or

(2) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Class D felony.

(d) As used in this subsection, “domestic animal” means an animal that is not wild. The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species. A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.

(e) It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

(f) When a court imposes a sentence or enters a dispositional decree under this section, the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult; to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

5. PROTECTIVE ORDERS

IND. CODE § 11-13-3-4 (2012). Parole Conditions; Expenses.

(a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and

- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) If the department determines sufficient funding is available, as a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5); to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, subject to the amount appropriated to the department for a monitoring program as a condition of parole.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) As a condition of parole, the parole board may prohibit a parolee convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the parole board prohibits a parolee convicted of an offense under IC 35-46-3 from having direct or indirect contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

(m) A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.

* * * * *

IND. CODE § 31-9-2-29.5 (2012). "Crimes involving domestic or family violence."

"Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) A sex offense under IC 35-42-4.
- (5) Robbery under IC 35-42-5.
- (6) Arson or mischief under IC 35-43-1.
- (7) Burglary or trespass under IC 35-43-2.
- (8) Disorderly conduct under IC 35-45-1.
- (9) Intimidation or harassment under IC 35-45-2.
- (10) Voyeurism under IC 35-45-4.
- (11) Stalking under IC 35-45-10.
- (12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- (13) Human and sexual trafficking crimes under IC 35-42-3.5.
- (14) *A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.*

IND. CODE § 34-26-5-2 (2012). Persons against whom petitions may be filed.

(a) A person, including any person who is at least fifteen (15) years of age, who is or has been a victim of domestic or family violence may file a petition for an order for protection against a:

- (1) family or household member who commits an act of domestic or family violence; or*
- (2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the petitioner.*

(b) A parent, a guardian, or another representative may file a petition for an order for protection on behalf of a child against a:

- (1) family or household member who commits an act of domestic or family violence; or*
- (2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the child.*

(c) A court may issue only one (1) order for each respondent. If a petitioner files a petition against more than one (1) respondent, the court shall:

- (1) assign a new case number; and*
- (2) maintain a separate court file;*

for each respondent.

(d) If a petitioner seeks relief against an unemancipated minor, the case may originate in any court of record and, if it is an emergency matter, be processed the same as an ex parte petition. When a hearing is set, the matter may be transferred to a court with juvenile jurisdiction.

IND. CODE § 35-31.5-2-76(2012).“Crime involving domestic or family violence” defined.

“Crime involving domestic or family violence” means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.*
- (2) A battery offense under IC 35-42-2.*
- (3) Kidnapping or confinement under IC 35-42-3.*
- (4) Human and sexual trafficking crimes under IC 35-42-3.5.*

- (5) A sex offense under IC 35-42-4.
- (6) Robbery under IC 35-42-5.
- (7) Arson or mischief under IC 35-43-1.
- (8) Burglary or trespass under IC 35-43-2.
- (9) Disorderly conduct under IC 35-45-1.
- (10) Intimidation or harassment under IC 35-45-2.
- (11) Voyeurism under IC 35-45-4.
- (12) Stalking under IC 35-45-10.
- (13) An offense against family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- (14) *A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.*

IND. CODE § 35-33-8-3.2 (2012). Conditions to assure appearance; remittance of deposition, collection of Fees.

(a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;
 - (D) post a real estate bond; or
 - (E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Except as provided in section 3.6 of this chapter, require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible

for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2). The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the

following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

IND. CODE § 35-38-2-2.3 (2012). Conditions of probation; statement of conditions; term of imprisonment; intermittent service; transfers and retransfers of supervision.

(a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

- (10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
- (11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
- (12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
- (13) Perform uncompensated work that benefits the community.
- (14) Satisfy other conditions reasonably related to the person's rehabilitation.
- (15) Undergo home detention under IC 35-38-2.5.
- (16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
- (A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or
 - (B) the person had been convicted of an offense relating to a controlled substance and the offense involved:
 - (i) the delivery by any person to another person; or
 - (ii) the use by any person on another person;of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.
- (17) *Refrain from any direct or indirect contact with an individual and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.*
- (18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).
- (19) Periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this

subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction; to provide a DNA sample as a condition of probation.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

IND. CODE § 35-46-3-6 (2012). Impoundment of animals for chapter violation; probable cause hearing; penalties; award of custody of animals.

(a) This section does not apply to a violation of section 1 [IC 35-46-3-1] of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or IC 15-20-1-4 may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or IC 15-20-1-4, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-20-1 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-20-1 has occurred. *If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.*

(e) Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-17-4-1 or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-20-1, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating or imposing conditions on the person's right to possession, title, custody, or care of:

(A) an animal that was involved in the offense; or

(B) any other animal in the custody or care of the person.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

7. SEIZURE / ON-SITE SUPERVISION

IND. CODE § 35-46-3-6 (2012). Impoundment of animals for chapter violation; probable cause hearing; penalties; award of custody of animals.

(a) This section does not apply to a violation of section 1 [IC 35-46-3-1] of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or IC 15-20-1-4 may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or IC 15-20-1-4, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-20-1 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-20-1 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-17-4-1 or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-20-1, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating or imposing conditions on the person's right to possession, title, custody, or care of:

(A) an animal that was involved in the offense; or

(B) any other animal in the custody or care of the person.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

8. FORFEITURE / POSSESSION

IND. CODE § 11-13-3-4 (2012). Parole Conditions; Expenses.

(a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and

- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 9-13-3-22) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) If the department determines sufficient funding is available, as a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5); to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, subject to the amount appropriated to the department for a monitoring program as a condition of parole.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) As a condition of parole, the parole board may prohibit a parolee convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the parole board prohibits a parolee convicted of an offense under IC 35-46-3 from having direct or indirect contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

(m) A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.

* * * * *

IND. CODE § 35-33-8-3.2 (2012). Conditions to assure appearance; remittance of deposition, collection of Fees.

(a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

- (A) execute a bail bond with sufficient solvent sureties;
- (B) deposit cash or securities in an amount equal to the bail;
- (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;
- (D) post a real estate bond; or
- (E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

- (A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

- (3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.
- (4) Except as provided in section 3.6 of this chapter, require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.
- (5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.
- (6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.
- (7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

- (i) of nonappearance; or
- (ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2). The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the Indiana public retirement system for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

IND. CODE § 35-46-3-6 (2012). Impoundment of animals for chapter violation; probable cause hearing; penalties; award of custody of animals.

(a) This section does not apply to a violation of section 1 [IC 35-46-3-1] of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or IC 15-20-1-4 may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or IC 15-20-1-4, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-20-1 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-20-1 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-17-4-1 or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-20-1, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) *An order terminating or imposing conditions on the person's right to possession, title, custody, or care of:*

(A) an animal that was involved in the offense; or

(B) any other animal in the custody or care of the person.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

IND. CODE § 25-38.1-4-8.5 (2012). Immunity for reporting suspected animal cruelty.

A veterinarian or registered veterinary technician who reports in good faith and in the normal course of business a suspected incident of animal cruelty under IC 35-46-3 to a law enforcement officer is immune from liability in any civil or criminal action brought for reporting the incident.

11. LAW ENFORCEMENT POLICIES

IND. CODE § 15-17-3-13 (2012).Additional powers and duties.

In addition to the powers and duties given the board in this article and by law, the board has the powers and duties reasonable and necessary to do the following:

- (1) Provide for the quarantine of animals and objects to prevent, control, and eradicate diseases and pests of animals.
- (2) Develop, adopt, and implement programs and procedures for establishing and maintaining accredited, certified, validated, or designated disease or pest free or disease or pest monitored animals, herds, flocks, or areas, including the following:
 - (A) The establishment and maintenance of herds that are monitored for disease or pest syndromes.
 - (B) The establishment and maintenance of certified or validated brucellosis free herds, animals, and areas.
 - (C) The establishment and maintenance of accredited tuberculosis free herds, animals, and areas.
- (3) Develop, adopt, and implement programs and plans for the prevention, detection, control, and eradication of diseases and pests of animals.
- (4) Control or prohibit, by permit or other means, the movement and transportation into, out of, or within Indiana of animals and objects in order to prevent, detect, control, or eradicate diseases and pests of animals. When implementing controls or prohibitions the board may consider whether animals or objects are diseased, suspected to be diseased, or under quarantine, or whether the animals or objects originated from a country, a state, an area, or a premises that is known or suspected to harbor animals or objects infected with or exposed to a disease or pest of animals.
- (5) Control or prohibit the public and private sale of animals and objects in order to prevent the spread of disease and pests of animals.
- (6) Control the use, sanitation, and disinfection of:
 - (A) public stockyards; and
 - (B) vehicles used to transport animals and objects into and within Indiana; to accomplish the objectives of this article.

- (7) Control the use, sanitation, and disinfection of premises, facilities, and equipment to accomplish the objectives of this article.
- (8) Control the movement of animals and objects to, from, and within premises where diseases or pests of animals may exist.
- (9) Control the movement and disposal of carcasses of animals and objects.
- (10) Control the manufacture, sale, storage, distribution, handling, and use of serums, vaccines, and other biologics and veterinary drugs, except those drugs for human consumption regulated under IC 16-42-19, to be used for the prevention, detection, control, and eradication of disease and pests of animals.
- (11) Control and prescribe the means, methods, and procedures for the vaccination or other treatment of animals and objects and the conduct of tests for diseases and pests of animals.
- (12) Develop, adopt, and implement plans and programs for the identification of animals, objects, premises, and means of conveyances. Plans and programs may include identification:
 - (A) of animals or objects that have been condemned under this article; and
 - (B) related to classification as to disease, testing, vaccination, or treatment status.
- (13) Establish the terms and method of appraisal or other determination of value of animals and objects condemned under this article, the payment of any indemnities that may be provided for the animals and objects, and the regulation of the sale or other disposition of the animals or objects.
- (14) Control the sale of baby chicks.
- (15) Cooperate and enter into agreements with the appropriate departments and agencies of this state, any other state, or the federal government to prevent, detect, control, and eradicate diseases and pests of animals.
- (16) Control or prohibit the movement and transportation into, out of, or within Indiana of wild animals, including birds, that might carry or disseminate diseases or pests of animals.
- (17) Provide for condemning or abating conditions that cause, aggravate, spread, or harbor diseases or pests of animals.
- (18) Establish and designate, in addition to the animal disease diagnostic laboratory under IC 21-46-3-1, other laboratories necessary to make tests of any nature for diseases and pests of animals.
- (19) Investigate, develop, and implement the best methods for the prevention, detection, control, suppression, or eradication of diseases and pests of animals.

(20) Investigate, gather, and compile information concerning the organization, business conduct, practices, and management of any registrant, licensee, permittee, applicant for a license, or applicant for a permit.

(21) Investigate allegations of unregistered, unlicensed, and unpermitted activities.

(22) Institute legal action in the name of the state of Indiana necessary to enforce:

(A) the board's orders and rules; and

(B) this article.

(23) Control the collection, transportation, and cooking of garbage to be fed to swine or other animals and all matters of sanitation relating to the collection, transportation, and cooking of garbage affecting the health of swine or other animals and affecting public health and comfort.

(24) Adopt an appropriate seal.

(25) Issue orders as an aid to enforcement of the powers granted by this article, IC 15-18-1, and IC 15-19-6.

(26) Control disposal plants and byproducts collection services and all matters connected to disposal plants and byproducts collection services.

(27) Abate biological or chemical substances that:

(A) remain in or on any animal before or at the time of slaughter as a result of treatment or exposure; and

(B) are found by the board to be or have the potential of being injurious to the health of animals or humans.

(28) Regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten:

(A) animal health;

(B) the public health and welfare of the citizens of Indiana; and

(C) the trade in animals and animal products in and from Indiana.

(29) Cooperate and coordinate with local, state, and federal emergency management agencies to plan and implement disaster emergency plans and programs as the plans and programs relate to animals in Indiana.

(30) Assist law enforcement agencies investigating allegations of cruelty and neglect of animals.

(31) Assist organizations that represent livestock and poultry producers with issues and programs related to the care of livestock and poultry.

(32) Establish a registry of commercial dog brokers and commercial dog breeders in Indiana.

IND. CODE § 36-8-3-18 (2012). Humane officer appointed—Compensation—Duties.

A humane officer shall be appointed in every city from among the members of the police department. The humane officer shall detect and arrest persons violating humane statutes. He is entitled to the same pay as other police officers of the city and is subject to the control and discipline of the police department. If there is an incorporated humane society in the city, the humane officer shall attend the stated and special meetings of the society and shall report to it, at least once a month, on all matters relating to his duties under law for the previous month. If a humane statute or ordinance has, to his knowledge, been violated, he shall, if directed by the president of the humane society, file his affidavits before a court charging the person violating the law with the violation.

12. SEXUAL ASSAULT

IND. CODE§ 35-42-4-5 (2012).Vicarious sexual gratification; fondling in the presence of a minor.

(a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);

(2) a Class B felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or

(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(3) a Class A felony if it results in serious bodily injury.

(b) *A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:*

(1) engage in sexual intercourse with another child under sixteen (16) years of age;

(2) *engage in sexual conduct with an animal other than a human being;* or

(3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct; or
- (3) touches or fondles the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Class D felony.

IND. CODE § 35-46-3-14 (2012).Bestiality.

A person who knowingly or intentionally performs an act involving:

- (1) a sex organ of a person and the mouth or anus of an animal;*
- (2) a sex organ of an animal and the mouth or anus of a person;*
- (3) any penetration of the human female sex organ by an animal's sex organ; or*
- (4) any penetration of an animal's sex organ by the human male sex organ;*

commits bestiality, a Class D felony.

13. FIGHTING

IND. CODE§ 35-46-3-4 (2012).“Animal fighting contest” defined.

As used in this chapter, “animal fighting contest” means a conflict between two (2) or more animals. The term does not include a conflict that is unorganized or accidental.

IND. CODE§ 35-46-3-4.3 (2012).“Animal fighting paraphernalia” defined.

As used in this chapter, “animal fighting paraphernalia” means equipment used to train or condition animals for participation in an animal fighting contest.

IND. CODE § 35-46-3-8 (2012).Purchase or possession of animals for fighting contests.

A person who knowingly or intentionally purchases or possesses an animal for the purpose of using the animal in an animal fighting contest commits a Class D felony.

IND. CODE§ 35-46-3-8.5 (2012).Possession of animal fighting paraphernalia

A person who knowingly or intentionally possesses animal fighting paraphernalia with the intent to commit a violation of IC 35-46-3-9 commits possession of animal fighting paraphernalia, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

IND. CODE§ 35-46-3-9 (2012).Promotion, use of animals or attendance with animal at animal fighting contest.

A person who knowingly or intentionally:

(1) promotes or stages an animal fighting contest;

(2) uses an animal in a fighting contest; or

(3) attends an animal fighting contest having an animal in the person’s possession;

commits a Class D felony.

IND. CODE § 35-46-3-9.5 (2012). Promoting animal fighting contest.

A person who knowingly or intentionally:

(1) possesses animal fighting paraphernalia with the intent to commit a violation of IC 35-46-3-9; and

(2) possesses, harbors, or trains a dog, cock, fowl, or bird bearing:

(A) a scar;

(B) a wound; or

(C) an injury;

consistent with participation in or training for an animal fighting contest;

commits promoting an animal fighting contest, a Class D felony.

IND. CODE § 35-46-3-10 (2012). Attendance at fighting contest.

A person who knowingly or intentionally attends a fighting contest involving animals commits cruelty to an animal, a Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.

14. REFERENCED STATUTES

IND. CODE § 11-13-3-4 (2012). Parole Conditions; Expenses.

(a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and

- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and

(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) require a parolee who is a sex offender to consent:

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) If the department determines sufficient funding is available, as a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5); to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, subject to the amount appropriated to the department for a monitoring program as a condition of parole.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) As a condition of parole, the parole board may prohibit a parolee convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the parole board prohibits a parolee convicted of an offense under IC 35-46-3 from having direct or indirect contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

(m) A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.

* * * * *

IND. CODE § 15-17-3-13 (2012).Additional powers and duties.

In addition to the powers and duties given the board in this article and by law, the board has the powers and duties reasonable and necessary to do the following:

(1) Provide for the quarantine of animals and objects to prevent, control, and eradicate diseases and pests of animals.

(2) Develop, adopt, and implement programs and procedures for establishing and maintaining accredited, certified, validated, or designated disease or pest free or disease or pest monitored animals, herds, flocks, or areas, including the following:

(A) The establishment and maintenance of herds that are monitored for disease or pest syndromes.

(B) The establishment and maintenance of certified or validated brucellosis free herds, animals, and areas.

(C) The establishment and maintenance of accredited tuberculosis free herds, animals, and areas.

(3) Develop, adopt, and implement programs and plans for the prevention, detection, control, and eradication of diseases and pests of animals.

(4) Control or prohibit, by permit or other means, the movement and transportation into, out of, or within Indiana of animals and objects in order to prevent, detect, control, or eradicate diseases and pests of animals. When implementing controls or prohibitions the board may consider whether animals or objects are diseased, suspected to be diseased, or under quarantine, or whether the animals or objects originated from a country, a state, an area, or a premises that is known or suspected to harbor animals or objects infected with or exposed to a disease or pest of animals.

(5) Control or prohibit the public and private sale of animals and objects in order to prevent the spread of disease and pests of animals.

6) Control the use, sanitation, and disinfection of:

(A) public stockyards; and

(B) vehicles used to transport animals and objects into and within Indiana; to accomplish the objectives of this article.

(7) Control the use, sanitation, and disinfection of premises, facilities, and equipment to accomplish the objectives of this article.

(8) Control the movement of animals and objects to, from, and within premises where diseases or pests of animals may exist.

(9) Control the movement and disposal of carcasses of animals and objects.

(10) Control the manufacture, sale, storage, distribution, handling, and use of serums, vaccines, and other biologics and veterinary drugs, except those drugs for human consumption regulated under IC 16-42-19, to be used for the prevention, detection, control, and eradication of disease and pests of animals.

(11) Control and prescribe the means, methods, and procedures for the vaccination or other treatment of animals and objects and the conduct of tests for diseases and pests of animals.

(12) Develop, adopt, and implement plans and programs for the identification of animals, objects, premises, and means of conveyances. Plans and programs may include identification:

(A) of animals or objects that have been condemned under this article; and

(B) related to classification as to disease, testing, vaccination, or treatment status.

(13) Establish the terms and method of appraisal or other determination of value of animals and objects condemned under this article, the payment of any indemnities that may be provided for the animals and objects, and the regulation of the sale or other disposition of the animals or objects.

(14) Control the sale of baby chicks.

(15) Cooperate and enter into agreements with the appropriate departments and agencies of this state, any other state, or the federal government to prevent, detect, control, and eradicate diseases and pests of animals.

(16) Control or prohibit the movement and transportation into, out of, or within Indiana of wild animals, including birds, that might carry or disseminate diseases or pests of animals.

- (17) Provide for condemning or abating conditions that cause, aggravate, spread, or harbor diseases or pests of animals.
- (18) Establish and designate, in addition to the animal disease diagnostic laboratory under IC 21-46-3-1, other laboratories necessary to make tests of any nature for diseases and pests of animals.
- (19) Investigate, develop, and implement the best methods for the prevention, detection, control, suppression, or eradication of diseases and pests of animals.
- (20) Investigate, gather, and compile information concerning the organization, business conduct, practices, and management of any registrant, licensee, permittee, applicant for a license, or applicant for a permit.
- (21) Investigate allegations of unregistered, unlicensed, and unpermitted activities.
- (22) Institute legal action in the name of the state of Indiana necessary to enforce:
- (A) the board's orders and rules; and
 - (B) this article.
- (23) Control the collection, transportation, and cooking of garbage to be fed to swine or other animals and all matters of sanitation relating to the collection, transportation, and cooking of garbage affecting the health of swine or other animals and affecting public health and comfort.
- (24) Adopt an appropriate seal.
- (25) Issue orders as an aid to enforcement of the powers granted by this article, IC 15-18-1, and IC 15-19-6.
- (26) Control disposal plants and byproducts collection services and all matters connected to disposal plants and byproducts collection services.
- (27) Abate biological or chemical substances that:
- (A) remain in or on any animal before or at the time of slaughter as a result of treatment or exposure; and
 - (B) are found by the board to be or have the potential of being injurious to the health of animals or humans.

(28) Regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten:

(A) animal health;

(B) the public health and welfare of the citizens of Indiana; and

(C) the trade in animals and animal products in and from Indiana.

(29) Cooperate and coordinate with local, state, and federal emergency management agencies to plan and implement disaster emergency plans and programs as the plans and programs relate to animals in Indiana.

(30) Assist law enforcement agencies investigating allegations of cruelty and neglect of animals.

(31) Assist organizations that represent livestock and poultry producers with issues and programs related to the care of livestock and poultry.

(32) Establish a registry of commercial dog brokers and commercial dog breeders in Indiana.

IND. CODE § 25-38.1-4-8.5 (2012). Immunity for reporting suspected animal cruelty.

A veterinarian or registered veterinary technician who reports in good faith and in the normal course of business a suspected incident of animal cruelty under IC 35-46-3 to a law enforcement officer is immune from liability in any civil or criminal action brought for reporting the incident.

IND. CODE § 31-9-2-29.5 (2012).“Crimes involving domestic or family violence.”

“Crime involving domestic or family violence” means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

(1) A homicide offense under IC 35-42-1.

(2) A battery offense under IC 35-42-2.

(3) Kidnapping or confinement under IC 35-42-3.

(4) A sex offense under IC 35-42-4.

(5) Robbery under IC 35-42-5.

- (6) Arson or mischief under IC 35-43-1.
- (7) Burglary or trespass under IC 35-43-2.
- (8) Disorderly conduct under IC 35-45-1.
- (9) Intimidation or harassment under IC 35-45-2.
- (10) Voyeurism under IC 35-45-4.
- (11) Stalking under IC 35-45-10.
- (12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- (13) Human and sexual trafficking crimes under IC 35-42-3.5.
- (14) A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.

IND. CODE § 34-26-5-2 (2012). Persons against whom petitions may be filed.

(a) A person, including any person who is at least fifteen (15) years of age, who is or has been a victim of domestic or family violence may file a petition for an order for protection against a:

- (1) family or household member who commits an act of domestic or family violence; or
- (2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the petitioner.

(b) A parent, a guardian, or another representative may file a petition for an order for protection on behalf of a child against a:

- (1) family or household member who commits an act of domestic or family violence; or
- (2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the child.

(c) A court may issue only one (1) order for each respondent. If a petitioner files a petition against more than one (1) respondent, the court shall:

- (1) assign a new case number; and
- (2) maintain a separate court file;

for each respondent.

(d) If a petitioner seeks relief against an unemancipated minor, the case may originate in any court of record and, if it is an emergency matter, be processed the same as an ex parte petition. When a hearing is set, the matter may be transferred to a court with juvenile jurisdiction.

IND. CODE § 35-33-8-3.2 (2012). Conditions to assure appearance; remittance of deposition, collection of Fees.

(a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the

defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

- (3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.
- (4) Except as provided in section 3.6 of this chapter, require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.
- (5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.
- (6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.
- (7) Release the defendant on personal recognizance unless:
 - (A) the state presents evidence relevant to a risk by the defendant:
 - (i) of nonappearance; or
 - (ii) to the physical safety of the public; and
 - (B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2). The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the Indiana public retirement system for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

IND. CODE § 35-38-2-2.3 (2012). Conditions of probation; statement of conditions; term of imprisonment; intermittent service; transfers and retransfers of supervision.

(a) As a condition of probation, the court may require a person to do a combination of the following:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
- (4) Support the person's dependents and meet other family responsibilities.
- (5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
- (6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
- (7) Pay a fine authorized by IC 35-50.
- (8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
- (9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
- (10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
- (11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
- (12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
- (13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(17) Refrain from any direct or indirect contact with an individual, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 9-13-2-22) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction; to provide a DNA sample as a condition of probation.

IND. CODE § 35-31.5(2012).“Crime involving domestic or family violence” defined.

“Crime involving domestic or family violence” means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

(1) A homicide offense under IC 35-42-1.

(2) A battery offense under IC 35-42-2.

(3) Kidnapping or confinement under IC 35-42-3.

(4) Human and sexual trafficking crimes under IC 35-42-3.5.

(5) A sex offense under IC 35-42-4.

(6) Robbery under IC 35-42-5.

(7) Arson or mischief under IC 35-43-1.

(8) Burglary or trespass under IC 35-43-2.

(9) Disorderly conduct under IC 35-45-1.

(10) Intimidation or harassment under IC 35-45-2.

(11) Voyeurism under IC 35-45-4.

(12) Stalking under IC 35-45-10.

(13) An offense against family under IC 35-46-1-2 through IC 35-46-1-8,

IC 35-46-1-12, or IC 35-46-1-15.1.

(14) A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(2) or IC 35-46-3-12.5.

IND. CODE§ 35-42-4-5 (2012).Vicarious sexual gratification; fondling in the presence of a minor.

(a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);

(2) a Class B felony if:

(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or

(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and

(3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

(1) engage in sexual intercourse with another child under sixteen (16) years of age;

(2) engage in sexual conduct with an animal other than a human being; or

(3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as

defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct; or
- (3) touches or fondles the person's own body;

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits performing sexual conduct in the presence of a minor, a Class D felony.

IND. CODE §35-46-3-0.5 (2012).Definitions.

The following definitions apply throughout this chapter:

(1) "Abandon" means to desert an animal or to leave the animal permanently in a place without making provision for adequate long term care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.

(2) "Beat" means to unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury. The term does not include reasonable training or disciplinary techniques.

(3) "Mutilate" means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal's body parts or to render any part of the animal's body useless. The term includes bodily injury involving:

- (A) serious permanent disfigurement;
- (B) serious temporary disfigurement;
- (C) permanent or protracted loss or impairment of the function of a bodily part or organ; or
- (D) a fracture.

(4) "Neglect" means:

(A) endangering an animal's health by failing to provide or arrange to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink;

(B) restraining an animal for more than a brief period in a manner that endangers the animal's life or health by the use of a rope, chain, or tether that:

(i) is less than three (3) times the length of the animal;

(ii) is too heavy to permit the animal to move freely; or

(iii) causes the animal to choke;

(C) restraining an animal in a manner that seriously endangers the animal's life or health;

(D) failing to:

(i) provide reasonable care for; or

(ii) seek veterinary care for;

an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat; or

(E) leaving a dog or cat outside and exposed to:

(i) excessive heat without providing the animal with a means of shade from the heat; or

(ii) excessive cold if the animal is not provided with straw or another means of protection from the cold;

regardless of whether the animal is restrained or kept in a kennel.

(5) "Torture" means:

(A) to inflict extreme physical pain or injury on an animal with the intent of increasing or prolonging the animal's pain; or

(B) to administer poison to a domestic animal (as defined in section 12(d) of this chapter) or expose domestic animal to a poisonous substance with the intent that the domestic animal ingest the substance and suffer harm, pain, or physical injury.

IND. CODE§ 35-46-3-3 (2012).“Animal” defined.

As used in this chapter, “animal” does not include a human being.

IND. CODE§ 35-46-3-4 (2012).“Animal fighting contest” defined.

As used in this chapter, “animal fighting contest” means a conflict between two (2) or more animals. The term does not include a conflict that is unorganized or accidental.

IND. CODE§ 35-46-3-4.3 (2012).“Animal fighting paraphernalia” defined.

As used in this chapter, “animal fighting paraphernalia” means equipment used to train or condition animals for participation in an animal fighting contest.

IND. CODE§ 35-46-3-5 (2012).Applicability of chapter—Exempt activities—Authorization for destruction of animal by electrocution.

(a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

- (1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.
- (2) Conduct authorized under IC 15-20-2.
- (3) Veterinary practices authorized by standards adopted under IC 25-38.1-2-14.
- (4) Conduct authorized by a local ordinance.
- (5) Acceptable farm management practices.
- (6) Conduct authorized by IC 15-17, and rules adopted under IC 15-17 for state or federally inspected livestock slaughtering facilities and state or federal animal disease control programs.
- (7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).
- (8) Destruction of a vertebrate defined as a pest under IC 15-16-5-24.
- (9) Destruction of or injury to a fish.

(10) Destruction of a vertebrate animal that is:

(A) endangering, harassing, or threatening livestock or a domestic animal; or

(B) destroying or damaging a person's property.

(11) Destruction of an animal by an animal control program, including an animal control facility, an animal shelter, or a humane society.

(12) Destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering.

(13) Conduct not resulting in serious injury or illness to the animal that is incidental to exhibiting an animal for show, competition, or display, or that is incidental to transporting the animal for show, competition, or display.

(14) Parking an animal.

(15) Humane destruction of an animal that the person owns.

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

IND. CODE§ 35-46-3-6 (2012).Impoundment of animals for chapter violation; probable cause hearing; penalties; award of custody of animals.

(a) This section does not apply to a violation of section 1 [IC 35-46-3-1] of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or IC 15-20-1-4 may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was

posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or IC 15-20-1-4, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-20-1 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-20-1 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-17-4-1 or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-20-1, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating or imposing conditions on the person's right to possession, title, custody, or care of:

(A) an animal that was involved in the offense; or

(B) any other animal in the custody or care of the person.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

IND. CODE§ 35-46-3-7 (2012).Abandonment or neglect of vertebrate animal.

(a) A person who:

(1) has a vertebrate animal in the person's custody; and

(2) recklessly, knowingly, or intentionally abandons or neglects the animal; commits cruelty to an animal, a Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.

(b) It is a defense to a prosecution for abandoning a vertebrate animal under this section that the person who had the animal in the person's custody reasonably believed that the vertebrate animal was capable of surviving on its own.

(c) For purposes of this section, an animal that is feral is not in a person's custody.

IND. CODE§ 35-46-3-8 (2012).Purchase or possession of animals for fighting contests.

A person who knowingly or intentionally purchases or possesses an animal for the purpose of using the animal in an animal fighting contest commits a Class D felony.

IND. CODE§ 35-46-3-8.5 (2012).Possession of animal fighting paraphernalia.

A person who knowingly or intentionally possesses animal fighting paraphernalia with the intent to commit a violation of IC 35-46-3-9 commits possession of animal fighting paraphernalia, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

IND. CODE§ 35-46-3-9 (2012).Promotion, use of animals or attendance with animal at animal fighting contest.

A person who knowingly or intentionally:

- (1) promotes or stages an animal fighting contest;
- (2) uses an animal in a fighting contest; or
- (3) attends an animal fighting contest having an animal in the person's possession;

commits a Class D felony.

IND. CODE§ 35-46-3-9.5 (2012).Promoting animal fighting contest.

A person who knowingly or intentionally:

- (1) possesses animal fighting paraphernalia with the intent to commit a violation of IC 35-46-3-9; and
- (2) possesses, harbors, or trains a dog, cock, fowl, or bird bearing:
 - (A) a scar;
 - (B) a wound; or
 - (C) an injury;

consistent with participation in or training for an animal fighting contest;

commits promoting an animal fighting contest, a Class D felony.

IND. CODE§ 35-46-3-10 (2012).Attendance at fighting contest.

A person who knowingly or intentionally attends a fighting contest involving animals commits cruelty to an animal, a Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.

IND. CODE§ 35-46-3-12 (2012).Beating vertebrate animal.

(a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

- (1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and
- (2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

- (1) the person has a previous, unrelated conviction under this section; or
- (2) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Class D felony.

(d) As used in this subsection, “domestic animal” means an animal that is not wild. The term is limited to:

- (1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and
- (2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species. A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.

(e) It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

(f) When a court imposes a sentence or enters a dispositional decree under this section, the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult; to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

IND. CODE § 35-46-3-12.5 (2012). Domestic violence animal cruelty.

A person who knowingly or intentionally kills a vertebrate animal with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member commits domestic violence animal cruelty, a Class D felony.

IND. CODE § 35-46-3-14 (2012). Bestiality.

A person who knowingly or intentionally performs an act involving:

(1) a sex organ of a person and the mouth or anus of an animal;

(2) a sex organ of an animal and the mouth or anus of a person;

- (3) any penetration of the human female sex organ by an animal's sex organ; or
- (4) any penetration of an animal's sex organ by the human male sex organ;

commits bestiality, a Class D felony.

IND. CODE § 35-46-3-15(2012). Applicability of section—Exemptions—Destruction of animal—Penalty.

(a) This section does not apply to the following:

- (1) A state or federally inspected livestock slaughtering facility (for conduct authorized by IC 15-17-5 and rules adopted under that chapter).
- (2) An animal disease diagnostic laboratory established under IC 21-46-3-1.
- (3) A postsecondary educational institution.
- (4) A research facility licensed by the United States Department of Agriculture.

(b) As used in this section, “animal” has the meaning set forth in IC 35-46-3-3.

(c) A person who knowingly or intentionally destroys or authorizes the destruction of an animal by:

- (1) placing the animal in a decompression chamber and lowering the pressure of or the oxygen content in the air surrounding the animal; or
- (2) electrocution;

commits a Class B misdemeanor.

IND. CODE § 35-50-2-7 (2012). Class D felony.

(a) A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

- (1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony under IC 35-42-2- 1.3; or

(3) the offense is possession of child pornography (IC 35-42-4-4(c)).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

IND. CODE§ 35-50-3-2 (2012). Class A misdemeanor.

A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000).

IND. CODE§ 36-8-3-18 (2012). Humane officer appointed—Compensation—Duties.

A humane officer shall be appointed in every city from among the members of the police department. The humane officer shall detect and arrest persons violating humane statutes. He is entitled to the same pay as other police officers of the city and is subject to the control and discipline of the police department. If there is an incorporated humane society in the city, the humane officer shall attend the stated and special meetings of the society and shall report to it, at least once a month, on all matters relating to his duties under law for the previous month. If a humane statute or ordinance has, to his knowledge, been violated, he shall, if directed by the president of the humane society, file his affidavits before a court charging the person violating the law with the violation.

ANIMAL PROTECTION LAWS OF IOWA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Iowa's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Iowa may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

IOWA

1. GENERAL PROHIBITIONS*

- (1)
Animal abuse
IOWA CODE ANN. §717B.2
- (2)
Animal neglect
IOWA CODE ANN. § 717B.3
- (3)
Intentional animal neglect resulting in serious injury or death
IOWA CODE ANN. § 717B.3
- (4)
Animal torture
IOWA CODE ANN. §717B.3A
- (5)
Abandonment of cats and dogs
IOWA CODE ANN. § 717B.8
- (6)
Abuse of livestock owned by another person
IOWA CODE ANN. § 717.1A
- (7)
Livestock neglect
IOWA CODE ANN. § 717.2

Animals Covered in Definition

Nonhuman vertebrates, but not including:
Livestock;
Game, fur-bearing animals, fish, reptiles,
and amphibians, unless owned, confined
or controlled by a person;
Nuisance non-game species;

IOWA CODE ANN. § 717B.1(1)

“Livestock” means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer as defined in section 170.1; or poultry.

	IOWA CODE ANN. § 717.1(4)
IOWA <i>continued</i>	
<i>Classification of Crimes</i>	<p>(1), (4: first offense), (6) Aggravated misdemeanor</p> <p>(2), (5), (7) Simple misdemeanor</p> <p>(3), (7: if intentional & serious injury or death) Serious misdemeanor</p> <p>(4: subsequent offenses) Class D felony</p>
2. MAXIMUM PENALTIES **	<p><i>Aggravated misdemeanor:</i> 2 years imprisonment <i>and</i> \$6,250 fine IOWA CODE ANN. § 903.1(2) <i>and</i> Community work requirement (with animal torture conviction) IOWA CODE ANN. § 717B.3A</p> <p><i>Simple misdemeanor:</i> 30 days imprisonment <i>and/or</i> \$625 fine IOWA CODE ANN. § 903.1(1)(a)</p> <p><i>Serious misdemeanor:</i> 1 year imprisonment <i>and</i> \$1,875 fine IOWA CODE ANN. § 903.1(1)(b)</p> <p><i>Class D felony:</i> 5 years imprisonment <i>and</i> \$7,500 fine IOWA CODE ANN. § 902.9(5)</p>

IOWA*continued*

<p>3. EXEMPTIONS^{***}</p>	<p>3, 4, 5, 6 IOWA CODE ANN. § 717B.1(1)</p> <p>1, 2, 3, 9 IOWA CODE ANN. § 717B.2</p> <p>2 IOWA CODE ANN. §§ 717B.3, 717.2(3)</p> <p>1, 2, 3, 4, 9 IOWA CODE ANN. § 717B.3A</p> <p>1, 2, 9 IOWA CODE ANN. § 717.1A</p>
<p>4. COUNSELING / EVALUATIONS[†]</p>	<p>Upon a conviction for animal torture or bestiality, sentencing shall provide for a psychological evaluation and treatment according to terms required by the court. The offender shall pay the costs. IOWA CODE ANN. §§ 717B.3A, 717C.1(3)</p>
<p>5. PROTECTIVE ORDERS[†]</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]</p>	<p>If a court issues a supervision order on livestock that are in immediate need of sustenance, a lien is created attaching to the livestock. IOWA CODE ANN. §§ 717.3(5)(c), 717.4</p> <p>The Department of Agriculture may utilize funds in the livestock remediation fund to pay costs of care or disposition of livestock in immediate need of sustenance. IOWA CODE ANN. § 717.4A</p> <p>Bond required if owner requests continuance of hearing. IOWA CODE ANN. § 717B.4(1)</p> <p>Court may order reimbursement of expenses.</p>

	IOWA CODE ANN. § 717B.4(3)
IOWA <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION	<p>Provisions for the rescue of neglected livestock IOWA CODE ANN. § 717.2A</p> <p>When livestock are in immediate need of sustenance, the Department of Agriculture may petition the court for an order to so provide. IOWA CODE ANN. § 717.3</p> <p>Law enforcement officer may seize animal after consulting veterinarian and obtaining a search warrant, or enters the property by other lawful authority. IOWA CODE ANN. § 717B.5</p>
8. FORFEITURE / POSSESSION[†]	<p>Following a civil hearing on the matter, if the court determines that an animal is a threatened animal, it shall order its disposition. IOWA CODE ANN. §§ 717B.4, 717B.5(3)</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	-----
12. SEXUAL ASSAULT	<p>Bestiality is an aggravated misdemeanor. IOWA CODE ANN. § 717C.1</p>

IOWA <i>continued</i>	
13. FIGHTING	<p>Various animal fighting activities are Class D felonies. IOWA CODE ANN.§§ 717D.2, 717D.4</p> <p>Being a spectator at an animal fight is an aggravated misdemeanor on 1st offense and a Class D felony on subsequent offenses. IOWA CODE ANN.§ 717D.2, 717D.4</p> <p>Animals used in animal fighting are subject to confiscation and disposal. IOWA CODE ANN.§ 717D.5</p>
<i>Other Felony Provisions Affecting Animals</i> [‡]	<p>Torturing, seriously injuring, poisoning or killing a police service dog is a Class D felony. IOWA CODE ANN.§ 717B.9</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡ This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

IOWA CODE ANN. § 717.1 (2012). Definitions.

As used in this chapter, unless the context otherwise requires:

01. “Department” means the department of agriculture and land stewardship.

001. “Electronic mail” means any message transmitted through the internet including but not limited to messages transmitted from or to any address affiliated with an internet site.

1. “Law enforcement officer” means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.

2. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer as defined in section 170.1; or poultry.

3. “Livestock care provider” means a person designated by a local authority to provide care to livestock which is rescued by the local authority pursuant to section 717.2A.

4. “Local authority” means a city as defined in section 362.2 or a county as provided in chapter 331.

5. “Maintenance” means to provide on-site or off-site care to neglected livestock.

6. “Sustenance” means food, water, or a nutritional formulation customarily used in the production of livestock.

IOWA CODE ANN. § 717.1A(2012).Livestock abuse.

A person is guilty of livestock abuse if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs or poisons to the livestock, or disabling the livestock by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.

2. A person acting to carry out an order issued by a court.

3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

4. A person acting in order to carry out another provision of law which allows the conduct.
5. A person reasonably acting to protect the person's property from damage caused by stray livestock.
6. A person reasonably acting to protect a person from injury or death caused by stray livestock.
7. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN. § 717.2(2012).Livestock neglect.

1. A person who impounds or confines livestock, in any place, and does any of the following commits the offense of livestock neglect:

a. Fails to provide livestock with care consistent with customary animal husbandry practices.

b. Deprives livestock of necessary sustenance.

c. Injures or destroys livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

2. A person who commits the offense of livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of livestock neglect which results in serious injury to or the death of livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.

3. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN. § 717B.1 (2012).Definitions.

As used in this chapter:

1. "Animal" means a nonhuman vertebrate. However, "animal" does not include any of the following:

a. Livestock, as defined in section 717.1.

- b. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian.*
- c. Any nongame species declared to be a nuisance pursuant to section 481A.42.*
- 2. “Animal care provider” means a person designated by a local authority to provide care to an animal which is rescued by the local authority pursuant to section 717B.5.*
- 3. Unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.*
- 3A. “Department” means the department of agriculture and land stewardship.*
- 4. “Dispositional expenses” means expenses incurred by a local authority in rescuing an animal as provided in section 717B.5, maintaining the animal until the conclusion of a dispositional proceeding as provided in section 717B.4, or disposing of the animal as provided in section 717B.4.*
- 5. “Law enforcement officer” means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and dedication of crime and the enforcement of the criminal laws of this state.*
- 6. “Local authority” means a city as defined in section 362.2 or a county as provided in chapter 331.*
- 7. “Maintenance” means to provide on-site or off-site care to neglected animals.*
- 8. “Responsible party” means a person who owns or maintains an animal.*
- 9. “Threatened animal” means an animal that is abused as provided in section 717B.2, neglected as provided in section 717B.3, or tortured as provided in section 717B.3A.*

IOWA CODE ANN.§ 717B.2 (2012). Animal abuse.

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures, or destroys an animal owned by another person, in any manner, including intentionally poisoning the animal. A person guilty of animal abuse is guilty of an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the animal, unless the action constitutes animal neglect as provided in section 717B.3.
2. A person acting to carry out an order issued by a court.
3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
4. A person acting in order to carry out another provision of law which allows the conduct.
5. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
6. A person acting to protect the person's property from a wild animal as defined in section 481A.1.
7. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
8. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.
9. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
10. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.
11. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN.§ 717B.3 (2012). Animal neglect.

1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

2. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal neglect which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

IOWA CODE ANN.§ 717B.3A (2012).Animal torture.

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.

2. This section shall not apply to any of the following:

- a. A person acting to carry out an order issued by a court.
- b. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
- c. A person carrying out a practice that is consistent with animal husbandry practices.
- d. A person acting in order to carry out another provision of law which allows the conduct.
- e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
- f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.
- g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
- h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

- i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
- j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.
- k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3.

a. The following shall apply to a person who commits animal torture:

(1) For the first conviction, the person is guilty of an aggravated misdemeanor. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person. In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2, according to terms required by the court.

(2) For a second or subsequent conviction, the person is guilty of a class "D" felony. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

IOWA CODE ANN. § 717B.8 (2012). Abandonment of cats and dogs—penalties.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

2. PENALTIES

IOWA CODE ANN. § 717B.3A (2012). Animal torture.

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.
2. This section shall not apply to any of the following:
 - a. A person acting to carry out an order issued by a court.
 - b. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
 - c. A person carrying out a practice that is consistent with animal husbandry practices.
 - d. A person acting in order to carry out another provision of law which allows the conduct.
 - e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
 - f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.
 - g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
 - h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.
 - i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
 - j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.
 - k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3.

a. The following shall apply to a person who commits animal torture:

(1) For the first conviction, the person is guilty of an aggravated misdemeanor. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person. *In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2, according to terms required by the court.*

(2) For a second or subsequent conviction, the person is guilty of a class “D” felony. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

IOWA CODE ANN.§ 902.9 (2012).Maximum sentence for felons.

The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class “A” felony shall be determined as follows:

1. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.

2. A class “B” felon shall be confined for no more than twenty-five years.

3. An habitual offender shall be confined for no more than fifteen years.

4. A class “C” felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand dollars but not more than ten thousand dollars.

5. A class “D” felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

The surcharges required by sections 911.1, 911.2, and 911.3 shall be added to a fine imposed on a class “C” or class “D” felon, as provided by those sections, and are not a part of or subject to the maximums set in this section.

IOWA CODE ANN. § 903.1 (2012). Maximum sentence for misdemeanants.

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, which fine shall not be suspended by the court, within the following limits:

a. For a simple misdemeanor, there shall be a fine of at least sixty-five dollars but not to exceed six hundred twenty-five dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.

b. For a serious misdemeanor, there shall be a fine of at least three hundred fifteen dollars but not to exceed one thousand eight hundred seventy-five dollars. In addition, the court may also order imprisonment not to exceed one year.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years. There shall be a fine of at least six hundred twenty-five dollars but not to exceed six thousand two hundred fifty dollars. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

4. The surcharges required by sections 911.1, 911.2, 911.3, and 911.4 shall be added to a fine imposed on a misdemeanor as provided in those sections, and are not a part of or subject to the maximums set in this section.

3. EXEMPTIONS

IOWA CODE ANN. § 717.1A(2012).Livestock abuse.

A person is guilty of livestock abuse if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs or poisons to the livestock, or disabling the livestock by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. *This section shall not apply to any of the following:*

- 1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.*
- 2. A person acting to carry out an order issued by a court.*
- 3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.*
- 4. A person acting in order to carry out another provision of law which allows the conduct.*
- 5. A person reasonably acting to protect the person's property from damage caused by stray livestock.*
- 6. A person reasonably acting to protect a person from injury or death caused by stray livestock.*
- 7. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.*

IOWA CODE ANN. § 717.2(2012).Livestock neglect.

1. A person who impounds or confines livestock, in any place, and does any of the following commits the offense of livestock neglect:

- a. Fails to provide livestock with care consistent with customary animal husbandry practices.
- b. Deprives livestock of necessary sustenance.
- c. Injures or destroys livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

2. A person who commits the offense of livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of livestock neglect which results in serious injury to or the death of livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.

3. *This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.*

IOWA CODE ANN. § 717B.1 (2012). Definitions.

As used in this chapter:

1. “Animal” means a nonhuman vertebrate. *However, “animal” does not include any of the following:*

a. Livestock, as defined in section 717.1.

b. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian.

c. Any nongame species declared to be a nuisance pursuant to section 481A.42.

2. “Animal care provider” means a person designated by a local authority to provide care to an animal which is rescued by the local authority pursuant to section 717B.5.

3. Unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

3A. “Department” means the department of agriculture and land stewardship.

4. “Dispositional expenses” means expenses incurred by a local authority in rescuing an animal as provided in section 717B.5, maintaining the animal until the conclusion of a dispositional proceeding as provided in section 717B.4, or disposing of the animal as provided in section 717B.4.

5. “Law enforcement officer” means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and dedication of crime and the enforcement of the criminal laws of this state.

6. “Local authority” means a city as defined in section 362.2 or a county as provided in chapter 331.
7. “Maintenance” means to provide on-site or off-site care to neglected animals.
8. “Responsible party” means a person who owns or maintains an animal.
9. “Threatened animal” means an animal that is abused as provided in section 717B.2, neglected as provided in section 717B.3, or tortured as provided in section 717B.3A.

IOWA CODE ANN. § 717B.2 (2012). Animal abuse.

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures, or destroys an animal owned by another person, in any manner, including intentionally poisoning the animal. A person guilty of animal abuse is guilty of an aggravated misdemeanor. *This section shall not apply to any of the following:*

- 1. A person acting with the consent of the person owning the animal, unless the action constitutes animal neglect as provided in section 717B.3.*
- 2. A person acting to carry out an order issued by a court.*
- 3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.*
- 4. A person acting in order to carry out another provision of law which allows the conduct.*
- 5. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.*
- 6. A person acting to protect the person’s property from a wild animal as defined in section 481A.1.*
- 7. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.*
- 8. A person reasonably acting to protect the person’s property from damage caused by an unconfined animal.*
- 9. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.*
- 10. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.*

11. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN.§ 717B.3 (2012). Animal neglect.

1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

2. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal neglect which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

IOWA CODE ANN.§ 717B.3A (2012).Animal torture.

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.

2. This section shall not apply to any of the following:

a. A person acting to carry out an order issued by a court.

b. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

c. A person carrying out a practice that is consistent with animal husbandry practices.

d. A person acting in order to carry out another provision of law which allows the conduct.

e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3.

a. The following shall apply to a person who commits animal torture:

(1) For the first conviction, the person is guilty of an aggravated misdemeanor. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person. In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2, according to terms required by the court.

(2) For a second or subsequent conviction, the person is guilty of a class "D" felony. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

4. COUNSELING / EVALUATIONS

IOWA CODE ANN.§ 717B.3A (2012).Animal torture.

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.
2. This section shall not apply to any of the following:
 - a. A person acting to carry out an order issued by a court.
 - b. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
 - c. A person carrying out a practice that is consistent with animal husbandry practices.
 - d. A person acting in order to carry out another provision of law which allows the conduct.
 - e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
 - f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.
 - g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
 - h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.
 - i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
 - j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.
 - k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3.

a. The following shall apply to a person who commits animal torture:

(1) For the first conviction, the person is guilty of an aggravated misdemeanor. *The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person.* In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2, according to terms required by the court.

(2) For a second or subsequent conviction, the person is guilty of a class “D” felony. *The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.*

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

IOWA CODE ANN. § 717C.1 (2012). Bestiality.

1. For purposes of this section:

a. “Animal” means any nonhuman vertebrate, either dead or alive.

b. “Sex act” means any sexual contact between a person and an animal by penetration of the penis into the vagina or anus, contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other.

2. A person who performs a sex act with an animal is guilty of an aggravated misdemeanor.

3. *Upon a conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person’s expense.*

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

IOWA CODE ANN. § 717.3(2012).Livestock in immediate need of sustenance—court order.

1. This section applies only to livestock which are cattle, sheep, swine, or poultry.
2. For purposes of this section, “interested person” means all of the following:
 - a. An owner of the livestock.
 - b. A person caring for the livestock, if different from the owner of the livestock.
 - c. A person holding a perfected agricultural lien or security interest in the livestock under chapter 554.
3. The department may determine that some or all of the livestock kept by a person are in immediate need of sustenance. Upon making the determination the department may file a petition with a district court in a county where some or all of the livestock are kept requesting the court to issue an order to provide sustenance of the livestock. The petition may be made separately or with a petition filed pursuant to section 717.5. The petition must at least include all of the following:
 - a. A statement signed by a veterinarian licensed pursuant to chapter 169 stating that the livestock are in immediate need of sustenance.
 - b. The address of each location where the livestock are kept.
 - c. A brief description of the livestock.
 - d. The name and address of each interested person, if known.
 - e. The name and address of each qualified person appointed by the department to provide sustenance to the livestock.
4. Upon receiving the petition, the court may do any of the following:
 - a. Notify any interested person that the petition has been filed with the court. The notification must be made in writing and may be delivered by ordinary, certified, or restricted certified mail by United States postal service; delivered by a common carrier; or transmitted by electronic mail.
 - b. Hold a hearing to determine whether the livestock are in immediate need of sustenance.

5. *If the court determines that the livestock are in immediate need of sustenance, the court shall issue an order which at least declares all of the following:*

a. That the livestock are in immediate need of sustenance.

b. That the department shall assume supervision of and provide for the sustenance of the livestock as provided in section 717.4.

c. *That a lien is created attaching to the livestock and associated proceeds and products as provided in section 717.4.*

6. The department shall assume supervision of the livestock as provided in the court order. The department may directly provide for the sustenance of the livestock or appoint a qualified person to provide for such sustenance.

IOWA CODE ANN. § 717.4(2012).Livestock in immediate need of sustenance—lien.

1. This section applies to a lien created by a court order entered pursuant to section 717.3 or 717.5. The court ordered lien is an agricultural lien subject to chapter 554 except as otherwise provided in this section.

2. The court ordered lien shall be for the benefit of the department. The amount of the lien shall not be more than for expenses incurred in providing sustenance to the livestock pursuant to section 717.3 and providing for the disposition of the livestock pursuant to section 717.5.

3. The court ordered lien shall attach to the livestock, identifiable proceeds from the disposition of the livestock, and products from the livestock in the products' unmanufactured states.

4. The court ordered lien becomes effective on the date that the court order is entered. To perfect the lien, the department must file a financing statement in the office of the secretary of state as provided in sections 554.9308 and 554.9310 on or after but not later than twenty days after the effective date of the lien. For purposes of chapter 554, article 9, the department is a secured party; the owner of the livestock is a debtor; and the livestock and associated proceeds and products as provided in subsection 3 are the collateral.

5. The court ordered lien that is perfected under this section is superior to and shall have priority over a conflicting lien or security interest in the livestock and associated proceeds and products as provided in subsection 3, including a lien or security interest that was perfected prior to the perfection of the court ordered lien.

IOWA CODE ANN. § 717.4A(2012).Livestock in immediate need of sustenance—livestock remediation fund.

The department may utilize the moneys deposited into the livestock remediation fund pursuant to section 459.501 to pay for any expenses associated with providing sustenance to or the disposition of the livestock pursuant to a court order entered pursuant to section 717.3 or 717.5. The department shall utilize moneys from the fund only to the extent that the department determines that expenses cannot be timely paid by utilizing the available provisions of sections 717.4 and 717.5. The department shall deposit any unexpended and unobligated moneys in the fund. The department shall pay to the fund the proceeds from the disposition of the livestock and associated products less expenses incurred by the department in providing for the sustenance and disposition of the livestock, as provided in section 717.5.

IOWA CODE ANN. § 717B.4 (2012).Dispositional proceedings.

1. Upon a petition brought by a local authority, a court in the county where an animal is maintained by a responsible party or a local authority shall determine if the animal is a threatened animal and order its disposition after a hearing.
 - a. The matter shall be heard within ten days from the filing of the petition for disposition by the local authority.
 - b. If the animal has been rescued, the court may order that the animal be placed under the custody of the local authority and maintained in the same manner as a rescued animal under section 717B.5.
 - c. The court may continue the hearing for up to thirty days upon petition by the responsible party. However, the court shall not grant a continuance unless the animal is maintained by the local authority. *The responsible party must post a bond or other security with the local authority as a condition of the continuance. The amount of the bond or other security shall be determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for thirty days. The court may grant a subsequent continuance upon petition by the responsible party. The continuance shall be for not more than thirty days. The responsible party must post a new bond or security as a condition of the subsequent continuance in the same manner as the original bond or security or as otherwise ordered by the court.* However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.
2. The hearing to determine if the animal is a threatened animal for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of this chapter.

3. If the court determines that an animal is not a threatened animal, the court shall order that the animal be returned to the custody of the responsible party. If the court determines that an animal is a threatened animal, the court shall order the local authority to dispose of the threatened animal in any manner deemed appropriate for the welfare of the animal. In addition, all of the following apply:

a. The court may order the responsible party to pay an amount which shall not be more than the dispositional expenses incurred by the local authority. The court may also award the local authority court costs, reasonable attorney fees and expenses related to the investigation and prosecution of the case, which shall be taxed as part of the costs of the action.

b. If a bond or other security was posted as a condition for a continuance of a disposition hearing as provided in this section, the local authority may use the posted amount to offset the local authority's dispositional expenses.

c. If any moneys are realized from the disposition of a threatened animal, the moneys shall be used to offset the local authority's dispositional expenses before satisfying indebtedness secured by any security interest in or lien on the threatened animal.

d. If the threatened animal is owned by more than one responsible party, the amount required to offset the local authority's dispositional expenses shall be prorated among the responsible parties based on the percentage of interest owned in the threatened animal attributable to the responsible parties as the threatened animal's titleholders. For purposes of this paragraph, a responsible party who does not own an interest in the threatened animal shall be deemed to be an owner holding a percentage interest in the animal equal to the largest percentage interest held by a landowner who is attributed an interest as the threatened animal's titleholder. If the responsible party is a landowner, the local authority may submit the amount to reimburse the local authority for its dispositional expenses to the clerk of the county board of supervisors who shall report the amount to the county treasurer. If the threatened animal is owned by more than one landowner, the amount shall be prorated among the landowners based on the percentage of interest owned in the threatened animal attributable to each landowner as the animal's titleholders. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. A threatened animal that is ordered by a court to be destroyed under this section shall be destroyed only by euthanasia as defined in section 162.2.

7. SEIZURE / ON-SITE SUPERVISION

IOWA CODE ANN. § 717.2A(2012).Rescue of neglected livestock.

1.

a. A law enforcement officer may rescue livestock neglected as provided in section 717.2 on public or private property, as provided in this subsection.

b. The officer may enter onto property of a person to rescue neglected livestock if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

c. Livestock neglected as provided in section 717.2 may be rescued pursuant to the following conditions:

(1) If a criminal proceeding has not been commenced against the person owning or caring for the livestock, the following shall apply:

(a) The local authority shall receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(b) The local authority shall provide written notice to the person owning or caring for the livestock by delivery at the last known address of the person. The local authority shall deliver the notice by certified mail or make a good faith effort to personally deliver the notice to the person owning or caring for the livestock. The notice shall include all of the following:

(i) The name and address of the local authority.

(ii) A description of the livestock subject to rescue.

(iii) A statement informing the person that the livestock may be rescued pursuant to this chapter within one day following receipt of the notice by the person. The statement must specify a date, time, and a location for delivery of the response designated by the local authority, as provided in this subsection.

(iv) A statement informing the person that in order to avoid rescue of the livestock, the person must respond to the notice in writing signed by a veterinarian licensed pursuant to chapter 169. The

veterinarian must state that, in the opinion of the veterinarian, the livestock is not neglected, or the person is taking immediate measures required to rehabilitate the livestock.

(c) A law enforcement officer may rescue the livestock, if the local authority fails to receive a written response by the person owning or caring for the livestock by the end of normal office hours of the next day that the local authority is available to receive the response at the offices of the local authority. However, if the local authority is not available to receive a response at its offices, the local authority may designate another location in the county to receive the response.

(2) If a criminal proceeding has been commenced against the person owning or caring for the livestock, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(3) Regardless of whether a criminal proceeding has commenced, the local authority may immediately rescue livestock without providing notice as otherwise required in this section. However, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that in the veterinarian's opinion, the livestock is neglected. In order to rescue the livestock, the local authority must determine that the livestock has been abandoned or that no person is able or willing to care for the livestock, and the livestock is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

2. If livestock is rescued pursuant to this section, the local authority shall post a notice in a conspicuous place at the location where the livestock was rescued. The notice shall state that the livestock has been rescued by the local authority pursuant to this section. The local authority shall provide for the maintenance of the neglected livestock. The local authority may contract with a livestock care provider for the maintenance of the neglected livestock. The local authority shall pay the livestock care provider for the livestock's maintenance regardless of proceeds received from the sale of the livestock or any reimbursement ordered by a court, pursuant to section 717.5.

3. The livestock shall be subject to disposition pursuant to section 717.5.

IOWA CODE ANN. § 717.3(2012).Livestock in immediate need of sustenance—court order.

1. *This section applies only to livestock which are cattle, sheep, swine, or poultry.*
2. *For purposes of this section, “interested person” means all of the following:*
 - a. *An owner of the livestock.*
 - b. *A person caring for the livestock, if different from the owner of the livestock.*
 - c. *A person holding a perfected agricultural lien or security interest in the livestock under chapter 554.*
3. *The department may determine that some or all of the livestock kept by a person are in immediate need of sustenance. Upon making the determination the department may file a petition with a district court in a county where some or all of the livestock are kept requesting the court to issue an order to provide sustenance of the livestock. The petition may be made separately or with a petition filed pursuant to section 717.5. The petition must at least include all of the following:*
 - a. *A statement signed by a veterinarian licensed pursuant to chapter 169 stating that the livestock are in immediate need of sustenance.*
 - b. *The address of each location where the livestock are kept.*
 - c. *A brief description of the livestock.*
 - d. *The name and address of each interested person, if known.*
 - e. *The name and address of each qualified person appointed by the department to provide sustenance to the livestock.*
4. *Upon receiving the petition, the court may do any of the following:*
 - a. *Notify any interested person that the petition has been filed with the court. The notification must be made in writing and may be delivered by ordinary, certified, or restricted certified mail by United States postal service; delivered by a common carrier; or transmitted by electronic mail.*
 - b. *Hold a hearing to determine whether the livestock are in immediate need of sustenance.*
5. *If the court determines that the livestock are in immediate need of sustenance, the court shall issue an order which at least declares all of the following:*

a. That the livestock are in immediate need of sustenance.

b. That the department shall assume supervision of and provide for the sustenance of the livestock as provided in section 717.4.

c. That a lien is created attaching to the livestock and associated proceeds and products as provided in section 717.4.

6. The department shall assume supervision of the livestock as provided in the court order. The department may directly provide for the sustenance of the livestock or appoint a qualified person to provide for such sustenance.

IOWA CODE ANN. § 717B.5 (2012). Rescue of threatened animals.

A local authority may provide for the rescue of an animal as follows:

1. The rescue must be made by a law enforcement officer having cause to believe that the animal is a threatened animal after consulting with a veterinarian licensed pursuant to chapter 169. The law enforcement officer may rescue the animal by entering on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue the animal if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the animal. The local authority may contract with an animal care provider for the maintenance of the animal. The local authority shall provide the responsible party for the animal with notice of the rescue. The notice may be accomplished by doing any of the following:

a. Delivering written notice to the responsible party's last known address by the United States postal service or personal service.

b. Posting a notice in a conspicuous place at the location where the animal was rescued.

The notice shall state that the animal has been rescued by the local authority pursuant to this section.

3. Within ten days after the date that an animal is rescued, the local authority shall initiate a dispositional proceeding pursuant to section 717B.4.

4. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the disposition of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

8. FORFEITURE / POSSESSION

IOWA CODE ANN.§ 717B.4 (2012).Dispositional proceedings.

1. *Upon a petition brought by a local authority, a court in the county where an animal is maintained by a responsible party or a local authority shall determine if the animal is a threatened animal and order its disposition after a hearing.*

a. *The matter shall be heard within ten days from the filing of the petition for disposition by the local authority.*

b. *If the animal has been rescued, the court may order that the animal be placed under the custody of the local authority and maintained in the same manner as a rescued animal under section 717B.5.*

c. *The court may continue the hearing for up to thirty days upon petition by the responsible party. However, the court shall not grant a continuance unless the animal is maintained by the local authority. The responsible party must post a bond or other security with the local authority as a condition of the continuance. The amount of the bond or other security shall be determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for thirty days. The court may grant a subsequent continuance upon petition by the responsible party. The continuance shall be for not more than thirty days. The responsible party must post a new bond or security as a condition of the subsequent continuance in the same manner as the original bond or security or as otherwise ordered by the court. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.*

2. *The hearing to determine if the animal is a threatened animal for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of this chapter.*

3. *If the court determines that an animal is not a threatened animal, the court shall order that the animal be returned to the custody of the responsible party. If the court determines that an animal is a threatened animal, the court shall order the local authority to dispose of the threatened animal in any manner deemed appropriate for the welfare of the animal. In addition, all of the following apply:*

a. *The court may order the responsible party to pay an amount which shall not be more than the dispositional expenses incurred by the local authority. The court may also award the local authority court costs, reasonable attorney fees and expenses related to the investigation and prosecution of the case, which shall be taxed as part of the costs of the action.*

b. If a bond or other security was posted as a condition for a continuance of a disposition hearing as provided in this section, the local authority may use the posted amount to offset the local authority's dispositional expenses.

c. If any moneys are realized from the disposition of a threatened animal, the moneys shall be used to offset the local authority's dispositional expenses before satisfying indebtedness secured by any security interest in or lien on the threatened animal.

d. If the threatened animal is owned by more than one responsible party, the amount required to offset the local authority's dispositional expenses shall be prorated among the responsible parties based on the percentage of interest owned in the threatened animal attributable to the responsible parties as the threatened animal's titleholders. For purposes of this paragraph, a responsible party who does not own an interest in the threatened animal shall be deemed to be an owner holding a percentage interest in the animal equal to the largest percentage interest held by a landowner who is attributed an interest as the threatened animal's titleholder. If the responsible party is a landowner, the local authority may submit the amount to reimburse the local authority for its dispositional expenses to the clerk of the county board of supervisors who shall report the amount to the county treasurer. If the threatened animal is owned by more than one landowner, the amount shall be prorated among the landowners based on the percentage of interest owned in the threatened animal attributable to each landowner as the animal's titleholders. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. A threatened animal that is ordered by a court to be destroyed under this section shall be destroyed only by euthanasia as defined in section 162.2.

IOWA CODE ANN. § 717B.5 (2012). Rescue of threatened animals.

A local authority may provide for the rescue of an animal as follows:

1. The rescue must be made by a law enforcement officer having cause to believe that the animal is a threatened animal after consulting with a veterinarian licensed pursuant to chapter 169. The law enforcement officer may rescue the animal by entering on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue the animal if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the animal. The local authority may contract with an animal care provider for the maintenance of the animal. The local authority shall provide the responsible party for the animal with notice of the rescue. The notice may be accomplished by doing any of the following:

a. Delivering written notice to the responsible party's last known address by the United States postal service or personal service.

b. Posting a notice in a conspicuous place at the location where the animal was rescued.

The notice shall state that the animal has been rescued by the local authority pursuant to this section.

3. Within ten days after the date that an animal is rescued, the local authority shall initiate a dispositional proceeding pursuant to section 717B.4.

4. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the disposition of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

IOWA CODE ANN. § 717C.1 (2012). Bestiality.

1. *For purposes of this section:*

a. *“Animal” means any nonhuman vertebrate, either dead or alive.*

b. *“Sex act” means any sexual contact between a person and an animal by penetration of the penis into the vagina or anus, contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other.*

2. *A person who performs a sex act with an animal is guilty of an aggravated misdemeanor.*

3. *Upon a conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person’s expense.*

13. FIGHTING

IOWA CODE ANN.§ 717D.1 (2012).Definitions.

As used in this chapter:

1. *“Animal” means a nonhuman vertebrate.*
2. *“Contest device” means equipment designed to enhance an animal’s entertainment value during training or a contest event, including a device to improve the contest animal’s competitiveness. A contest device includes but is not limited to an implement designed to be attached in place of a natural spur of a cock or other fighting bird in order to enhance the bird’s fighting ability, and which is commonly referred to as a spur or gaff.*
3. *“Contest event” means a function organized for the entertainment or profit of spectators where an animal is injured, tormented, or killed, including but not limited to a bull involved in a bullfight or bull baiting, a bear involved in bear baiting, a chicken involved in cock fighting, or a dog involved in dog fighting.*
4. *“Establishment” means the location where a contest event occurs or is to occur, regardless of whether an animal is present at the establishment or the contest animal is witnessed by means of an electronic signal transmitted to the location.*
5. *“Livestock” means the same as defined in section 717.1.*
6. *“Local authority” means the same as defined in section 717B.1.*
7. *“Promoter” means a person who charges admission for entry into an establishment or organizes, holds, advertises, or otherwise conducts a contest event.*
8. *“Spectator” means a person who attends an establishment knowingly to watch or observe a contest event.*
9. *“Trainer” means a person who trains an animal for purposes of engaging in a contest event, regardless of where the contest event is located. A trainer includes a person who uses a contest device.*
10. *“Transporter” means a person who moves an animal for delivery to a training location or a contest event location.*

IOWA CODE ANN. § 717D.2 (2012). Prohibitions—contest events.

A person shall not do any of the following:

- 1. Own or operate an establishment located in this state in which a contest event occurs or is to occur.*
- 2. Act as a promoter of a contest event, regardless of whether the contest event occurs in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the promotion of a contest event shall be deemed to act as a promoter.*
- 3. Possess or own an animal engaged or to be engaged in a contest event conducted in this state or another state.*
- 4. Be a party to a commercial transaction for the transfer of an animal engaged or to be engaged in a contest event conducted in this state or another state, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.*
- 5. Act as a trainer of an animal engaged or to be engaged in a contest event conducted in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the training of an animal engaged or to be engaged in a contest event shall be deemed to act as a trainer.*
- 6. Possess, own, or manufacture a contest device.*
- 7. Be a party to a commercial transaction for the transfer of a contest device, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.*
- 8. Act as a transporter moving an animal engaged or to be engaged in a contest event in this state.*
- 9. Gambling at a contest event conducted in this state, including but not limited to wagering on the outcome of a contest involving animals.*
- 10. Act as a spectator of a contest event conducted in this state, regardless of whether the person paid admission to witness the contest event.*

IOWA CODE ANN. § 717D.3 (2012). Exceptions.

1. This chapter does not apply to a function other than a contest event. A contest event does not involve any of the following events:

- a. A race, including but not limited to a race regulated under chapter 99D.*
- b. A fair event as defined in section 174.1.*
- c. A rodeo or rodeo event.*
- d. A 4-H function.*
- e. A hunting or fishing party.*
- f. A field meet or trial in which the skill of dogs is demonstrated in pointing, retrieving, trailing, or chasing any game bird, game animal, or fur-bearing animal.*
- g. The raising or selling of game or fur-bearing animals as provided in chapter 481A.*

2. This chapter shall not apply to any of the following:

- a. An action to carry out an order issued by a court.*
- b. An action by a licensed veterinarian practicing veterinary medicine as provided in chapter 169.*
- c. An action that is consistent with animal husbandry practices.*
- d. An action allowed in order to carry out another provision of law which allows the action.*
- e. The taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.*
- f. An action to protect the person's property from a wild animal as defined in section 481A.1.*
- g. An action to protect a person from injury or death caused by a wild animal as defined in section 481A.1.*
- h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.*

i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal if, at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN.§ 717D.4 (2012).Penalties.

1. Except as provided in section 717D.2 subsection 10, a person who violates a provision of this chapter commits a class “D” felony.

2. A person who violates section 717D.2, subsection 10, by acting as a spectator of a contest event conducted in this state commits the following:

A. An aggravated misdemeanor for the first offense.

B. A class “D” felony for a second or subsequent offense.

IOWA CODE ANN.§ 717D.5 (2012).Confiscation and disposition of animals.

1. A local authority may confiscate an animal that is involved in a violation of section 717D.2. An animal that is livestock shall be considered neglected and may be rescued and disposed of as provided in section 717.5. An animal which is not livestock shall be considered threatened and rescued and disposed of as provided in section 717B.4.

2. If an animal that is involved in a violation of section 717D.2 is not rescued and disposed of pursuant to section 717.5 or 717B.4, it shall be forfeited to the state and subject to disposition as ordered by the court. In addition, the court shall order the owner of the animal to pay an amount which shall not be more than the expenses incurred in maintaining or disposing of the animal. The court may also order that the person pay reasonable attorney fees and expenses related to the investigation of the case that shall be taxed as other court costs. If more than one person has a divisible interest in the animal, the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds which are received from the sale of the animal ordered by the court.

14. REFERENCED STATUTES

IOWA CODE ANN. § 717.1 (2012). Definitions.

As used in this chapter, unless the context otherwise requires:

01. “Department” means the department of agriculture and land stewardship.

001. “Electronic mail” means any message transmitted through the internet including but not limited to messages transmitted from or to any address affiliated with an internet site.

1. “Law enforcement officer” means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.

2. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer as defined in section 170.1; or poultry.

3. “Livestock care provider” means a person designated by a local authority to provide care to livestock which is rescued by the local authority pursuant to section 717.2A.

4. “Local authority” means a city as defined in section 362.2 or a county as provided in chapter 331.

5. “Maintenance” means to provide on-site or off-site care to neglected livestock.

6. “Sustenance” means food, water, or a nutritional formulation customarily used in the production of livestock.

IOWA CODE ANN. § 717.1A(2012).Livestock abuse.

A person is guilty of livestock abuse if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs or poisons to the livestock, or disabling the livestock by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.

2. A person acting to carry out an order issued by a court.

3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

4. A person acting in order to carry out another provision of law which allows the conduct.
5. A person reasonably acting to protect the person's property from damage caused by stray livestock.
6. A person reasonably acting to protect a person from injury or death caused by stray livestock.
7. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN. § 717.2(2012).Livestock neglect.

1. A person who impounds or confines livestock, in any place, and does any of the following commits the offense of livestock neglect:

- a. Fails to provide livestock with care consistent with customary animal husbandry practices.
- b. Deprives livestock of necessary sustenance.
- c. Injures or destroys livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

2. A person who commits the offense of livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of livestock neglect which results in serious injury to or the death of livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.

3. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN. § 717.2A(2012).Rescue of neglected livestock.

1.

a. A law enforcement officer may rescue livestock neglected as provided in section 717.2 on public or private property, as provided in this subsection.

b. The officer may enter onto property of a person to rescue neglected livestock if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

c. Livestock neglected as provided in section 717.2 may be rescued pursuant to the following conditions:

(1) If a criminal proceeding has not been commenced against the person owning or caring for the livestock, the following shall apply:

(a) The local authority shall receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(b) The local authority shall provide written notice to the person owning or caring for the livestock by delivery at the last known address of the person. The local authority shall deliver the notice by certified mail or make a good faith effort to personally deliver the notice to the person owning or caring for the livestock. The notice shall include all of the following:

(i) The name and address of the local authority.

(ii) A description of the livestock subject to rescue.

(iii) A statement informing the person that the livestock may be rescued pursuant to this chapter within one day following receipt of the notice by the person. The statement must specify a date, time, and a location for delivery of the response designated by the local authority, as provided in this subsection.

(iv) A statement informing the person that in order to avoid rescue of the livestock, the person must respond to the notice in writing signed by a veterinarian licensed pursuant to chapter 169. The veterinarian must state that, in the opinion of the veterinarian, the livestock is not neglected, or the person is taking immediate measures required to rehabilitate the livestock.

(c) A law enforcement officer may rescue the livestock, if the local authority fails to receive a written response by the person owning or caring for the livestock by the end of normal office hours of the next day that the local authority is available to receive the response at the offices of the local authority. However, if the local authority is not available to receive a response at its offices, the local authority may designate another location in the county to receive the response.

(2) If a criminal proceeding has been commenced against the person owning or caring for the livestock, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(3) Regardless of whether a criminal proceeding has commenced, the local authority may immediately rescue livestock without providing notice as otherwise required in this section. However, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that in the veterinarian's opinion, the livestock is neglected. In order to rescue the livestock, the local authority must determine that the livestock has been abandoned or that no person is able or willing to care for the livestock, and the livestock is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

2. If livestock is rescued pursuant to this section, the local authority shall post a notice in a conspicuous place at the location where the livestock was rescued. The notice shall state that the livestock has been rescued by the local authority pursuant to this section. The local authority shall provide for the maintenance of the neglected livestock. The local authority may contract with a livestock care provider for the maintenance of the neglected livestock. The local authority shall pay the livestock care provider for the livestock's maintenance regardless of proceeds received from the sale of the livestock or any reimbursement ordered by a court, pursuant to section 717.5.

3. The livestock shall be subject to disposition pursuant to section 717.5.

IOWA CODE ANN. § 717.3(2012).Livestock in immediate need of sustenance—court order.

1. This section applies only to livestock which are cattle, sheep, swine, or poultry.
2. For purposes of this section, “interested person” means all of the following:
 - a. An owner of the livestock.
 - b. A person caring for the livestock, if different from the owner of the livestock.
 - c. A person holding a perfected agricultural lien or security interest in the livestock under chapter 554.
3. The department may determine that some or all of the livestock kept by a person are in immediate need of sustenance. Upon making the determination the department may file a petition with a district court in a county where some or all of the livestock are kept requesting the court to issue an order to provide sustenance of the livestock. The petition may be made separately or with a petition filed pursuant to section 717.5. The petition must at least include all of the following:
 - a. A statement signed by a veterinarian licensed pursuant to chapter 169 stating that the livestock are in immediate need of sustenance.
 - b. The address of each location where the livestock are kept.
 - c. A brief description of the livestock.
 - d. The name and address of each interested person, if known.
 - e. The name and address of each qualified person appointed by the department to provide sustenance to the livestock.
4. Upon receiving the petition, the court may do any of the following:
 - a. Notify any interested person that the petition has been filed with the court. The notification must be made in writing and may be delivered by ordinary, certified, or restricted certified mail by United States postal service; delivered by a common carrier; or transmitted by electronic mail.
 - b. Hold a hearing to determine whether the livestock are in immediate need of sustenance.

5. If the court determines that the livestock are in immediate need of sustenance, the court shall issue an order which at least declares all of the following:

a. That the livestock are in immediate need of sustenance.

b. That the department shall assume supervision of and provide for the sustenance of the livestock as provided in section 717.4.

c. That a lien is created attaching to the livestock and associated proceeds and products as provided in section 717.4.

6. The department shall assume supervision of the livestock as provided in the court order. The department may directly provide for the sustenance of the livestock or appoint a qualified person to provide for such sustenance.

IOWA CODE ANN. § 717.4(2012).Livestock in immediate need of sustenance—lien.

1. This section applies to a lien created by a court order entered pursuant to section 717.3 or 717.5. The court ordered lien is an agricultural lien subject to chapter 554 except as otherwise provided in this section.

2. The court ordered lien shall be for the benefit of the department. The amount of the lien shall not be more than for expenses incurred in providing sustenance to the livestock pursuant to section 717.3 and providing for the disposition of the livestock pursuant to section 717.5.

3. The court ordered lien shall attach to the livestock, identifiable proceeds from the disposition of the livestock, and products from the livestock in the products' unmanufactured states.

4. The court ordered lien becomes effective on the date that the court order is entered. To perfect the lien, the department must file a financing statement in the office of the secretary of state as provided in sections 554.9308 and 554.9310 on or after but not later than twenty days after the effective date of the lien. For purposes of chapter 554, article 9, the department is a secured party; the owner of the livestock is a debtor; and the livestock and associated proceeds and products as provided in subsection 3 are the collateral.

5. The court ordered lien that is perfected under this section is superior to and shall have priority over a conflicting lien or security interest in the livestock and associated proceeds and products as provided in subsection 3, including a lien or security interest that was perfected prior to the perfection of the court ordered lien.

IOWA CODE ANN. § 717.4A(2012).Livestock in immediate need of sustenance—livestock remediation fund.

The department may utilize the moneys deposited into the livestock remediation fund pursuant to section 459.501 to pay for any expenses associated with providing sustenance to or the disposition of the livestock pursuant to a court order entered pursuant to section 717.3 or 717.5. The department shall utilize moneys from the fund only to the extent that the department determines that expenses cannot be timely paid by utilizing the available provisions of sections 717.4 and 717.5. The department shall deposit any unexpended and unobligated moneys in the fund. The department shall pay to the fund the proceeds from the disposition of the livestock and associated products less expenses incurred by the department in providing for the sustenance and disposition of the livestock, as provided in section 717.5.

IOWA CODE ANN. § 717B.1 (2012).Definitions

As used in this chapter:

1. “Animal” means a nonhuman vertebrate. However, “animal” does not include any of the following:
 - a. Livestock, as defined in section 717.1.
 - b. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian.
 - c. Any nongame species declared to be a nuisance pursuant to section 481A.42.
2. “Animal care provider” means a person designated by a local authority to provide care to an animal which is rescued by the local authority pursuant to section 717B.5.
3. Unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.
- 3A. “Department” means the department of agriculture and land stewardship.
4. “Dispositional expenses” means expenses incurred by a local authority in rescuing an animal as provided in section 717B.5, maintaining the animal until the conclusion of a dispositional proceeding as provided in section 717B.4, or disposing of the animal as provided in section 717B.4.

5. “Law enforcement officer” means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and dedication of crime and the enforcement of the criminal laws of this state.
6. “Local authority” means a city as defined in section 362.2 or a county as provided in chapter 331.
7. “Maintenance” means to provide on-site or off-site care to neglected animals.
8. “Responsible party” means a person who owns or maintains an animal.
9. “Threatened animal” means an animal that is abused as provided in section 717B.2, neglected as provided in section 717B.3, or tortured as provided in section 717B.3A.

IOWA CODE ANN.§ 717B.2 (2012). Animal abuse.

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures, or destroys an animal owned by another person, in any manner, including intentionally poisoning the animal. A person guilty of animal abuse is guilty of an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the animal, unless the action constitutes animal neglect as provided in section 717B.3.
2. A person acting to carry out an order issued by a court.
3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
4. A person acting in order to carry out another provision of law which allows the conduct.
5. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
6. A person acting to protect the person’s property from a wild animal as defined in section 481A.1.
7. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
8. A person reasonably acting to protect the person’s property from damage caused by an unconfined animal.
9. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

10. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

11. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN.§ 717B.3 (2012). Animal neglect.

1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

2. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal neglect which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

IOWA CODE ANN.§ 717B.3A (2012).Animal torture.

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.

2. This section shall not apply to any of the following:

a. A person acting to carry out an order issued by a court.

b. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

c. A person carrying out a practice that is consistent with animal husbandry practices.

d. A person acting in order to carry out another provision of law which allows the conduct.

e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3.

a. The following shall apply to a person who commits animal torture:

(1) For the first conviction, the person is guilty of an aggravated misdemeanor. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person. In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2, according to terms required by the court.

(2) For a second or subsequent conviction, the person is guilty of a class "D" felony. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

IOWA CODE ANN. § 717B.4 (2012). Dispositional proceedings.

1. Upon a petition brought by a local authority, a court in the county where an animal is maintained by a responsible party or a local authority shall determine if the animal is a threatened animal and order its disposition after a hearing.

a. The matter shall be heard within ten days from the filing of the petition for disposition by the local authority.

b. If the animal has been rescued, the court may order that the animal be placed under the custody of the local authority and maintained in the same manner as a rescued animal under section 717B.5.

c. The court may continue the hearing for up to thirty days upon petition by the responsible party. However, the court shall not grant a continuance unless the animal is maintained by the local authority. The responsible party must post a bond or other security with the local authority as a condition of the continuance. The amount of the bond or other security shall be determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for thirty days. The court may grant a subsequent continuance upon petition by the responsible party. The continuance shall be for not more than thirty days. The responsible party must post a new bond or security as a condition of the subsequent continuance in the same manner as the original bond or security or as otherwise ordered by the court. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if the animal is a threatened animal for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of this chapter.

3. If the court determines that an animal is not a threatened animal, the court shall order that the animal be returned to the custody of the responsible party. If the court determines that an animal is a threatened animal, the court shall order the local authority to dispose of the threatened animal in any manner deemed appropriate for the welfare of the animal. In addition, all of the following apply:

a. The court may order the responsible party to pay an amount which shall not be more than the dispositional expenses incurred by the local authority. The court may also award the local authority court costs, reasonable attorney fees and expenses related to the investigation and prosecution of the case, which shall be taxed as part of the costs of the action.

b. If a bond or other security was posted as a condition for a continuance of a disposition hearing as provided in this section, the local authority may use the posted amount to offset the local authority's dispositional expenses.

c. If any moneys are realized from the disposition of a threatened animal, the moneys shall be used to offset the local authority's dispositional expenses before satisfying indebtedness secured by any security interest in or lien on the threatened animal.

d. If the threatened animal is owned by more than one responsible party, the amount required to offset the local authority's dispositional expenses shall be prorated among the responsible parties based on the percentage of interest owned in the threatened animal attributable to the responsible parties as the threatened animal's titleholders. For purposes of this paragraph, a responsible party who does not own an interest in the threatened animal shall be deemed to be an owner holding a percentage interest in the animal equal to the largest percentage interest held by a landowner who is attributed an interest as the threatened animal's titleholder. If the responsible party is a landowner, the local authority may submit the amount to reimburse the local authority for its dispositional expenses to the clerk of the county board of supervisors who shall report the amount to the county treasurer. If the threatened animal is owned by more than one landowner, the amount shall be prorated among the landowners based on the percentage of interest owned in the threatened animal attributable to each landowner as the animal's titleholders. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. A threatened animal that is ordered by a court to be destroyed under this section shall be destroyed only by euthanasia as defined in section 162.2.

IOWA CODE ANN. § 717B.5 (2012). Rescue of threatened animals.

A local authority may provide for the rescue of an animal as follows:

1. The rescue must be made by a law enforcement officer having cause to believe that the animal is a threatened animal after consulting with a veterinarian licensed pursuant to chapter 169. The law enforcement officer may rescue the animal by entering on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue the animal if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the animal. The local authority may contract with an animal care provider for the maintenance of the animal. The local authority shall provide the responsible party for the animal with notice of the rescue. The notice may be accomplished by doing any of the following:

a. Delivering written notice to the responsible party's last known address by the United States postal service or personal service.

b. Posting a notice in a conspicuous place at the location where the animal was rescued.

The notice shall state that the animal has been rescued by the local authority pursuant to this section.

3. Within ten days after the date that an animal is rescued, the local authority shall initiate a dispositional proceeding pursuant to section 717B.4.

4. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the disposition of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

IOWA CODE ANN. § 717B.8 (2012). Abandonment of cats and dogs—penalties.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

IOWA CODE ANN. § 717C.1 (2012). Bestiality.

1. For purposes of this section:

a. "Animal" means any nonhuman vertebrate, either dead or alive.

b. "Sex act" means any sexual contact between a person and an animal by penetration of the penis into the vagina or anus, contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other.

2. A person who performs a sex act with an animal is guilty of an aggravated misdemeanor.

3. Upon a conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person's expense.

IOWA CODE ANN.§ 717D.1(2012).Definitions.

As used in this chapter:

1. “Animal” means a nonhuman vertebrate.
2. “Contest device” means equipment designed to enhance an animal’s entertainment value during training or a contest event, including a device to improve the contest animal’s competitiveness. A contest device includes but is not limited to an implement designed to be attached in place of a natural spur of a cock or other fighting bird in order to enhance the bird’s fighting ability, and which is commonly referred to as a spur or gaff.
3. “Contest event” means a function organized for the entertainment or profit of spectators where an animal is injured, tormented, or killed, including but not limited to a bull involved in a bullfight or bull baiting, a bear involved in bear baiting, a chicken involved in cock fighting, or a dog involved in dog fighting.
4. “Establishment” means the location where a contest event occurs or is to occur, regardless of whether an animal is present at the establishment or the contest animal is witnessed by means of an electronic signal transmitted to the location.
5. “Livestock” means the same as defined in section 717.1.
6. “Local authority” means the same as defined in section 717B.1.
7. “Promoter” means a person who charges admission for entry into an establishment or organizes, holds, advertises, or otherwise conducts a contest event.
8. “Spectator” means a person who attends an establishment knowingly to watch or observe a contest event.
9. “Trainer” means a person who trains an animal for purposes of engaging in a contest event, regardless of where the contest event is located. A trainer includes a person who uses a contest device.
10. “Transporter” means a person who moves an animal for delivery to a training location or a contest event location.

IOWA CODE ANN. § 717D.2 (2012). Prohibitions--contest events.

A person shall not do any of the following:

1. Own or operate an establishment located in this state in which a contest event occurs or is to occur.
2. Act as a promoter of a contest event, regardless of whether the contest event occurs in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the promotion of a contest event shall be deemed to act as a promoter.
3. Possess or own an animal engaged or to be engaged in a contest event conducted in this state or another state.
4. Be a party to a commercial transaction for the transfer of an animal engaged or to be engaged in a contest event conducted in this state or another state, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.
5. Act as a trainer of an animal engaged or to be engaged in a contest event conducted in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the training of an animal engaged or to be engaged in a contest event shall be deemed to act as a trainer.
6. Possess, own, or manufacture a contest device.
7. Be a party to a commercial transaction for the transfer of a contest device, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.
8. Act as a transporter moving an animal engaged or to be engaged in a contest event in this state.
9. Gambling at a contest event conducted in this state, including but not limited to wagering on the outcome of a contest involving animals.
10. Act as a spectator of a contest event conducted in this state, regardless of whether the person paid admission to witness the contest event.

IOWA CODE ANN. § 717D.3 (2012). Exceptions.

1. This chapter does not apply to a function other than a contest event. A contest event does not involve any of the following events:

- a. A race, including but not limited to a race regulated under chapter 99D.
- b. A fair event as defined in section 174.1.
- c. A rodeo or rodeo event.
- d. A 4-H function.
- e. A hunting or fishing party.
- f. A field meet or trial in which the skill of dogs is demonstrated in pointing, retrieving, trailing, or chasing any game bird, game animal, or fur-bearing animal.
- g. The raising or selling of game or fur-bearing animals as provided in chapter 481A.

2. This chapter shall not apply to any of the following:

- a. An action to carry out an order issued by a court.
- b. An action by a licensed veterinarian practicing veterinary medicine as provided in chapter 169.
- c. An action that is consistent with animal husbandry practices.
- d. An action allowed in order to carry out another provision of law which allows the action.
- e. The taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
- f. An action to protect the person's property from a wild animal as defined in section 481A.1.
- g. An action to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
- h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.
- i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal if, at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

IOWA CODE ANN. § 717D.4 (2012). Penalties.

1. Except as provided in section 717D.2 subsection 10, a person who violates a provision of this chapter commits a class “D” felony.

2. A person who violates section 717D.2, subsection 10, by acting as a spectator of a contest event conducted in this state commits the following:

A. An aggravated misdemeanor for the first offense.

B. A class “D” felony for a second or subsequent offense.

IOWA CODE ANN. § 717D.5 (2012). Confiscation and disposition of animals.

1. A local authority may confiscate an animal that is involved in a violation of section 717D.2. An animal that is livestock shall be considered neglected and may be rescued and disposed of as provided in section 717.5. An animal which is not livestock shall be considered threatened and rescued and disposed of as provided in section 717B.4.

2. If an animal that is involved in a violation of section 717D.2 is not rescued and disposed of pursuant to section 717.5 or 717B.4, it shall be forfeited to the state and subject to disposition as ordered by the court. In addition, the court shall order the owner of the animal to pay an amount which shall not be more than the expenses incurred in maintaining or disposing of the animal. The court may also order that the person pay reasonable attorney fees and expenses related to the investigation of the case that shall be taxed as other court costs. If more than one person has a divisible interest in the animal, the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds which are received from the sale of the animal ordered by the court.

IOWA CODE ANN.§ 902.9 (2012).Maximum sentence for felons.

The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class “A” felony shall be determined as follows:

1. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.
2. A class “B” felon shall be confined for no more than twenty-five years.
3. An habitual offender shall be confined for no more than fifteen years.
4. A class “C” felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand dollars but not more than ten thousand dollars.
5. A class “D” felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

The surcharges required by sections 911.1, 911.2, and 911.3 shall be added to a fine imposed on a class “C” or class “D” felon, as provided by those sections, and are not a part of or subject to the maximums set in this section.

IOWA CODE ANN.§ 903.1 (2012).Maximum sentence for misdemeanants.

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, which fine shall not be suspended by the court, within the following limits:

- a. For a simple misdemeanor, there shall be a fine of at least sixty-five dollars but not to exceed six hundred twenty-five dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.
- b. For a serious misdemeanor, there shall be a fine of at least three hundred fifteen dollars but not to exceed one thousand eight hundred seventy-five dollars. In addition, the court may also order imprisonment not to exceed one year.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years. There shall be a fine of at least six hundred twenty-five dollars but not to exceed six thousand two hundred fifty dollars. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

4. The surcharges required by sections 911.1, 911.2, 911.3, and 911.4 shall be added to a fine imposed on a misdemeanant as provided in those sections, and are not a part of or subject to the maximums set in this section.

ANIMAL PROTECTION LAWS OF KANSAS

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Kansas's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Kansas may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

KANSAS

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Cruelty to animals KAN. STAT. ANN. §21-6412(a)(2)-(5)</p> <p>(2) Aggravated cruelty to animals KAN. STAT. ANN. §21-6412(a)(1),(6)</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[E]very living vertebrate except a human being” KAN. STAT. ANN. §21-6411(1)</p>
<p><i>Classification of Crimes</i></p>	<p>(1) [1st offense]: Class A nonperson misdemeanor</p> <p>[Subsequent offenses]: Non-person felony</p> <p>(2) Non-person felony</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1) [1st offense]: 1 year county jail KAN. STAT. ANN. §21-6602(a)(1) <i>and/or</i> \$2,500 fine KAN. STAT. ANN. §21-6611(b)(1)</p> <p>[Subsequent offenses]: 1 year imprisonment <i>and</i> \$2,500 fine KAN. STAT. ANN. § 21-6412(b)(2)(B)</p>

KANSAS <i>continued</i>	
2. MAXIMUM PENALTIES ^{**} <i>continued</i>	(2) 1 year imprisonment (Note: mandatory 30 day minimum) <i>and</i> \$5,000 fine KAN. STAT. ANN.§ 21-6412(b)(1)
3. EXEMPTIONS ^{***}	1, 2, 3, 4, 5, 6, 7, 9 KAN. STAT. ANN.§21-6412(c) 9 KAN. STAT. ANN.§47-646
4. COUNSELING / EVALUATIONS [†]	Offenders convicted of “intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal” or “poison[ing] any domestic animal” shall have psychological evaluations while imprisoned, and may be ordered to complete an anger management program. KAN. STAT. ANN. § 21-6412(b)(1)
5. PROTECTIVE ORDERS [†]	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS [†]	Owner may be required to post bond equal to cost of 30 days of care. KAN. STAT. ANN.§21-6412(e) Expenses shall be assessed to owner if convicted. KAN. STAT. ANN.§21-6412(g)
7. SEIZURE / ON-SITE SUPERVISION	Any public health officer, law enforcement, licensed veterinarian, humane officer, or animal shelter agent may take custody of cruelly treated animals.

	KAN. STAT. ANN.§21-6412(e)
KANSAS <i>continued</i>	
8. FORFEITURE / POSSESSION[†]	<p>Court may order forfeiture 20 days after seizure if bond not filed, or if owner cannot be reasonably ascertained. KAN. STAT. ANN.§21-6412(e)</p> <p>Court may order forfeiture upon conviction if future cruelty is likely. KAN. STAT. ANN.§21-6412(h)</p> <p>Any person convicted of aggravated cruelty to animals is prohibited from owning or keeping an animal for five years. KAN. STAT. ANN.§21-6415</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>[NOTE: Under administrative regulation K.A.R. § 70-8-1, veterinarians are required to report cruel or inhumane treatment of animals if the veterinarian has direct knowledge of such treatment.]</p> <p>The requirement of client confidentiality is waived for reporting cruel or inhumane treatment of an animal. KAN. STAT. ANN. § 47-839</p>
11. LAW ENFORCEMENT POLICIES	<p>Any public health officer, law enforcement, licensed veterinarian, humane officer, or animal shelter agent may take custody of cruelly treated animals. KAN. STAT. ANN.§21-6412(e)</p>

KANSAS*continued*

<p>12. SEXUAL ASSAULT</p>	<p>Criminal sodomy includes sodomy between a person and an animal, and is a Class B nonperson misdemeanor. KAN. STAT. ANN.§21-5504(a)(2)</p> <p>Aggravated criminal sodomy includes causing sodomy between a child under 14 and an animal, and is a level 1, person felony. KAN. STAT. ANN.§ 21-5504(b)(2)</p>
<p>13. FIGHTING</p>	<p>Dogfighting is a level 10 nonperson felony; unlawful possession of dogfighting paraphernalia is a Class A nonperson misdemeanor; attending a dogfight is a Class B nonperson misdemeanor. KAN. STAT. ANN.§ 21-6414</p> <p>Dogs involved in fighting may be seized, and forfeited if costs of care bond is not filed. KAN. STAT. ANN.§21-6414(e),(f)</p> <p>Upon conviction for dogfighting, attending a dogfight, or possession of dogfighting paraphernalia, any seized dog is forfeited and offender shall pay all costs of care expenses. KAN. STAT. ANN.§21-6414(g)</p> <p>Conviction results in prohibition from owning or keeping an animal for five years. KAN. STAT. ANN.§21-6415</p> <p>Cockfighting is aLevel 10 nonperson misdemeanor; possession of cockfighting paraphernalia is a class A nonperson misdemeanor; attendance at a cockfight is a class B nonperson misdemeanor. KAN. STAT. ANN.§21-6417</p> <p>Forfeiture is authorized in cases involving dogfighting, cockfighting and unlawful</p>

	possession of dogfighting and cockfighting paraphernalia. KAN. STAT. ANN.§ 60-4104(m),(n)
KANSAS <i>continued</i>	
KANSAS <i>continued</i>	
NOTES	The“Pet Animal Act” (KAN. STAT. ANN. §§47-1701 to -1737) contains requirements for the care of animals in stores, pounds, shelters, kennels, hobby breeders and others; and provides authority for their enforcement. Harming or killing service/law enforcement dogs is a nonperson felony. KAN. STAT. ANN.§ 21-6416

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡ This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

KAN. STAT. ANN § 21-6411 (2012).Unlawful acts concerning animals; definitions.

As used in K.S.A. 21-6412 through 21-6417, and amendments thereto:

- (a) *“Animal” means every living vertebrate except a human being;*
- (b) *“farm animal” means an animal raised on a farm or ranch and used or intended for use as food or fiber;*
- (c) *“retailer” means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale;*
- (d) *“wild animal” means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal; and*
- (e) *“domestic pet” means any domesticated animal which is kept for pleasure rather than utility.*

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) *Cruelty to animals is:*

- (1) *Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;*
- (2) *knowingly abandoning any animal in any place without making provisions for its proper care;*
- (3) *having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;*
- (4) *intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;*
- (5) *knowingly but not maliciously killing or injuring any animal; or*
- (6) *knowingly and maliciously administering any poison to any domestic animal.*

(b) *Cruelty to animals as defined in:*

- (1) *Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year’s imprisonment and be fined not less than \$500 nor more than \$5,000. The person*

convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) laying an equine down for medical or identification purposes;

(10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or

(11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

(2) "maliciously" means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

2. PENALTIES

KAN. STAT. ANN. § 21-6412 (2012). Cruelty to animals.

(a) Cruelty to animals is:

- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) knowingly abandoning any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
- (5) knowingly but not maliciously killing or injuring any animal; or
- (6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. *The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.* During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). *Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum*

mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their

premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

(2) "maliciously" means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

KAN. STAT. ANN. § 21-6602 (2012). Classification of misdemeanors and terms of confinement; possible disposition.

(a) For the purpose of sentencing, the following classes of misdemeanors and the punishment and the terms of confinement authorized for each class are established:

(1) Class A, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year;

(2) class B, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed six months;

(3) class C, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month; and

(4) unclassified misdemeanors, which shall include all crimes declared to be misdemeanors without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a class C misdemeanor.

(b) Upon conviction of a misdemeanor, a person may be punished by a fine, as provided in section 1, and amendments thereto, instead of or in addition to confinement, as provided in this section.

(c) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the misdemeanor was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary of social and rehabilitation services.

(d) Except as provided in subsection (e), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having committed, while under 21 years of age, a misdemeanor under K.S.A. 8-1599, 41-719 or 41-727 or K.S.A. 21-5701 through 21-5717, and amendments thereto, the court shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the court finds that the person is indigent, the fee may be waived.

(e) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the

provisions of subsection (d) are permissive and not mandatory.

KAN. STAT. ANN. § 21-6611(2012).Fines; crimes committed on or after July 1, 1993.

(a) A person who has been convicted of a felony may, in addition to the sentence authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:

(1) For any off-grid felony crime or any felony ranked in severity level 1 of the drug grid as provided in K.S.A. 21-6805, and amendments thereto, a sum not exceeding \$500,000;

(2) for any felony ranked in severity levels 1 through 5 of the nondrug grid as provided in K.S.A. 21-6804 and amendments thereto, or in severity levels 2 or 3 of the drug grid as provided in K.S.A. 21-6805, and amendments thereto, a sum not exceeding \$300,000; and

(3) for any felony ranked in severity levels 6 through 10 of the non-drug grid as provided in K.S.A. 21-6804, and amendments thereto, or in severity level 4 of the drug grid as provided in K.S.A. 21-6805, and amendments thereto, a sum not exceeding \$100,000.

(b) A person who has been convicted of a misdemeanor, in addition to or instead of the imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class A misdemeanor, a sum not exceeding \$2,500;

(2) for a class B misdemeanor, a sum not exceeding \$1,000;

(3) for a class C misdemeanor, a sum not exceeding \$500; and

(4) for an unclassified misdemeanor, any sum authorized by the statute that defines the crime. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(c) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(d) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court, not exceeding \$500.

(e) A person who has been convicted of a cigarette or tobacco infraction shall be sentenced to pay a fine of \$25.

(f) The provisions of this section shall apply to crimes committed on or after July 1, 1993.

3. EXEMPTIONS

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) Cruelty to animals is:

- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) knowingly abandoning any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
- (5) knowingly but not maliciously killing or injuring any animal; or
- (6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

- (A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and
- (B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The

person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) laying an equine down for medical or identification purposes;

(10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or

(11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

(2) "maliciously" means a state of mind characterized by actual evil-mindedness or

specific intent to do a harmful act without a reasonable justification or excuse.

KAN. STAT. ANN. § 47-646 (2012). Killing dog lawful, when.

It shall be lawful for any person at any time to kill any dog which may be found injuring or attempting to injure any livestock as defined in KAN. STAT. ANN. ' 47-1001, and amendments thereto.

4. COUNSELING / EVALUATIONS

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) Cruelty to animals is:

- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) knowingly abandoning any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
- (5) knowingly but not maliciously killing or injuring any animal; or
- (6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. *During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and*

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

- (A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and
- (B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The

person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

(2) “maliciously” means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) Cruelty to animals is:

- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) knowingly abandoning any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
- (5) knowingly but not maliciously killing or injuring any animal; or
- (6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum

mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. *If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.*

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) “Equine” means a horse, pony, mule, jenny, donkey or hinny; and

(2) “maliciously” means a state of mind characterized by actual evil-mindedness or

specific intent to do a harmful act without a reasonable justification or excuse.

7. SEIZURE / ON-SITE SUPERVISION

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) Cruelty to animals is:

- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) knowingly abandoning any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
- (5) knowingly but not maliciously killing or injuring any animal; or
- (6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The

person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal

welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

(2) “maliciously” means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

8. FORFEITURE / POSSESSION

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) Cruelty to animals is:

- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) knowingly abandoning any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
- (5) knowingly but not maliciously killing or injuring any animal; or
- (6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The

person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal

welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. *If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized.* The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

(2) “maliciously” means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

KAN. STAT. ANN. § 21-6415 (2012).Illegal ownership or keeping of an animal.

(a) Illegal ownership or keeping of an animal is, with no requirement of a culpable mental state, owning, or keeping on one’s premises, an animal by a person convicted of unlawful conduct of dog fighting as defined in K.S.A. 21-6414, and amendments thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-6412, and amendments thereto, within five years of the date of such conviction.

(b) Illegal ownership or keeping of an animal is a class B nonperson misdemeanor.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Editor's Note: Under administrative regulation K.A.R. § 70-8-1, veterinarians are required to report cruel or inhumane treatment of animals if the veterinarian has direct knowledge of such treatment.

KAN. STAT. ANN. § 47-839 (2012). Confidentiality; exceptions; waiver.

(a) Except as otherwise provided under K.S.A. 47-622 and 47-624, and amendments thereto, a licensed veterinarian shall not disclose any information concerning the veterinarian's care of an animal except on written authorization or other waiver by the veterinarian's client or on appropriate court order or subpoena. Any veterinarian who releases information under written authorization or other waiver by the client or under court order or subpoena shall not be liable to the client or any other person. The privilege provided by this section shall be waived under the following circumstances:

(1) Reporting cruel or inhumane treatment of any animal to federal, state or local governmental agencies;

(2) where information is necessary to provide care in an emergency where the absence of immediate medical attention could reasonably be expected to place the animal's health in serious jeopardy or impair bodily function;

(3) where the failure to disclose vaccination information may endanger the public's health, safety or welfare;

(4) where the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding; or

(5) in relation to any investigation by the board and any subsequent administrative disciplinary action brought by the board.

11. LAW ENFORCEMENT POLICIES

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) Cruelty to animals is:

- (1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;
- (2) knowingly abandoning any animal in any place without making provisions for its proper care;
- (3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;
- (4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;
- (5) knowingly but not maliciously killing or injuring any animal; or
- (6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The

person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
- (11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal

welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Equine" means a horse, pony, mule, jenny, donkey or hinny; and

(2) “maliciously” means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

12. SEXUAL ASSAULT

KAN. STAT. ANN. § 21-5504 (2012).Criminal sodomy; aggravated criminal sodomy.

(a) Criminal sodomy is:

- (1) Sodomy between persons who are 16 or more years of age and members of the same sex;
- (2) *sodomy between a person and an animal;*
- (3) sodomy with a child who is 14 or more years of age but less than 16 years of age; or
- (4) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

(b) Aggravated criminal sodomy is:

- (1) Sodomy with a child who is under 14 years of age;
- (2) *causing a child under 14 years of age to engage in sodomy with any person or an animal; or*
- (3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:
 - (A) When the victim is overcome by force or fear;
 - (B) when the victim is unconscious or physically powerless; or
 - (C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c)

(1) Criminal sodomy as defined in:

- (A) *Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and*
- (B) *subsection (a)(3) or (a)(4) is a severity level 3, person felony.*

(2) Aggravated criminal sodomy as defined in:

(A) Subsection (b)(3) is a severity level 1, person felony; and

(B) subsection (b)(1) or (b)(2) is a severity level 1, person felony, except as provided in subsection (c)(3).

(3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) or attempt, conspiracy or criminal solicitation to commit aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid person felony, when the offender is 18 years of age or older.

(d) If the offender is 18 years of age or older, the provisions of:

(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2).

(e) It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was married to the accused at the time of the offense.

(f) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

13. FIGHTING

KAN. STAT. ANN. § 21-6414 (2012). Unlawful conduct of dog fighting; unlawful attendance of dog fighting; unlawful possession of dog fighting paraphernalia.

(a) Unlawful conduct of dog fighting is:

(1) Causing, for amusement or gain, any dog to fight with or injure another dog, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or

(3) training, owning, keeping, transporting or selling any dog with the intent of having it fight with or injure another dog.

(b) Unlawful possession of dog fighting paraphernalia is possession, with the intent to use in the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia.

(c) Unlawful attendance of dog fighting is, entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that dog fighting is occurring on the premises.

(d)

(1) Unlawful conduct of dog fighting is a severity level 10, nonperson felony.

(2) Unlawful possession of dog fighting paraphernalia is a class A nonperson misdemeanor.

(3) Unlawful attendance of dog fighting is a class B nonperson misdemeanor.

(e) When a person is arrested under this section, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of dog fighting, unlawful attendance of dog fighting, or unlawful possession of dog fighting paraphernalia.

(f) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of a duly incorporated humane society or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. If the dog is placed in the care of an animal shelter, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the dog for adoption or euthanize the dog at any time after 21 days after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal. Except as provided in subsection (g), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under this section or 21-6412 and amendments thereto. The owner or keeper of a dog placed for adoption or humanely killed under this subsection shall not be entitled to damages unless the owner or keeper proves that such placement or killing was unwarranted.

(g) If a person is convicted of unlawful conduct of dog fighting, unlawful attendance of dog fighting or unlawful possession of dog fighting paraphernalia, a dog taken into custody pursuant to subsection (e) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 21-6412, and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the animal shelter all expenses incurred by the shelter for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.

(h) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

KAN. STAT. ANN. § 21-6415 (2012).Illegal ownership or keeping of an animal.

(a) Illegal ownership or keeping of an animal is, with no requirement of a culpable mental state, owning, or keeping on one's premises, an animal by a person convicted of unlawful conduct of dog fighting as defined in K.S.A. 21-6414, and amendments thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-6412, and amendments thereto, within five years of the date of such conviction.

(b) Illegal ownership or keeping of an animal is a class B nonperson misdemeanor.

KAN. STAT. ANN. § 21-6417 (2012).Unlawful conduct of cockfighting; unlawful possession of cockfighting paraphernalia; unlawful attendance of cockfighting.

(a) Unlawful conduct of cockfighting is:

(1) Causing, for amusement or gain, any gamecock to fight with or injure or kill another gamecock, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or

(3) training, grooming, preparing or medicating any gamecock with the intent of having it fight with or injure or kill another gamecock.

(b) Unlawful possession of cockfighting paraphernalia is possession of, with the intent to use in the unlawful conduct of cockfighting, spurs, gaffs, swords, leather training spur covers or anything worn by a gamecock during a fight to further the killing power of such gamecock.

(c) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring, whether or not the person knows or has reason to know that cockfighting is occurring on the premises.

(d)

(1) Unlawful conduct of cockfighting is a level 10, nonperson felony.

(2) Unlawful possession of cockfighting paraphernalia is a class A nonperson misdemeanor.

(3) Unlawful attendance of cockfighting is a class B nonperson misdemeanor.

(e) As used in this section, "gamecock" means a domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl.

(f) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

KAN. STAT. ANN. § 60-4104 (2012). Covered offenses and conduct giving rise to forfeiture.

Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) All offenses which statutorily and specifically authorize forfeiture;
- (b) violations involving controlled substances, as described in K.S.A. 2011 Supp. 21–5701 through 21–5717, and amendments thereto;
- (c) theft, as defined in K.S.A. 2011 Supp. 21–5801, and amendments thereto;
- (d) criminal discharge of a firearm, as defined in subsections (a)(1) and (a)(2) of K.S.A. 2011 Supp. 21–6308, and amendments thereto;
- (e) gambling, as defined in K.S.A. 2011 Supp. 21–6404, and amendments thereto, and commercial gambling, as defined in subsection (a)(1) of K.S.A. 2011 Supp. 21–6406, and amendments thereto;
- (f) counterfeiting, as defined in K.S.A. 2011 Supp. 21–5825, and amendments thereto;
- (g) unlawful possession of a scanning device or reencoder, as described in K.S.A. 2011 Supp. 21–6108, and amendments thereto;
- (h) medicaid fraud, as described in K.S.A. 2011 Supp. 21–5925 through 21–5934, and amendments thereto;
- (i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- (j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- (k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;
- (l) furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 2011 Supp. 21–5423, and amendments thereto;

(m) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2011 Supp. 21–6414, and amendments thereto;

(n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2011 Supp. 21–6417, and amendments thereto;

(o) prostitution, as defined in K.S.A. 2011 Supp. 21–6419, and amendments thereto, promoting prostitution, as defined in K.S.A. 2011 Supp. 21–6420, and amendments thereto, and patronizing a prostitute, as defined in K.S.A. 2011 Supp. 21–6421, and amendments thereto;

(p) human trafficking and aggravated human trafficking, as defined in K.S.A. 2011 Supp. 21–5426, and amendments thereto;

(q) violations of the banking code, as described in K.S.A. 9–2012, and amendments thereto;

(r) mistreatment of a dependent adult, as defined in K.S.A. 2011 Supp. 21–5417, and amendments thereto;

(s) giving a worthless check, as defined in K.S.A. 2011 Supp. 21–5821, and amendments thereto;

(t) forgery, as defined in K.S.A. 2011 Supp. 21–5823, and amendments thereto;

(u) making false information, as defined in K.S.A. 2011 Supp. 21–5824, and amendments thereto;

(v) criminal use of a financial card, as defined in K.S.A. 2011 Supp. 21–5828, and amendments thereto;

(w) unlawful acts concerning computers, as described in K.S.A. 2011 Supp. 21–5839, and amendments thereto;

(x) identity theft and identity fraud, as defined in subsections (a) and (b) of K.S.A. 2011 Supp. 21–6107, and amendments thereto;

(y) electronic solicitation, as defined in K.S.A. 2011 Supp. 21–5509, and amendments thereto;
and

(z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8–1568, and amendments thereto.

14. REFERENCED STATUTES

KAN. STAT. ANN. § 21-5504 (2012).Criminal sodomy; aggravated criminal sodomy.

(a) Criminal sodomy is:

- (1) Sodomy between persons who are 16 or more years of age and members of the same sex;
- (2) sodomy between a person and an animal;
- (3) sodomy with a child who is 14 or more years of age but less than 16 years of age; or
- (4) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

(b) Aggravated criminal sodomy is:

- (1) Sodomy with a child who is under 14 years of age;
- (2) causing a child under 14 years of age to engage in sodomy with any person or an animal; or
- (3) sodomy with a victim who does not consent to the sodomy or causing a victim, without the victim's consent, to engage in sodomy with any person or an animal under any of the following circumstances:
 - (A) When the victim is overcome by force or fear;
 - (B) when the victim is unconscious or physically powerless; or
 - (C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

(c)

(1) Criminal sodomy as defined in:

- (A) Subsection (a)(1) or (a)(2) is a class B nonperson misdemeanor; and
- (B) subsection (a)(3) or (a)(4) is a severity level 3, person felony.

(2) Aggravated criminal sodomy as defined in:

(A) Subsection (b)(3) is a severity level 1, person felony; and

(B) subsection (b)(1) or (b)(2) is a severity level 1, person felony, except as provided in subsection (c)(3).

(3) Aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) or attempt, conspiracy or criminal solicitation to commit aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2) is an off-grid person felony, when the offender is 18 years of age or older.

(d) If the offender is 18 years of age or older, the provisions of:

(1) Subsection (c) of K.S.A. 21-5301, and amendments thereto, shall not apply to a violation of attempting to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2);

(2) subsection (c) of K.S.A. 21-5302, and amendments thereto, shall not apply to a violation of conspiracy to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2); and

(3) subsection (d) of K.S.A. 21-5303, and amendments thereto, shall not apply to a violation of criminal solicitation to commit the crime of aggravated criminal sodomy as defined in subsection (b)(1) or (b)(2).

(e) It shall be a defense to a prosecution of criminal sodomy, as defined in subsection (a)(3), and aggravated criminal sodomy, as defined in subsection (b)(1), that the child was married to the accused at the time of the offense.

(f) Except as provided in subsection (b)(3)(C), it shall not be a defense that the offender did not know or have reason to know that the victim did not consent to the sodomy, that the victim was overcome by force or fear, or that the victim was unconscious or physically powerless.

KAN. STAT. ANN § 21-6411 (2012). Unlawful acts concerning animals; definitions.

As used in K.S.A. 21-6412 through 21-6417, and amendments thereto:

(a) “Animal” means every living vertebrate except a human being;

(b) “farm animal” means an animal raised on a farm or ranch and used or intended for use as food or fiber;

(c) “retailer” means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale;

(d) “wild animal” means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal; and

(e) “domestic pet” means any domesticated animal which is kept for pleasure rather than utility.

KAN. STAT. ANN. § 21-6412 (2012).Cruelty to animals.

(a) Cruelty to animals is:

(1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;

(2) knowingly abandoning any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(5) knowingly but not maliciously killing or injuring any animal; or

(6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year’s imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B);
and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) bona fide experiments carried on by commonly recognized research facilities;
- (3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
- (4) rodeo practices accepted by the rodeo cowboys' association;
- (5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- (6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
- (7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
- (8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) laying an equine down for medical or identification purposes;
- (10) normal or accepted practices of pest control, as defined in subsection (x) of K.S.A.

2-2438a, and amendments thereto; or

(11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of this section, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.

(f) The owner or custodian of an animal placed for adoption or killed pursuant to subsection (e) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) “Equine” means a horse, pony, mule, jenny, donkey or hinny; and

(2) “maliciously” means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

KAN. STAT. ANN. § 21-6414 (2012). Unlawful conduct of dog fighting; unlawful attendance of dog fighting; unlawful possession of dog fighting paraphernalia.

(a) Unlawful conduct of dog fighting is:

(1) Causing, for amusement or gain, any dog to fight with or injure another dog, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one’s ownership, charge or control; or

(3) training, owning, keeping, transporting or selling any dog with the intent of having it fight with or injure another dog.

(b) Unlawful possession of dog fighting paraphernalia is possession, with the intent to use in the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia.

(c) Unlawful attendance of dog fighting is, entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that dog fighting is occurring on the premises.

(d)

(1) Unlawful conduct of dog fighting is a severity level 10, nonperson felony.

(2) Unlawful possession of dog fighting paraphernalia is a class A nonperson misdemeanor.

(3) Unlawful attendance of dog fighting is a class B nonperson misdemeanor.

(e) When a person is arrested under this section, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of dog fighting, unlawful attendance of dog fighting, or unlawful possession of dog fighting paraphernalia.

(f) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of a duly incorporated humane society or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. If the dog is placed in the care of an animal shelter, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby the animal shelter may petition the district court to be allowed to place the dog for adoption or euthanize the dog at any time after 20 days after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be placed for adoption or euthanized. The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal. Except as provided in subsection (g), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under this section or 21-6412 and amendments thereto. The owner or keeper of a dog placed for adoption or humanely killed under this subsection shall not be entitled to damages unless the owner or keeper proves that such placement or killing was unwarranted.

(g) If a person is convicted of unlawful conduct of dog fighting, unlawful attendance of dog fighting or unlawful possession of dog fighting paraphernalia, a dog taken into custody pursuant to subsection (e) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 21-6412, and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the animal shelter all expenses incurred by the shelter for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.

(h) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

KAN. STAT. ANN. § 21-6415 (2012).Illegal ownership or keeping of an animal.

(a) Illegal ownership or keeping of an animal is, with no requirement of a culpable mental state, owning, or keeping on one's premises, an animal by a person convicted of unlawful conduct of dog fighting as defined in K.S.A. 21-6414, and amendments thereto, or cruelty to animals as defined in

subsection (a)(1) of K.S.A. 21-6412, and amendments thereto, within five years of the date of such conviction.

(b) Illegal ownership or keeping of an animal is a class B nonperson misdemeanor.

KAN. STAT. ANN. § 21-6416(2012).Harming or killing certain dogs.

(a) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is knowingly, and without lawful cause or justification poisoning, inflicting great bodily harm, permanent disability or death, upon a police dog, arson dog, assistance dog, game warden dog or search and rescue dog.

(b) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is a nonperson felony. Upon conviction of this subsection, a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

(c) As used in this section:

(1) "Arson dog" means any dog which is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires;

(2) "assistance dog" has the meaning provided by K.S.A. 2011 Supp. 39-1113, and amendments thereto;

(3) "fire department" means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district;

(4) "game warden dog" means any dog which is owned, or the service of which is employed, by the Kansas department of wildlife, parks and tourism for the purpose of aiding in detection of criminal activity, enforcement of laws, apprehension of offenders or location of persons or wildlife;

(5) “police dog” means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders; and

(6) “search and rescue dog” means any dog which is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.

KAN. STAT. ANN. § 21-6417 (2012). Unlawful conduct of cockfighting; unlawful possession of cockfighting paraphernalia; unlawful attendance of cockfighting.

(a) Unlawful conduct of cockfighting is:

(1) Causing, for amusement or gain, any gamecock to fight with or injure or kill another gamecock, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one’s ownership, charge or control; or

(3) training, grooming, preparing or medicating any gamecock with the intent of having it fight with or injure or kill another gamecock.

(b) Unlawful possession of cockfighting paraphernalia is possession of, with the intent to use in the unlawful conduct of cockfighting, spurs, gaffs, swords, leather training spur covers or anything worn by a gamecock during a fight to further the killing power of such gamecock.

(c) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring, whether or not the person knows or has reason to know that cockfighting is occurring on the premises.

(d)

(1) Unlawful conduct of cockfighting is a level 10, nonperson felony.

(2) Unlawful possession of cockfighting paraphernalia is a class A nonperson misdemeanor.

(3) Unlawful attendance of cockfighting is a class B nonperson misdemeanor.

(e) As used in this section, “gamecock” means a domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl.

(f) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.

KAN. STAT. ANN. § 21-6602 (2012). Classification of misdemeanors and terms of confinement; possible disposition.

(a) For the purpose of sentencing, the following classes of misdemeanors and the punishment and the terms of confinement authorized for each class are established:

(1) Class A, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year;

(2) class B, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed six months;

(3) class C, the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one month; and

(4) unclassified misdemeanors, which shall include all crimes declared to be misdemeanors without specification as to class, the sentence for which shall be in accordance with the sentence specified in the statute that defines the crime; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a class C misdemeanor.

(b) Upon conviction of a misdemeanor, a person may be punished by a fine, as provided in section 1, and amendments thereto, instead of or in addition to confinement, as provided in this section.

(c) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the misdemeanor was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary of social and rehabilitation services.

(d) Except as provided in subsection (e), in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having committed, while under 21 years of age, a misdemeanor under K.S.A. 8-1599, 41-719 or 41-727 or K.S.A. 21-5701 through 21-5717, and amendments thereto, the court shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. If the court finds that the person is indigent, the fee may be waived.

(e) If the person is 18 or more years of age but less than 21 years of age and is convicted of a

violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (d) are permissive and not mandatory.

KAN. STAT. ANN. § 21-6611(2012).Fines; crimes committed on or after July 1, 1993.

(a) A person who has been convicted of a felony may, in addition to the sentence authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:

(1) For any off-grid felony crime or any felony ranked in severity level 1 of the drug grid as provided in K.S.A. 21-6805, and amendments thereto, a sum not exceeding \$500,000;

(2) for any felony ranked in severity levels 1 through 5 of the nondrug grid as provided in K.S.A. 21-6804 and amendments thereto, or in severity levels 2 or 3 of the drug grid as provided in K.S.A. 21-6805, and amendments thereto, a sum not exceeding \$300,000; and

(3) for any felony ranked in severity levels 6 through 10 of the non-drug grid as provided in K.S.A. 21-6804, and amendments thereto, or in severity level 4 of the drug grid as provided in K.S.A. 21-6805, and amendments thereto, a sum not exceeding \$100,000.

(b) A person who has been convicted of a misdemeanor, in addition to or instead of the imprisonment authorized by law, may be sentenced to pay a fine which shall be fixed by the court as follows:

(1) For a class A misdemeanor, a sum not exceeding \$2,500;

(2) for a class B misdemeanor, a sum not exceeding \$1,000;

(3) for a class C misdemeanor, a sum not exceeding \$500; and

(4) for an unclassified misdemeanor, any sum authorized by the statute that defines the crime. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(c) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(d) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court, not exceeding \$500.

(e) A person who has been convicted of a cigarette or tobacco infraction shall be sentenced to pay a fine of \$25.

(f) The provisions of this section shall apply to crimes committed on or after July 1, 1993.

KAN. STAT. ANN.§ 47-646 (2012). Killing dog lawful, when.

It shall be lawful for any person at any time to kill any dog which may be found injuring or attempting to injure any livestock as defined in KAN. STAT. ANN.§ 47-1001, and amendments thereto.

KAN. STAT. ANN. § 47-839 (2012).Confidentiality; exceptions; waiver.

(a) Except as otherwise provided under K.S.A. 47-622 and 47-624, and amendments thereto, a licensed veterinarian shall not disclose any information concerning the veterinarian's care of an animal except on written authorization or other waiver by the veterinarian's client or on appropriate court order or subpoena. Any veterinarian who releases information under written authorization or other waiver by the client or under court order or subpoena shall not be liable to the client or any other person. The privilege provided by this section shall be waived under the following circumstances: (1) Reporting cruel or inhumane treatment of any animal to federal, state or local governmental agencies; (2) where information is necessary to provide care in an emergency where the absence of immediate medical attention could reasonably be expected to place the animal's health in serious jeopardy or impair bodily function; (3) where the failure to disclose vaccination information may endanger the public's health, safety or welfare; (4) where the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding; or (5) in relation to any investigation by the board and any subsequent administrative disciplinary action brought by the board.

KAN. STAT. ANN. § 60-4104 (2012). Covered offenses and conduct giving rise to forfeiture.

Conduct and offenses giving rise to forfeiture under this act, whether or not there is a prosecution or conviction related to the offense, are:

- (a) All offenses which statutorily and specifically authorize forfeiture;
- (b) violations involving controlled substances, as described in K.S.A. 2011 Supp. 21-5701 through 21-5717, and amendments thereto;
- (c) theft, as defined in K.S.A. 2011 Supp. 21-5801, and amendments thereto;
- (d) criminal discharge of a firearm, as defined in subsections (a)(1) and (a)(2) of K.S.A. 2011 Supp. 21-6308, and amendments thereto;
- (e) gambling, as defined in K.S.A. 2011 Supp. 21-6404, and amendments thereto, and commercial gambling, as defined in subsection (a)(1) of K.S.A. 2011 Supp. 21-6406, and amendments thereto;
- (f) counterfeiting, as defined in K.S.A. 2011 Supp. 21-5825, and amendments thereto;
- (g) unlawful possession of a scanning device or reencoder, as described in K.S.A. 2011 Supp. 21-6108, and amendments thereto;
- (h) medicaid fraud, as described in K.S.A. 2011 Supp. 21-5925 through 21-5934, and amendments thereto;
- (i) an act or omission occurring outside this state, which would be a violation in the place of occurrence and would be described in this section if the act occurred in this state, whether or not it is prosecuted in any state;
- (j) an act or omission committed in furtherance of any act or omission described in this section including any inchoate or preparatory offense, whether or not there is a prosecution or conviction related to the act or omission;
- (k) any solicitation or conspiracy to commit any act or omission described in this section, whether or not there is a prosecution or conviction related to the act or omission;
- (l) furtherance of terrorism or illegal use of weapons of mass destruction, as described in K.S.A. 2011 Supp. 21-5423, and amendments thereto;
- (m) unlawful conduct of dog fighting and unlawful possession of dog fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A. 2011 Supp. 21-6414, and amendments thereto;
- (n) unlawful conduct of cockfighting and unlawful possession of cockfighting paraphernalia, as

- defined in subsections (a) and (b) of K.S.A. 2011 Supp. 21–6417, and amendments thereto;
- (o) prostitution, as defined in K.S.A. 2011 Supp. 21–6419, and amendments thereto, promoting prostitution, as defined in K.S.A. 2011 Supp. 21–6420, and amendments thereto, and patronizing a prostitute, as defined in K.S.A. 2011 Supp. 21–6421, and amendments thereto;
- (p) human trafficking and aggravated human trafficking, as defined in K.S.A. 2011 Supp. 21–5426, and amendments thereto;
- (q) violations of the banking code, as described in K.S.A. 9–2012, and amendments thereto;
- (r) mistreatment of a dependent adult, as defined in K.S.A. 2011 Supp. 21–5417, and amendments thereto;
- (s) giving a worthless check, as defined in K.S.A. 2011 Supp. 21–5821, and amendments thereto;
- (t) forgery, as defined in K.S.A. 2011 Supp. 21–5823, and amendments thereto;
- (u) making false information, as defined in K.S.A. 2011 Supp. 21–5824, and amendments thereto;
- (v) criminal use of a financial card, as defined in K.S.A. 2011 Supp. 21–5828, and amendments thereto;
- (w) unlawful acts concerning computers, as described in K.S.A. 2011 Supp. 21–5839, and amendments thereto;
- (x) identity theft and identity fraud, as defined in subsections (a) and (b) of K.S.A. 2011 Supp. 21–6107, and amendments thereto;
- (y) electronic solicitation, as defined in K.S.A. 2011 Supp. 21–5509, and amendments thereto;
and
- (z) felony violations of fleeing or attempting to elude a police officer, as described in K.S.A. 8–1568, and amendments thereto.

ANIMAL PROTECTION LAWS OF KENTUCKY

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Kentucky's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Kentucky may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

KENTUCKY

1. GENERAL PROHIBITIONS*	(1) Cruelty to animals KY. REV. STAT. ANN. § 525.130 (2) Torture of dog or cat KY. REV. STAT. ANN. §525.135
<i>Animals Covered in Definition</i>	“[E]very warm-blooded living creature except a human being” KY. REV. STAT. ANN. §446.010
<i>Classification of Crimes</i>	(1) Class A misdemeanor (2) [1 st offense]: Class A misdemeanor [1 st offense if serious physical injury or death & all subsequent offenses]: Class D felony

KENTUCKY*continued*

KENTUCKY <i>continued</i>	
2. MAXIMUM PENALTIES **	<p>(1) 1 year imprisonment KY. REV. STAT. ANN. § 532.090(1) <i>and/or</i> \$500 fine KY. REV. STAT. ANN. § 534.040(2)(a)</p> <p>(2) [1st offense]: 1 year imprisonment KY. REV. STAT. ANN. § 532.090(1) <i>and/or</i> \$500 fine KY. REV. STAT. ANN. § 534.040(2)(a)</p> <p>[1st offense if serious physical injury or death & all subsequent offenses]: 5 years imprisonment KY. REV. STAT. ANN. §532.060(2)(d) <i>and</i> \$10,000 fine KY. REV. STAT. ANN. § 534.030(1)</p>
3. EXEMPTIONS ***	1, 2, 3, 4, 5, 6, 8, 9 KY. REV. STAT. ANN. §§ 525.130(2),(3) KY. REV. STAT. ANN. §§ 525.135(4),(5)
4. COUNSELING / EVALUATIONS †	-----
5. PROTECTIVE ORDERS †	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS †	-----

KENTUCKY <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION	Dog wardens, peace officers and humane officers shall be issued search warrants for reasonable cause. KY. REV. STAT. ANN. § 436.605
8. FORFEITURE / POSSESSION[†]	-----
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	Veterinarians are prohibited from the voluntary reporting of suspected animal cruelty or fighting without a court order, subpoena or client waiver. KY. REV. STAT. ANN. § 321.185
11. LAW ENFORCEMENT POLICIES	Qualified dog wardens and officers and agents of humane societies shall have the powers of peace officers (except for the power of arrest), and may be issued search warrants. KY. REV. STAT. ANN. § 436.605
12. SEXUAL ASSAULT	-----
13. FIGHTING	All animals used for fighting shall be confiscated. KY. REV. STAT. ANN. §436.610 Various animal fighting activities with four-legged animals are Class D felonies. KY. REV. STAT. ANN. §525.125 Various non-four-legged animal fighting activities are Class A misdemeanors. KY. REV. STAT. ANN. §525.130 Being a spectator or vendor at an animal fight with four-legged animals is a Class A misdemeanor.

	KY. REV. STAT. ANN. §525.130
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*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

†This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

KY. REV. STAT. ANN. § 446.010 (2012). Definitions for statutes generally.

As used in the statute laws of this state, unless the context requires otherwise:

- (1) “Action” includes all proceedings in any court of this state;
- (2) “Animal” includes every warm-blooded living creature except a human being;
- (3) “Attorney” means attorney-at-law;
- (4) “Bequeath” and “devise” mean the same thing;
- (5) “Bequest” and “legacy” mean the same thing, and embrace either real or personal estate, or both;
- (6) “Business trust” includes, except when utilized in KRS Chapter 386, a “statutory trust” as organized under KRS Chapter 386A;
- (7) “Case plan” means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual’s level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual’s behaviors;
- (8) “Cattle” includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (9) “Certified mail” means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:
 - (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted;and
 - (c) The signature of the receipt of the document or package;

(10)“Company” may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(11)“Corporation” may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(12)“Criminal risk factors” are characteristics and behaviors that, when addressed or changed, affect a person’s risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;

(13)“Cruelty” as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(14)“Directors,” when applied to corporations, includes managers or trustees;

(15)“Domestic,” when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;

(16)“*Domestic animal*” means any animal converted to domestic habitat;

(17)“Evidence-based practices” means policies, procedures, programs and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;

(18)“Federal” refers to the United States;

(19)“Foreign,” when applied to a corporation, partnership, business trust, or limited liability company, includes all those incorporated or formed by authority of any other state;

(20)“Generally accepted accounting principles” are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(21)“Graduated sanction” means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;

(22) *“Humane society,” “society,” or “Society for the Prevention of Cruelty to Animals,” means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;*

(23) “Issue,” as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(24) “Land” or “real estate” includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(25) “Legatee” and “devisee” convey the same idea;

(26) “May” is permissive;

(27) “Month” means calendar month;

(28) “Oath” includes “affirmation” in all cases in which an affirmation may be substituted for an oath;

(29) *“Owner” when applied to any animal, means any person having a property interest in such animal;*

(30) “Partnership” includes both general and limited partnerships;

(31) “Peace officer” includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(32) “Penitentiary” includes all of the state penal institutions except the houses of reform;

(33) “Person” may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;

(34) “Personal estate” includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(35) “Pretrial risk assessment” means an objective, research based, validated assessment tool that measures a defendant’s risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;

(36) “Registered mail” means any governmental, commercial, or electronic method of delivery that allows a document or package to have:

- (a) Its chain of custody recorded in a register to enable its location to be tracked;

(b) Insurance available to cover its loss; and

(c) The signature of the recipient of the document or package available to the sender;

(37)“Regular election” means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(38)“Risk and needs assessment” or “validated risk and needs assessment” means an actuarial tool scientifically proven to determine a person’s risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person’s likelihood of committing future criminal behavior;

(39)“Shall” is mandatory;

(40)“State” when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; “any other state” includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(41)“State funds” or “public funds” means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(42) “Supervised individual” means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;

(43)“Sworn” includes “affirmed” in all cases in which an affirmation may be substituted for an oath;

(44) “Treatment” when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include, but shall not be limited to, community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. “Treatment” does not include medical services;

(45)“United States” includes territories, outlying possessions, and the District of Columbia;

(46)“Vacancy in office,” or any equivalent phrase, means such as exists when there is an

unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(47)“Violate” includes failure to comply with;

(48)“Will” includes codicils; “last will” means last will and testament;

(49)“Year” means calendar year;

(50)“City” includes town;

(51) Appropriation-related terms are defined as follows:

(a) “Appropriation” means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

(b) “Appropriation provision” means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) “General appropriation bill” means an enactment by the General Assembly that authorizes the expenditure of public funds in a branch budget bill as provided for in KRS Chapter 48;

(52)“Mediation” means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations;

(53)“Biennium” means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year;

(54)“Branch budget bill” or “branch budget” means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet;

(55)“AVIS” means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator’s licenses and personal identification cards; and

(56) “Cooperative,” except in KRS Chapter 272, includes a limited cooperative association.

KY. REV. STAT. ANN. § 525.130 (2012). Cruelty to animals in the second degree; exemptions.

(1) *A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:*

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish, or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(e) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;

(f) For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

- (g) In defense of self or another person against an aggressive or diseased animal;
- (h) In defense of a domestic animal against an aggressive or diseased animal;
- (i) For animal or pest control; or
- (j) For any other purpose authorized by law.

(3) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) *Cruelty to animals in the second degree is a Class A misdemeanor.*

KY. REV. STAT. ANN. § 525.135(2012).Torture of dog or cat.

(1) As used in this section, unless the context otherwise requires, “torture” means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(3) Torture of a dog or cat is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense if the dog or cat suffers physical injury as a result of the torture, and a Class D felony if the dog or cat suffers serious physical injury or death as a result of the torture.

(4) Nothing in this section shall apply to the killing or injuring of a dog or cat:

- (a) In accordance with a license to hunt, fish, or trap;
- (b) For humane purposes;
- (c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
- (d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;

- (e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;
 - (f) In defense of self or another person against an aggressive or diseased dog or cat;
 - (g) In defense of a domestic animal against an aggressive or diseased dog or cat;
 - (h) For animal or pest control; or
 - (i) For any other purpose authorized by law.
- (5) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.
- (6) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

2. PENALTIES

KY. REV. STAT. ANN. § 532.060 (2012). Sentence of imprisonment for felony.

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.

(2) Unless otherwise provided by law, the authorized maximum terms of imprisonment for felonies are:

(a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;

(b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;

(c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and

(d) For a Class D felony, not less than one (1) year nor more than five (5) years.

(3) For any felony specified in KRS Chapter 510, KRS 530.020, 530.064(1)(a), or 531.310, the sentence shall include an additional five (5) year period of postincarceration supervision which shall be added to the maximum sentence rendered for the offense. During this period of postincarceration supervision, if a defendant violates the provisions of postincarceration supervision, the defendant may be reincarcerated for:

(a) The remaining period of his initial sentence, if any is remaining; and

(b) The entire period of postincarceration supervision, or if the initial sentence has been served, for the remaining period of postincarceration supervision.

(4) In addition to the penalties provided in this section, for any person subject to a period of postincarceration supervision pursuant to Section 35 of this Act his or her sentence shall include an additional one (1) year period of postincarceration supervision following release from incarceration upon expiration of sentence if the offender is not otherwise subject to another form of postincarceration supervision. During this period of postincarceration supervision, if an offender violates the provisions of supervision, the offender may be reincarcerated for the remaining period of his or her postincarceration supervision.

(5) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

KY. REV. STAT. ANN. § 532.090 (2012). Sentence of Imprisonment for Misdemeanor.

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

- (1) *For a Class A misdemeanor, the term shall not exceed twelve (12) months; and*
- (2) For a Class B misdemeanor, the term shall not exceed ninety (90) days.

KY. REV. STAT. ANN. § 534.030 (2012). Fines for felonies.

(1) *Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony shall, in addition to any other punishment imposed upon him, be sentenced to pay a fine in an amount not less than one thousand dollars (\$1,000) and not greater than ten thousand dollars (\$10,000) or double his gain from commission of the offense, whichever is the greater.*

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

- (a) The defendant's ability to pay the amount of the fine;
- (b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;
- (c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and
- (d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two (2) or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of the fines shall not exceed ten thousand dollars (\$10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

(5) This section shall not apply to a corporation.

KY. REV. STAT. ANN. § 534.040 (2012). Fines for Misdemeanors and Violations.

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized, a fine may be levied in addition to the imprisonment, or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury, the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony shall be sentenced, in addition to any other punishment imposed upon him, to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five hundred dollars (\$500); or

(b) For a Class B misdemeanor, two hundred fifty dollars (\$250); or

(c) For a violation, two hundred fifty dollars (\$250).

(3) This section shall not apply to a corporation.

(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

3. EXEMPTIONS

KY. REV. STAT. ANN. § 525.130 (2012). Cruelty to animals in the second degree; exemptions.

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(2) *Nothing in this section shall apply to the killing of animals:*

(a) *Pursuant to a license to hunt, fish, or trap;*

(b) *Incident to the processing as food or for other commercial purposes;*

(c) *For humane purposes;*

(d) *For veterinary, agricultural, spaying or neutering, or cosmetic purposes;*

(e) *For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;*

(f) *For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;*

(g) *In defense of self or another person against an aggressive or diseased animal;*

(h) *In defense of a domestic animal against an aggressive or diseased animal;*

(i) *For animal or pest control; or*

(j) *For any other purpose authorized by law.*

(3) *Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.*

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

KY. REV. STAT. ANN. § 525.135(2012).Torture of dog or cat.

(1) As used in this section, unless the context otherwise requires, “torture” means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(3) Torture of a dog or cat is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense if the dog or cat suffers physical injury as a result of the torture, and a Class D felony if the dog or cat suffers serious physical injury or death as a result of the torture.

(4) *Nothing in this section shall apply to the killing or injuring of a dog or cat:*

(a) In accordance with a license to hunt, fish, or trap;

(b) For humane purposes;

(c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;

(e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(f) In defense of self or another person against an aggressive or diseased dog or cat;

(g) In defense of a domestic animal against an aggressive or diseased dog or cat;

(h) For animal or pest control; or

(i) For any other purpose authorized by law.

(5) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(6) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

7. SEIZURE / ON-SITE SUPERVISION

KY. REV. STAT. ANN. §436.605(2012). Animal control officers and humane agents have powers of peace officers except power of arrest; search warrants; execution of search warrants; arrest by peace officer.

(1) Animal control officers and officers and agents of humane societies who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services shall have the powers of peace officers, except for the power of arrest, for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, provided they possess the qualifications required under KRS 61.300.

(2) When any peace officer, animal control officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty, mistreatment, or torture of animals is being committed in a building, barn, or other enclosure, the judge shall issue a search warrant directed to the peace officer, animal control officer, or officer or agent of the society or association for the prevention of cruelty to animals to search the premises. If a peace officer finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the offender or offenders shall be immediately arrested by the peace officer and brought before the court for trial. If an animal control officer or an officer or agent of a society or association for the prevention of cruelty to animals finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the officer or agent shall summon a peace officer to arrest the offender or offenders and bring them before the court for trial.

8. FORFEITURE / POSSESSION

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

KY. REV. STAT. ANN. § 321.185 (2012). Veterinarian-client-patient relationship.

(1) In order for a veterinarian to practice veterinary medicine, a relationship among the veterinarian, the client, and the patient shall be established and maintained. “Veterinarian-client-patient relationship” means that:

(a) The veterinarian has assumed the responsibility for making judgments regarding the health of the animal and the need for veterinary treatment, and the client, whether owner or other caretaker, has agreed to follow the instructions of the veterinarian;

(b) There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(c) The practicing veterinarian is readily available or shall provide medical service for follow-up in case of adverse reactions or failure of the regimen of therapy. A new regimen of therapy shall be contingent only upon cooperation of the client and availability of the subject animal.

(2) The veterinarian shall maintain records which document patient visits, diagnosis, treatment, and other relevant information.

(3)

(a) A veterinarian shall not violate the confidential relationship between the veterinarian and the veterinarian’s client.

(b) A veterinarian shall not release information concerning a client or care of a client’s animal, except on the veterinarian’s receipt of:

1. A written authorization or other form of waiver executed by the client; or

2. An appropriate court order or subpoena.

(c) A veterinarian who releases information as required under paragraph (b) of this subsection shall not be liable to any person, including the client, for an action resulting from the disclosure.

(d) The privilege provided by this subsection is waived by the client or the owner of an animal treated by the veterinarian to the extent the client or owner places at issue in a civil or criminal proceeding:

1. The nature and extent of the animal's injuries; or
2. The care and treatment of the animal provided by the veterinarian.

(e) This subsection shall not apply to:

1. An inspection or investigation conducted by the board or an agent of the board;
or
2. The veterinary reporting requirements and regulatory authority of the Kentucky Horse Racing Commission to inspect, investigate, and supervise horses and other participants in horse racing as provided by KRS Chapter 230 and the administrative regulations promulgated under KRS Chapter 230, or any other law applicable to the regulation of horse racing in the Commonwealth.

(4) Veterinarians providing copies of records under this section may charge no more than the actual cost of copying, including reasonable staff time.

11. LAW ENFORCEMENT POLICIES

KY. REV. STAT. ANN. §436.605(2012). Animal control officers and humane agents have powers of peace officers except power of arrest; search warrants; execution of search warrants; arrest by peace officer.

(1) Animal control officers and officers and agents of humane societies who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services shall have the powers of peace officers, except for the power of arrest, for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, provided they possess the qualifications required under KRS 61.300.

*(2) When any peace officer, animal control officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty, mistreatment, or torture of animals is being committed in a building, barn, or other enclosure, the judge shall issue a search warrant directed to the peace officer, animal control officer, or officer or agent of the society or association for the prevention of cruelty to animals to search the premises. *If a peace officer finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the offender or offenders shall be immediately arrested by the peace officer and brought before the court for trial. If an animal control officer or an officer or agent of a society or association for the prevention of cruelty to animals finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the officer or agent shall summon a peace officer to arrest the offender or offenders and bring them before the court for trial.**

12. SEXUAL ASSAULT

13. FIGHTING

KY. REV. STAT. ANN. §436.610 (2012). Confiscation of animals on premises where violations of KRS 525.125 and 525.130 occur.

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of KRS 525.125 and 525.130, shall be confiscated and turned over to the county animal control officer employed, appointed, or contracted with as provided by KRS 258.195, if there are reasonable grounds to believe that the animals were on the property for the purpose of fighting.

KY. REV. STAT. ANN. §525.125(2012). Cruelty to animals in the first degree.

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(3) Cruelty to animals in the first degree is a Class D felony.

KY. REV. STAT. ANN. § 525.130 (2012). Cruelty to animals in the second degree; exemptions.

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish, or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(e) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;

(f) For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(g) In defense of self or another person against an aggressive or diseased animal;

(h) In defense of a domestic animal against an aggressive or diseased animal;

(i) For animal or pest control; or

(j) For any other purpose authorized by law.

(3) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

14. REFERENCED STATUTES

KY. REV. STAT. ANN. § 321.185 (2012). Veterinarian-client-patient relationship.

(1) In order for a veterinarian to practice veterinary medicine, a relationship among the veterinarian, the client, and the patient shall be established and maintained. “Veterinarian-client-patient relationship” means that:

(a) The veterinarian has assumed the responsibility for making judgments regarding the health of the animal and the need for veterinary treatment, and the client, whether owner or other caretaker, has agreed to follow the instructions of the veterinarian;

(b) There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(c) The practicing veterinarian is readily available or shall provide medical service for follow-up in case of adverse reactions or failure of the regimen of therapy. A new regimen of therapy shall be contingent only upon cooperation of the client and availability of the subject animal.

(2) The veterinarian shall maintain records which document patient visits, diagnosis, treatment, and other relevant information.

(3)

(a) A veterinarian shall not violate the confidential relationship between the veterinarian and the veterinarian’s client.

(b) A veterinarian shall not release information concerning a client or care of a client’s animal, except on the veterinarian’s receipt of:

1. A written authorization or other form of waiver executed by the client; or
2. An appropriate court order or subpoena.

(c) A veterinarian who releases information as required under paragraph (b) of this subsection shall not be liable to any person, including the client, for an action resulting from the disclosure.

(d) The privilege provided by this subsection is waived by the client or the owner of an animal treated by the veterinarian to the extent the client or owner places at issue in a civil or criminal proceeding:

1. The nature and extent of the animal's injuries; or
2. The care and treatment of the animal provided by the veterinarian.

(e) This subsection shall not apply to:

1. An inspection or investigation conducted by the board or an agent of the board;
or
2. The veterinary reporting requirements and regulatory authority of the Kentucky Horse Racing Commission to inspect, investigate, and supervise horses and other participants in horse racing as provided by KRS Chapter 230 and the administrative regulations promulgated under KRS Chapter 230, or any other law applicable to the regulation of horse racing in the Commonwealth.

(4) Veterinarians providing copies of records under this section may charge no more than the actual cost of copying, including reasonable staff time.

KY. REV. STAT. ANN. §436.605(2012). Animal control officers and humane agents have powers of peace officers except power of arrest; search warrants; execution of search warrants; arrest by peace officer.

(1) Animal control officers and officers and agents of humane societies who are employed by, appointed by, or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services shall have the powers of peace officers, except for the power of arrest, for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty, mistreatment, or torture of animals, provided they possess the qualifications required under KRS 61.300.

(2) When any peace officer, animal control officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth who is employed by, appointed by, or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty, mistreatment, or torture of animals is being committed in a building, barn, or other enclosure, the judge shall issue a search warrant directed to the peace officer, animal control officer, or officer or agent of the society or association for the prevention of cruelty to animals to search the premises. If a peace officer finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the offender or offenders shall be

immediately arrested by the peace officer and brought before the court for trial. If an animal control officer or an officer or agent of a society or association for the prevention of cruelty to animals finds that an act of cruelty, mistreatment, or torture of animals is being perpetrated, the officer or agent shall summon a peace officer to arrest the offender or offenders and bring them before the court for trial.

KY. REV. STAT. ANN. §436.610 (2012). Confiscation of animals on premises where violations of KRS 525.125 and 525.130 occur.

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of KRS 525.125 and 525.130, shall be confiscated and turned over to the county animal control officer employed, appointed, or contracted with as provided by KRS 258.195, if there are reasonable grounds to believe that the animals were on the property for the purpose of fighting.

KY. REV. STAT. ANN. § 446.010 (2012). Definitions for statutes generally.

As used in the statute laws of this state, unless the context requires otherwise:

- (1) “Action” includes all proceedings in any court of this state;
- (2) “Animal” includes every warm-blooded living creature except a human being;
- (3) “Attorney” means attorney-at-law;
- (4) “Bequeath” and “devise” mean the same thing;
- (5) “Bequest” and “legacy” mean the same thing, and embrace either real or personal estate, or both;
- (6) “Business trust” includes, except when utilized in KRS Chapter 386, a “statutory trust” as organized under KRS Chapter 386A;
- (7) “Case plan” means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual’s level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;

(c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and

(d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;

(8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(9) "Certified mail" means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:

(a) Sending the document or package;

(b) The date the document or package was delivered or delivery was attempted; and

(c) The signature of the receipt of the document or package;

(10) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(11) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(12) "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;

(13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(14) "Directors," when applied to corporations, includes managers or trustees;

(15) "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;

(16) "Domestic animal" means any animal converted to domestic habitat;

(17) "Evidence-based practices" means policies, procedures, programs and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;

(18) "Federal" refers to the United States;

(19)“Foreign,” when applied to a corporation, partnership, business trust, or limited liability company, includes all those incorporated or formed by authority of any other state;

(20)“Generally accepted accounting principles” are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(21)“Graduated sanction” means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;

(22)“Humane society,”“society,” or “Society for the Prevention of Cruelty to Animals,” means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(23)“Issue,” as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(24)“Land” or “real estate” includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(25)“Legatee” and “devisee” convey the same idea;

(26)“May” is permissive;

(27)“Month” means calendar month;

(28)“Oath” includes “affirmation” in all cases in which an affirmation may be substituted for an oath;

(29)“Owner” when applied to any animal, means any person having a property interest in such animal;

(30)“Partnership” includes both general and limited partnerships;

(31)“Peace officer” includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar

authority to make arrests;

(32)“Penitentiary” includes all of the state penal institutions except the houses of reform;

(33)“Person” may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;

(34)“Personal estate” includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(35) “Pretrial risk assessment” means an objective, research based, validated assessment tool that measures a defendant’s risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;

(36) “Registered mail” means any governmental, commercial, or electronic method of delivery that allows a document or package to have:

- (a) Its chain of custody recorded in a register to enable its location to be tracked;
- (b) Insurance available to cover its loss; and
- (c) The signature of the recipient of the document or package available to the sender;

(37)“Regular election” means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(38)“Risk and needs assessment” or “validated risk and needs assessment” means an actuarial tool scientifically proven to determine a person’s risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person’s likelihood of committing future criminal behavior;

(39)“Shall” is mandatory;

(40)“State” when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; “any other state” includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(41)“State funds” or “public funds” means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(42) “Supervised individual” means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;

(43) “Sworn” includes “affirmed” in all cases in which an affirmation may be substituted for an oath;

(44) “Treatment” when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include, but shall not be limited to, community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. “Treatment” does not include medical services;

(45) “United States” includes territories, outlying possessions, and the District of Columbia;

(46) “Vacancy in office,” or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(47) “Violate” includes failure to comply with;

(48) “Will” includes codicils; “last will” means last will and testament;

(49) “Year” means calendar year;

(50) “City” includes town;

(51) Appropriation-related terms are defined as follows:

(a) “Appropriation” means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

(b) “Appropriation provision” means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) “General appropriation bill” means an enactment by the General Assembly that authorizes the expenditure of public funds in a branch budget bill as provided for in KRS Chapter 48;

(52)“Mediation” means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations;

(53)“Biennium” means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year;

(54)“Branch budget bill” or “branch budget” means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet;

(55)“AVIS” means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator’s licenses and personal identification cards; and

(56) “Cooperative,” except in KRS Chapter 272, includes a limited cooperative association.

KY. REV. STAT. ANN.§525.125(2012).Cruelty to animals in the first degree.

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(3) Cruelty to animals in the first degree is a Class D felony.

KY. REV. STAT. ANN.§ 525.130 (2012).Cruelty to animals in the second degree; exemptions.

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish, or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(e) For purposes relating to sporting activities, including but not limited to horse racing at organized races and training for organized races, organized horse shows, or other animal shows;

(f) For bona fide animal research activities of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(g) In defense of self or another person against an aggressive or diseased animal;

(h) In defense of a domestic animal against an aggressive or diseased animal;

(i) For animal or pest control; or

(j) For any other purpose authorized by law.

(3) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4) Cruelty to animals in the second degree is a Class A misdemeanor.

KY. REV. STAT. ANN. §525.135(2012). Torture of dog or cat.

(1) As used in this section, unless the context otherwise requires, “torture” means the intentional infliction of or subjection to extreme physical pain or injury, motivated by an intent to increase or prolong the pain of the animal.

(2) A person is guilty of torture of a dog or cat when he or she without legal justification intentionally tortures a domestic dog or cat.

(3) Torture of a dog or cat is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense if the dog or cat suffers physical injury as a result of the torture, and a Class D felony if the dog or cat suffers serious physical injury or death as a result of the torture.

(4) Nothing in this section shall apply to the killing or injuring of a dog or cat:

(a) In accordance with a license to hunt, fish, or trap;

(b) For humane purposes;

(c) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;

(d) For purposes relating to sporting activities including but not limited to training for organized dog or cat shows, or other animal shows in which a dog or a cat, or both, participate;

(e) For bona fide animal research activities, using dogs or cats, of institutions of higher education; or a business entity registered with the United States Department of Agriculture under the Animal Welfare Act or subject to other federal laws governing animal research;

(f) In defense of self or another person against an aggressive or diseased dog or cat;

(g) In defense of a domestic animal against an aggressive or diseased dog or cat;

(h) For animal or pest control; or

(i) For any other purpose authorized by law.

(5) Activities of animals engaged in hunting, field trials, dog training other than training a dog to fight for pleasure or profit, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife Resources shall not constitute a violation of this section.

(6) The acts specified in this section shall not constitute cruelty to animals under KRS 525.125 or 525.130.

KY. REV. STAT. ANN. § 532.060 (2012). Sentence of imprisonment for felony.

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.

(2) Unless otherwise provided by law, the authorized maximum terms of imprisonment for felonies are:

(a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;

(b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;

(c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and

(d) For a Class D felony, not less than one (1) year nor more than five (5) years.

(3) For any felony specified in KRS Chapter 510, KRS 530.020, 530.064(1)(a), or 531.310, the sentence shall include an additional five (5) year period of postincarceration supervision which shall be added to the maximum sentence rendered for the offense. During this period of postincarceration supervision, if a defendant violates the provisions of postincarceration supervision, the defendant may be reincarcerated for:

(a) The remaining period of his initial sentence, if any is remaining; and

(b) The entire period of postincarceration supervision, or if the initial sentence has been served, for the remaining period of postincarceration supervision.

(4) In addition to the penalties provided in this section, for any person subject to a period of postincarceration supervision pursuant to Section 35 of this Act his or her sentence shall include an additional one (1) year period of postincarceration supervision following release from incarceration upon expiration of sentence if the offender is not otherwise subject to another form of postincarceration supervision. During this period of postincarceration supervision, if an offender violates the provisions of supervision, the offender may be reincarcerated for the remaining period of his or her postincarceration supervision.

(5) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

KY. REV. STAT. ANN. § 532.090 (2012). Sentence of Imprisonment for Misdemeanor.

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

- (1) For a Class A misdemeanor, the term shall not exceed twelve (12) months; and
- (2) For a Class B misdemeanor, the term shall not exceed ninety (90) days.

KY. REV. STAT. ANN. § 534.030 (2012). Fines for felonies.

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony shall, in addition to any other punishment imposed upon him, be sentenced to pay a fine in an amount not less than one thousand dollars (\$1,000) and not greater than ten thousand dollars (\$10,000) or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

- (a) The defendant's ability to pay the amount of the fine;
- (b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;
- (c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and
- (d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two (2) or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of the fines shall not exceed ten thousand dollars (\$10,000) or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

(5) This section shall not apply to a corporation.

KY. REV. STAT. ANN. § 534.040 (2012). Fines for Misdemeanors and Violations.

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized, a fine may be levied in addition to the imprisonment, or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury, the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony shall be sentenced, in addition to any other punishment imposed upon him, to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, five hundred dollars (\$500); or

(b) For a Class B misdemeanor, two hundred fifty dollars (\$250); or

(c) For a violation, two hundred fifty dollars (\$250).

(3) This section shall not apply to a corporation.

(4) Fines required by this section shall not be imposed upon any person determined by the court to be indigent pursuant to KRS Chapter 31.

ANIMAL PROTECTION LAWS OF LOUISIANA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Louisiana's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Louisiana may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

LOUISIANA

1. GENERAL PROHIBITIONS*	(1) Simple cruelty to animals LA. REV. STAT. ANN. §14:102.1(A) (2) Aggravated cruelty to animals LA. REV. STAT. ANN. §14:102.1(B)
<i>Animals Covered in Definition</i>	-----
<i>Classification of Crimes</i>	(1) [1 st offense]: Misdemeanor [Subsequent offenses]: Felony (2) Felony (LA. REV. STAT. ANN. § 14:2 defines any sentence containing “hard labor” as a “felony”, and “misdemeanor” as any crime other than a felony)

LOUISIANA*continued*

2. MAXIMUM PENALTIES^{**}

(1)
[First offense]:
6 months imprisonment
and/or
\$1,000 fine
LA. REV. STAT. ANN. § 14:102.1.A.(2)(a)
and
40 hrs. community service
LA. REV. STAT. ANN. § 14:102.1.A.(2)(c)

[Subsequent offenses]:
10 years imprisonment (with or without hard
labor)
and/or
\$25,000 fine
LA. REV. STAT. ANN. § 14:102.1.A.(2)(b)
and
40 hrs. community service
LA. REV. STAT. ANN. § 14:102.1.A.(2)(c)

(2)
10 years imprisonment (with or without hard
labor)
and/or
\$25,000 fine
LA. REV. STAT. ANN. § 14:102.1.B.(6)

3. EXEMPTIONS^{***}

1, 2, 3, 4, 9
LA. REV. STAT. ANN. § 14:102.1.C.

LOUISIANA <i>continued</i>	
4. COUNSELING / EVALUATIONS[†]	<p>On a first offense for simple cruelty to animals, the court may order a psychological evaluation or anger management treatment. On any subsequent simply cruelty offenses, the order is mandatory. LA. REV. STAT.ANN. § 14:102.1.A.(2)(d)</p> <p>On any aggravated cruelty offense, the court shall order the offender to undergo a psychological evaluation and any subsequently recommended psychological treatment. LA. REV. STAT.ANN. § 14:102.1.B.(5)</p>
5. PROTECTIVE ORDERS[†]	<p>LA. CH. C. ART. 1569 LA. REV. STAT. ANN. § 46:2135</p>
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>Owner must post bond, to cover costs of care, within 15 days of notice of seizure to avoid forfeiture; court may order payment of reasonable costs whether or not bond is posted. LA. REV. STAT.ANN. §§ 14:102.2.C., D.</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>Animals may be seized when person is charged with cruelty to animals. LA. REV. STAT. ANN. § 14:102.2</p> <p>Search warrants shall be issued for reasonable cause and cruelly treated animals may be seized. LA. REV. STAT. ANN. § 14:102.3</p> <p>When an impounded or confined animal continues without necessary food and water for more than twenty-four consecutive hours, any law enforcement officer may enter and supply it with food and water.</p>

	LA. REV. STAT. ANN.§ 14:102.4
LOUISIANA <i>continued</i>	
8. FORFEITURE / POSSESSION[†]	<p>Upon conviction for simple cruelty or aggravated cruelty, the court shall order the defendant not to own or keep animals for a period of time deemed appropriate by the court.</p> <p>LA. REV. STAT. ANN. §§ 14:102.1.A.(2)(b), B.(5)</p> <p>Upon conviction, or if bond is not posted, the court may order animal forfeited. Seized animals may be euthanized at any time for humane purposes.</p> <p>LA. REV. STAT. ANN. §§ 14:102.2.B.,C.,D.,E.</p>
9. CROSS ENFORCEMENT / REPORTING	<p><i>NOTE: An amendment inadvertently removed prior language requiring the reporting of suspected animal abuse/neglect by law enforcement and social service professionals. An amendment to fix the statute is pending as of this compendium's publication date.</i></p> <p>LA. REV. STAT. ANN. § 14:403.6(A)</p>
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	<p>Any authorized law enforcement agent may make arrests for animal cruelty.</p> <p>LA. REV. STAT. ANN. § 14:102.3</p>
12. SEXUAL ASSAULT	<p>Punishable by a fine of not more than \$2,000, or imprisonment, with or without hard labor, for not more than five years, or both</p> <p>LA. REV. STAT. ANN.§ 14:89</p> <p>Solicitation of another with the intent to engage in any unnatural carnal copulation for compensation is punishable as a misdemeanor on a 1st offense and a felony on subsequent offense, and may be classified as a sex offense on subsequent offenses or if the</p>

	<p>person being solicited is a minor. LA. REV. STAT. ANN. § 14:89.2</p>
<p>LOUISIANA<i>continued</i></p>	
<p>13. FIGHTING</p>	<p>Various dogfighting activities, including spectatorship, are felonies punishable by up to ten years imprisonment and a \$25,000 fine. LA. REV. STAT. ANN. § 14:102.5</p> <p>The seizure and destruction or other disposition of dog and equipment used in dogfighting is authorized. LA. REV. STAT. ANN. § 14:102.6</p> <p>Upon complaint, any magistrate may issue search warrants if satisfied that there is a reasonable cause to believe that a violation of the dogfighting prohibition has been, is being, or will be violated. LA. REV. STAT. ANN. § 14:102.7</p> <p>Bear wrestling is a misdemeanor. LA. REV. STAT. ANN. § 14:102.10</p> <p>Hog and canine fighting is prohibited and a violation is a misdemeanor. LA. REV. STAT. ANN. § 14:102.19</p> <p>Various cockfighting activities are a misdemeanor for the first offense and felonies for any subsequent offenses. LA. REV. STAT. ANN. § 14:102.23</p> <p>Participation in cockfighting is a misdemeanor. LA. REV. STAT. ANN. § 14:102.24</p>
<p><i>Other Felony Provisions Affecting Animals</i>[‡]</p>	<p>-----</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control,

7-rodeo, 8-zoos/circuses, 9-other.

†This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

LA. REV. STAT. ANN. § 14:102 (2012). Definitions; cruelty to animals.

The following words, phrases, and terms as used in R.S. 14:102.1 through R.S. 14:102.4 shall be defined and construed as follows:

(1) *“Cruel” means every act or failure to act whereby unjustifiable physical pain or suffering is caused or permitted.*

(2) *“Abandons” means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter.*

(3) *“Proper food” means providing each animal with daily food of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.*

(4) *“Proper water” means providing each animal with daily water of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.*

(5) *“Proper shelter” means providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal.*

(6) *“Proper veterinary care” means providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.*

(7) *“Livestock” means cattle, sheep, swine, goats, horses, mules, burros, asses, other livestock of all ages, farm-raised cervidae species, and farm-raised ratite species.*

(8) *“Public livestock exhibition” means any place, establishment, or facility commonly known as a “livestock market”, “livestock auction market”, “sales ring”, “stockyard”, or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment. “Public livestock exhibition” also means any public exhibition or sale of livestock or a livestock show.*

(9) *“Tampers” means any of the following:*

(a) The injection, use, or administration of any drug or other internal or external administration of any product or material, whether gas, solid, or liquid, to livestock for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, condition, natural color, or age of the livestock or making the livestock appear more sound than they actually are.

(b) The use or administration, for cosmetic purposes, of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance.

(c) The use or administration of any drug or feed additive affecting the central nervous system of the livestock, unless administered or prescribed by a licensed veterinarian for the treatment of an illness or an injury.

(d) The use or administration of diuretics for cosmetic purposes.

(e) The surgical manipulation or removal of tissue so as to change, transform, or enhance the true conformation, configuration, or natural color of the livestock unless the procedure is considered an accepted livestock management practice.

LA. REV. STAT. ANN. § 14:102.1 (2012).Cruelty to animals; simple and aggravated.

A.

(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

(a) Overdrives, overloads, drives when overloaded, or overworks a living animal.

(b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.

(c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.

(e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

(f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Injures any animal belonging to another person.

(i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.

(j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)

(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.

(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed, or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, § 2, effective August 15, 2008.

2. PENALTIES

LA. REV. STAT. ANN. § 14:102.1 (2012).Cruelty to animals; simple and aggravated.

A.

(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

- (a) Overdrives, overloads, drives when overloaded, or overworks a living animal.
- (b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.
- (c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.
- (d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.
- (e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.
- (f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.
- (g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.
- (h) Injures any animal belonging to another person.
- (i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.
- (j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)

(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.

(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed, or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, § 2, effective August 15, 2008.

3. EXEMPTIONS

LA. REV. STAT. ANN. § 14:102.1 (2012).Cruelty to animals; simple and aggravated.

A.

(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

(a) Overdrives, overloads, drives when overloaded, or overworks a living animal.

(b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.

(c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.

(e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

(f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Injures any animal belonging to another person.

(i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.

(j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)

(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.

(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed, or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, § 2, effective August 15, 2008.

4. COUNSELING / EVALUATIONS

LA. REV. STAT. ANN. § 14:102.1 (2012).Cruelty to animals; simple and aggravated.

A.

(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

- (a) Overdrives, overloads, drives when overloaded, or overworks a living animal.
- (b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.
- (c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.
- (d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.
- (e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.
- (f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.
- (g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.
- (h) Injures any animal belonging to another person.
- (i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.
- (j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)

(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.

(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed¹ or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, § 2, effective August 15, 2008.

5. PROTECTIVE ORDERS

LA. CH. C. ART.1569 (2012).Temporary restraining order.

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any children, or any person alleged to be an incompetent. Immediate and present danger of abuse shall constitute good cause for purposes of this Article. The order may include but is not limited to the following:

- (1) Directing the defendant to refrain from abusing, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the children, or any person alleged to be incompetent, on whose behalf a petition was filed under this Chapter.
- (2) Awarding to a party the use and possession of specified community property, such as an automobile.
- (3) Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner when either:
 - (a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought.
 - (b) The residence is solely owned by the petitioner or the person on whose behalf the petition is brought.
 - (c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.
- (4) Prohibiting either party from the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor children.
- (5) Awarding temporary custody of children or persons alleged to be incompetent.
- (6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computer, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbook, keys, automobile, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.

B. If a temporary restraining order is granted without notice, the matter shall be set within twenty-one days for a rule to show cause why the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law.

C. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to insure the protection and safety of the parties.

D. If no temporary restraining order has been granted, the court shall issue a rule to show cause why the protective order should not be issued, and set the rule for hearing on the earliest day that the business of the court will permit, but in any case within ten days from the date of service of the petition, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice by service of process as required by law.

E. If the hearing pursuant to paragraph B or D of this article is continued, the court shall make or extend such temporary restraining order as it deems necessary. Any continuance of a hearing ordered pursuant to paragraph B or D of this article shall not exceed fifteen days, unless good cause is shown for further continuance.

F. The court may, in its discretion, grant an emergency temporary restraining order outside regular court hours.

G. Repealed by Acts 1999, No. 1200, § 5, effective August 15, 1999.

H. Immediately upon rendering a decision granting the relief requested by the petitioner, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall forward it to the clerk of court for filing, all without delay.

I. If a temporary restraining order is issued or extended, the clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

LA. REV. STAT. ANN. § 46:2135 (2012). Temporary restraining order.

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any minor children, or any person alleged to be an incompetent. Any person who shows immediate and present danger of abuse shall constitute good cause for purposes of this Subsection. The order may include but is not limited to the following:

- (1) Directing the defendant to refrain from abusing, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the minor children, or any person alleged to be incompetent, on whose behalf a petition was filed under this Part.
- (2) Awarding to a party use and possession of specified jointly owned or leased property, such as an automobile.
- (3) Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where:
 - (a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought;
 - (b) The residence is solely owned by the petitioner or the person on whose behalf the petition is brought; or
 - (c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.
- (4) Prohibiting either party from the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor children.
- (5) Awarding temporary custody of minor children or persons alleged to be incompetent.
- (6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computer, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbook, keys, automobile, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.

B. If a temporary restraining order is granted without notice, the matter shall be set withintwenty-one days for a rule to show cause why the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law within twenty-four hours of the issuance of the order.

C. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to insure the protection and safety of the parties.

D. If no temporary restraining order has been granted, the court shall issue a rule to show cause why the protective order should not be issued, and set the rule for hearing on the earliest day that the business of the court will permit, but in any case within ten days from the date of service of the petition, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice by service of process as required by law.

E. If the hearing pursuant to subsection B or D of this section is continued, the court shall make or extend such temporary restraining orders as it deems necessary. Any continuance of a hearing ordered pursuant to subsection B or D of this section shall not exceed fifteen days, unless good cause is shown for further continuance.

F. The court may, in its discretion, grant an emergency temporary restraining order outside regular court hours.

G. Immediately upon entering a temporary restraining order, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall forward it to the clerk of court for filing, all without delay.

H. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

I. The initial rule to show cause hearing required pursuant to Subsection B or D may be conducted by a hearing officer who is qualified and selected in the same manner provided in R.S. 46:236.5(C). The hearing officer shall be subject to the applicable limitations and shall follow the applicable procedures provided in R.S. 46:236.5(C). The hearing officer shall make recommendations to the court as to the action that should be taken in the matter.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

LA. REV. STAT. ANN. § 14:102.2 (2012). Seizure and disposition of animals cruelly treated.

A. When a person is charged with cruelty to animals, said person's animal may be seized by the arresting officer and held pursuant to this section.

B.

(1) The seizing officer shall notify the owner of the seized animal of the provisions of this Section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and discretion residing at that location within twenty-four hours of seizure.

(2) The seizing officer shall photograph the animal within fifteen days after posting of the notice of seizure and shall cause an affidavit to be prepared in order to document its condition in accordance with LA. REV. STAT. 15:436.2.

(3) The seizing officer shall appoint a licensed veterinarian or other suitable custodian to care for any such animal. The custodian shall retain custody of the animal in accordance with this Section.

(4) The seized animal shall be held by the custodian provided for in Paragraph (3) for a period of fifteen consecutive days including weekends and holidays, after such notice of seizure is given. Thereafter, if a person who claims an interest in such animal has not posted bond in accordance with Subsection C, the animal may be humanely disposed of by sale, adoption, or euthanasia.

C.

(1) A person claiming an interest in any animal seized pursuant to this Section may prevent the disposition of the animal as provided for in Subsection B of this section by posting bond with the court within fifteen days after receiving notice of such seizure. Such bond shall prevent the disposition of the animal for a period of thirty days commencing on the date of initial seizure.

(2)

(a) The amount of the bond shall be determined by the department, agency, humane society, and the custodian of the animal as authorized by the court and shall be sufficient to secure payment for all reasonable costs incurred during the thirty-day period for the boarding and medical treatment of the animal after examination by a licensed veterinarian.

(b) The court shall order that the bond be given to the custodian of the animal to cover such costs.

(3) Such bond shall not prevent the department, agency, humane society or other custodian of the animal from disposing of the animal in accordance with Subsection B of this section at the end of the thirty day period covered by bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional thirty day period. In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with Subsection E of this section.

D. Upon a person's conviction of cruelty to animals, it shall be proper for the court, in its discretion, to order the forfeiture and final determination of the custody of any animal found to be cruelly treated in accordance with this Section and the forfeiture of the bond posted pursuant to Subsection C as a part of the sentence. *The court may, in its discretion, order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition, whether or not a bond was posted by the defendant. In the event of the acquittal or final discharge, without conviction of the accused, the court shall, on demand, direct the delivery of any animal held in custody to the owner thereof and order the return of any bond posted pursuant to Subsection C, less reasonable administrative costs.*

E. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive and is suffering, as a result of any physical condition. In such instances, the court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

7. SEIZURE / ON-SITE SUPERVISION

LA. REV. STAT. ANN. § 14:102.2 (2012). Seizure and disposition of animals cruelly treated.

A. *When a person is charged with cruelty to animals, said person's animal may be seized by the arresting officer and held pursuant to this section.*

B.

(1) The seizing officer shall notify the owner of the seized animal of the provisions of this Section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and discretion residing at that location within twenty-four hours of seizure.

(2) The seizing officer shall photograph the animal within fifteen days after posting of the notice of seizure and shall cause an affidavit to be prepared in order to document its condition in accordance with LA. REV. STAT. 15:436.2.

(3) The seizing officer shall appoint a licensed veterinarian or other suitable custodian to care for any such animal. The custodian shall retain custody of the animal in accordance with this Section.

(4) The seized animal shall be held by the custodian provided for in Paragraph (3) for a period of fifteen consecutive days including weekends and holidays, after such notice of seizure is given. Thereafter, if a person who claims an interest in such animal has not posted bond in accordance with Subsection C, the animal may be humanely disposed of by sale, adoption, or euthanasia.

C.

(1) A person claiming an interest in any animal seized pursuant to this Section may prevent the disposition of the animal as provided for in Subsection B of this section by posting bond with the court within fifteen days after receiving notice of such seizure. Such bond shall prevent the disposition of the animal for a period of thirty days commencing on the date of initial seizure.

(2)

(a) The amount of the bond shall be determined by the department, agency, humane society, and the custodian of the animal as authorized by the court and shall be sufficient to secure payment for all reasonable costs incurred during the thirty-day period for the boarding and medical treatment of the animal after examination by a licensed veterinarian.

(b) The court shall order that the bond be given to the custodian of the animal to cover such costs.

(3) Such bond shall not prevent the department, agency, humane society or other custodian of the animal from disposing of the animal in accordance with Subsection B of this section at the end of the thirty day period covered by bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional thirty day period. In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with Subsection E of this section.

D. Upon a person's conviction of cruelty to animals, it shall be proper for the court, in its discretion, to order the forfeiture and final determination of the custody of any animal found to be cruelly treated in accordance with this Section and the forfeiture of the bond posted pursuant to Subsection C as a part of the sentence. The court may, in its discretion, order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition, whether or not a bond was posted by the defendant. In the event of the acquittal or final discharge, without conviction of the accused, the court shall, on demand, direct the delivery of any animal held in custody to the owner thereof and order the return of any bond posted pursuant to Subsection C, less reasonable administrative costs.

E. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive and is suffering, as a result of any physical condition. In such instances, the court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

LA. REV. STAT. ANN. § 14:102.3 (2012). Search warrant; animal cruelty offenses.

If the complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that an animal has been or is being cruelly treated in violation of R.S. 14:102.1, in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant to any law enforcement officer authorized by law to make arrests for such offenses, authorizing any such officer to make a search of said building or place, and to arrest any person found violating R.S. 14:102.1. Said warrant may also authorize said officer to seize any animal believed to be cruelly treated and to take custody thereof. This section shall not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of the arrest.

LA. REV. STAT. ANN. § 14:102.4 (2012). Confined animals; necessary food and water.

When a living animal is impounded or confined, and continues without necessary food and water for more than twenty-four consecutive hours, any law enforcement officer may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined.

8. FORFEITURE / POSSESSION

LA. REV. STAT. ANN. § 14:102.1 (2012).Cruelty to animals; simple and aggravated.

A.

(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

(a) Overdrives, overloads, drives when overloaded, or overworks a living animal.

(b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.

(c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.

(e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

(f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Injures any animal belonging to another person.

(i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.

(j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)

(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. *In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.*

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.

(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) *In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.*

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed, or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, § 2, effective August 15, 2008.

LA. REV. STAT. ANN. §14:102.2 (2012). Seizure and disposition of animals cruelly treated.

A. When a person is charged with cruelty to animals, said person's animal may be seized by the arresting officer and held pursuant to this section.

B.

(1) The seizing officer shall notify the owner of the seized animal of the provisions of this Section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and discretion residing at that location within twenty-four hours of seizure

(2) The seizing officer shall photograph the animal within fifteen days after posting of the notice of seizure and shall cause an affidavit to be prepared in order to document its condition in accordance with LA. REV. STAT. 15:436.2.

(3) The seizing officer shall appoint a licensed veterinarian or other suitable custodian to care for any such animal. The custodian shall retain custody of the animal in accordance with this Section.

(4) The seized animal shall be held by the custodian provided for in Paragraph (3) for a period of fifteen consecutive days including weekends and holidays, after such notice of seizure is given. *Thereafter, if a person who claims an interest in such animal has not posted bond in accordance with Subsection C, the animal may be humanely disposed of by sale, adoption, or euthanasia.*

C.

(1) A person claiming an interest in any animal seized pursuant to this Section may prevent the disposition of the animal as provided for in Subsection B of this section by posting bond with the court within fifteen days after receiving notice of such seizure. Such bond shall prevent the disposition of the animal for a period of thirty days commencing on the date of initial seizure.

(2)

(a) The amount of the bond shall be determined by the department, agency, humane society, and the custodian of the animal as authorized by the court and shall be sufficient to secure payment for all reasonable costs incurred during the thirty-day period for the boarding and medical treatment of the animal after examination by a licensed veterinarian.

(b) The court shall order that the bond be given to the custodian of the animal to cover such costs.

(3) Such bond shall not prevent the department, agency, humane society or other custodian of the animal from disposing of the animal in accordance with Subsection B of this section at the end of the thirty day period covered by bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional thirty day period. *In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with Subsection E of this section.*

D. Upon a person's conviction of cruelty to animals, it shall be proper for the court, in its discretion, to order the forfeiture and final determination of the custody of any animal found to be cruelly treated in accordance with this Section and the forfeiture of the bond posted pursuant to Subsection C as a part of the sentence. The court may, in its discretion, order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition, whether or not a bond was posted by the defendant. In the event of the acquittal or final discharge, without conviction of the accused, the court shall, on demand, direct the delivery of any animal held in custody to the owner thereof and order the return of any bond posted pursuant to Subsection C, less reasonable administrative costs.

E. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive and is suffering, as a result of any physical condition. In such instances, the court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

9. CROSS ENFORCEMENT / REPORTING

LA. REV. STAT. ANN. § 14:403.6(2012). Reporting of neglect or abuse of animals.

*A. Any state or local law enforcement officer; or any employee of government or of a government contractor who in his professional capacity routinely investigates alleged abuse or neglect or sexual abuse of a child, or abuse or neglect of an adult under the provisions of R.S. 15:1507, who becomes aware of evidence of neglect or abuse of an animal.**

B. No person required to report under the provisions of Subsection A of this Section shall knowingly and willfully obstruct the procedures for receiving and investigating a report of abuse or neglect or shall disclose, without authorization, confidential information which was reported.

C. No person shall make a report required by this Section knowing that any information therein is false.

***Editor's note:** An amendment inadvertently removed previous language requiring the reporting of suspected animal abuse/neglect by law enforcement and social service professionals. A technical amendment is pending at the time of this publication to restore the following language to the end of paragraph A above:

“ . . . shall report such incident to the law enforcement authority of the governing authority in which the incident has occurred or the local animal welfare authority. The name and identifying information regarding the reporter of animal maltreatment shall be confidential.”

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

LA. REV. STAT. ANN. § 14:102.3 (2012). Search warrant; animal cruelty offenses.

If the complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that an animal has been or is being cruelly treated in violation of R.S. 14:102.1, in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant to any law enforcement officer authorized by law to make arrests for such offenses, authorizing any such officer to make a search of said building or place, and to arrest any person found violating R.S. 14:102.1. Said warrant may also authorize said officer to seize any animal believed to be cruelly treated and to take custody thereof. This section shall not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of the arrest.

12. SEXUAL ASSAULT

LA. REV. STAT. ANN. § 14:89 (2012). Crime against nature.

A. *Crime against nature is the unnatural carnal copulation by a human being with another of the same sex or opposite sex or with an animal, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 14:42, 14:42.1 or 14:43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.*

B. Whoever violates the provisions of this Section shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

LA. REV. STAT. ANN. § 14:89.2 (2012). Crime against nature by solicitation.

A. *Crime against nature by solicitation is the solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation.*

B.

(1) Whoever violates the provisions of this section, on a first conviction thereof, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this section, on a second or subsequent conviction thereof, shall be fined not less than two hundred fifty dollars and not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

(3) Whoever violates the provisions of this section, when the person being solicited is under the age of seventeen years, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both. Lack of knowledge of the age of the person being solicited shall not be a defense.

C. *A violation of the provisions of Paragraph (B)(3) of this section shall be considered a sex offense as defined in R.S. 15:541 and the offender shall be required to register as a sex offender as provided for in chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.*

13. FIGHTING

LA. REV. STAT. ANN. § 14:102.5 (2012).Dogfighting; training and possession of dogs for fighting.

A. *No person shall intentionally do any of the following:*

(1) For amusement or gain, cause any dog to fight with another dog, or cause any dogs to injure each other.

(2) Permit any act in violation of Paragraph (1) to be done on any premises under his charge or control, or aid or abet any such act.

(3) Promote, stage, advertise, or be employed at a dogfighting exhibition.

(4) Sell a ticket of admission or receive money for the admission of any person to any place used, or about to be used, for any activity described in Paragraph (2).

(5) Own, manage, or operate any facility kept or used for the purpose of dogfighting.

(6) Knowingly attend as a spectator at any organized dogfighting event.

(7)

(a) Own, possess, keep, or train a dog for purpose of dogfighting.

(b) The following activities shall be admissible as evidence of a violation of this Paragraph:

(i) Possession of any treadmill wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a dog to fight with another dog, along with the possession of any such dog.

(ii) Tying, attaching, or fastening any live animal to a machine or power propelled device, for the purpose of causing the animal to be pursued by a dog, together with the possession of a dog.

(iii) Possession or ownership of a dog exhibiting injuries or alterations consistent with dogfighting, including but not limited to torn or missing ears, scars, lacerations, bite wounds, puncture wounds, bruising or other injuries, together with evidence that the dog has been used or is intended for use in dogfighting.

B. "Dogfighting" means an organized event wherein there is a display of combat between two or more dogs in which the fighting, killing, maiming, or injuring of a dog is the significant feature, or main purpose, of the event.

C. Whoever violates any provision of Subsection A of this Section shall be fined not less than one thousand dollars nor more than twenty-five thousand dollars, or be imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

D. Nothing in this Section shall prohibit any of the following activities:

(1) The use of dogs for hunting.

(2) The use of dogs for management of livestock by the owner, his employees or agents, or any other person having lawful custody of livestock.

(3) The training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

(4) The possessing or owning of dogs with ears cropped or otherwise surgically altered for cosmetic purposes.

LA. REV. STAT. ANN. § 14:102.6 (2012). Seizure and destruction or disposition of dogs and equipment used in dogfighting.

A.

(1) Any law enforcement officer making an arrest under R.S. 14:102.5 may lawfully take possession of all fighting dogs on the premises where the arrest is made or in the immediate possession or control of the person being arrested, whether or not the dogs are actually engaged in a fight at the time, and all paraphernalia, implements, equipment, or other property or things used or employed in violation of that Section.

(2) The legislature finds and declares that fighting dogs used or employed in violation of R.S. 14:102.5 are dangerous, vicious, and a threat to the health and safety of the public. Therefore, fighting dogs seized in accordance with this Section are declared to be contraband and, notwithstanding R.S. 14:102.1, the officer, an animal control officer, or a licensed veterinarian may cause them to be humanely euthanized as soon as possible by a licensed veterinarian or a qualified technician and shall not be civilly or criminally liable for so doing. Fighting dogs not destroyed immediately shall be disposed of in accordance with R.S. 14:102.2.

B.

(1) The officer, after taking possession of any dogs other than those destroyed or disposed of pursuant to Subsection A and of the other paraphernalia, implements, equipment, or other property or things, shall file with the district court of the parish within which the alleged violation occurred an affidavit stating therein the name of the person charged, a description of the property so taken and the time and place of the taking thereof, together with the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed in such violation.

(2) The seizing officer shall dispose of any dogs or other animals seized in the manner provided for in R.S. 14:102.2.

(3) He shall thereupon deliver the other property so taken to such court which shall, by order in writing, place such paraphernalia, implements, equipment, or other property in the custody of a suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the parish. The custodian so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which the accused shall be required to appear for trial.

C. *Any person claiming an interest in a seized animal may post a bond with the court in accordance with the provisions of R.S. 14:102.2(C) in order to prevent the disposition of such animal.*

D. *Upon conviction of the person so charged, all dogs so seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same in accordance with R.S. 14:102.2. The court may also in its discretion order the forfeiture of the bond posted, as well as payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized dog, as provided in R.S. 14:102.2. In the event of the acquittal or final discharge, without conviction, of the accused, the court shall, on demand, direct the delivery of the animals and other property so held in custody to the owner thereof and order the return of any bond posted pursuant to R.S. 14:102.2(C), less reasonable administrative costs.*

LA. REV. STAT. ANN. § 14:102.7 (2012). Search warrant for dogfighting offenses.

If complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that R.S. 14:102.5 has been violated within the past forty-eight hours, is being, or will be violated in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any law enforcement officer competent by law to make arrests for such offenses to make a search of said building or place, and to arrest any person found violating R.S. 14:102.5. This Section shall not be construed as a limitation on the power of law enforcement officers to seize animals or evidence at the time of arrest.

LA. REV. STAT. ANN. § 14:102.10 (2012). Bear wrestling; penalty.

A. Any person who intentionally commits any of the following shall be guilty of bear wrestling:

(1) Promotes, engages in, or is employed by anyone who conducts a bear wrestling match.

(2) Receives money for the admission of another person to a place kept for bear wrestling matches.

(3) Sells, purchases, possesses, or trains a bear for a bear wrestling match.

B. For the purposes of this Section, a “bear wrestling match” means a match or contest between one or more persons and a bear for the purpose of fighting or engaging in a physical altercation.

C. Whoever commits the crime of bear wrestling shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

LA. REV. STAT. ANN. § 14:102.19 (2012). Hog and canine fighting prohibited; penalties.

A. It shall be unlawful for any person to organize or conduct any commercial or private event, wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

B. It shall be unlawful for any person to intentionally do any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in Subsection A of this Section:

(1) Finance, commercially advertise, sell admission tickets, or employ persons.

(2) Own, manage, or operate any facility or property.

(3) Supply, breed, train, or keep canines or hogs.

(4) Knowingly purchase tickets of admission.

C. The provisions of this Section shall not apply to any competitive event in which canines, which are trained for hunting or herding activities, are released in an open area or an enclosed area to locate and corner hogs, and in which competitive points are deducted if a hog is caught and held, unless by such actions it is reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

D. The provisions of this Section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this Subsection provided that such training is conducted in the field and is not in violation of the provisions of Subsection A of this Section.

E. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials," as defined in R.S. 49:170.10.

F. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

G. For the purposes of this Section:

(1) "Hog" shall include a pig, swine, or boar.

(2) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity.

LA. REV. STAT. ANN. § 14:102.23 (2012).Cockfighting.

A. It shall be unlawful for any person to:

(1) Organize or conduct any commercial or private cockfight wherein there is a display of combat or fighting among one or more domestic or feral chickens and in which it is intended or reasonably foreseeable that the chickens would be injured, maimed, mutilated, or killed; or

(2) Possess, train, purchase, or sell any chicken with the intent that the chicken shall be engaged in an unlawful commercial or private cockfight as prohibited in Paragraph (1) of this Subsection.

B. As used in this Section, the following words and phrases have the following meanings ascribed to them:

(1) “Chicken” means any bird which is of the species Gallus gallus, whether domestic or feral.

(2) “Cockfight” means a contest wherein chickens are set against one another with the intention that they engage in combat.

C.

(1) Whoever violates the provisions of this Section, on conviction of a first offense, shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) On a conviction of a second offense, the offender shall be fined not less than seven hundred fifty dollars, nor more than two thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both. In addition to any other penalty imposed, on a conviction of a second offense, the offender shall be ordered to perform fifteen eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(3) On a conviction of a third offense, the offender shall be fined not less than one thousand dollars, nor more than two thousand dollars, and shall be imprisoned, with or without hard labor, for not less than one year nor more than three years. At least six months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

LA. REV. STAT. ANN. § 14:102.24(2012).Participation in cockfighting.

A. It shall be unlawful for any person to attend a cockfight, or to bet on a cockfight, or to pay admission at any location to view or bet on a cockfight.

B. As used in this Section, the following words and phrases have the following meaning ascribed to them:

(1) “Chicken” means any bird which is of the species Gallus gallus, whether domestic or feral.

(2) “Cockfight” means a contest wherein chickens are set against one another with the intention that they engage in combat.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

14. REFERENCED STATUTES

LA. CH. C. ART.1569 (2012).Temporary restraining order.

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any children, or any person alleged to be an incompetent. Immediate and present danger of abuse shall constitute good cause for purposes of this Article. The order may include but is not limited to the following:

- (1) Directing the defendant to refrain from abusing, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the children, or any person alleged to be incompetent, on whose behalf a petition was filed under this Chapter.
- (2) Awarding to a party the use and possession of specified community property, such as an automobile.
- (3) Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner when either:
 - (a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought.
 - (b) The residence is solely owned by the petitioner or the person on whose behalf the petition is brought.
 - (c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.
- (4) Prohibiting either party from the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor children.
- (5) Awarding temporary custody of children or persons alleged to be incompetent.
- (6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computer, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbook, keys, automobile, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.

B. If a temporary restraining order is granted without notice, the matter shall be set within twenty-one days for a rule to show cause why the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law.

C. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to insure the protection and safety of the parties.

D. If no temporary restraining order has been granted, the court shall issue a rule to show cause why the protective order should not be issued, and set the rule for hearing on the earliest day that the business of the court will permit, but in any case within ten days from the date of service of the petition, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice by service of process as required by law.

E. If the hearing pursuant to paragraph B or D of this article is continued, the court shall make or extend such temporary restraining order as it deems necessary. Any continuance of a hearing ordered pursuant to paragraph B or D of this article shall not exceed fifteen days, unless good cause is shown for further continuance.

F. The court may, in its discretion, grant an emergency temporary restraining order outside regular court hours.

G. Repealed by Acts 1999, No. 1200, § 5, effective August 15, 1999.

H. Immediately upon rendering a decision granting the relief requested by the petitioner, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall forward it to the clerk of court for filing, all without delay.

I. If a temporary restraining order is issued or extended, the clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

LA. REV. STAT. ANN. § 14:89 (2012).Crime against nature.

A. Crime against nature is the unnatural carnal copulation by a human being with another of the same sex or opposite sex or with an animal, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 14:42, 14:42.1 or 14:43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.

B. Whoever violates the provisions of this Section shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

LA. REV. STAT. ANN. § 14:89.2 (2012).Crime against nature by solicitation.

A. Crime against nature by solicitation is the solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation.

B.

(1) Whoever violates the provisions of this section, on a first conviction thereof, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this section, on a second or subsequent conviction thereof, shall be fined not less than two hundred fifty dollars and not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

(3) Whoever violates the provisions of this section, when the person being solicited is under the age of seventeen years, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both. Lack of knowledge of the age of the person being solicited shall not be a defense.

C. A violation of the provisions of Paragraph (B)(3) of this section shall be considered a sex offense as defined in R.S. 15:541 and the offender shall be required to register as a sex offender as provided for in chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

LA. REV. STAT. ANN. § 14:102 (2012). Definitions; cruelty to animals.

The following words, phrases, and terms as used in R.S. 14:102.1 through R.S. 14:102.4 shall be defined and construed as follows:

- (1) “Cruel” means every act or failure to act whereby unjustifiable physical pain or suffering is caused or permitted.
- (2) “Abandons” means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter.
- (3) “Proper food” means providing each animal with daily food of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.
- (4) “Proper water” means providing each animal with daily water of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.
- (5) “Proper shelter” means providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal.
- (6) “Proper veterinary care” means providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.
- (7) “Livestock” means cattle, sheep, swine, goats, horses, mules, burros, asses, other livestock of all ages, farm-raised cervidae species, and farm-raised ratite species.
- (8) “Public livestock exhibition” means any place, establishment, or facility commonly known as a “livestock market”, “livestock auction market”, “sales ring”, “stockyard”, or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment. “Public livestock exhibition” also means any public exhibition or sale of livestock or a livestock show.
- (9) “Tampers” means any of the following:
 - (a) The injection, use, or administration of any drug or other internal or external administration of any product or material, whether gas, solid, or liquid, to livestock for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, condition, natural color, or age of the livestock or making the livestock appear more sound than they actually are.
 - (b) The use or administration, for cosmetic purposes, of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance.

(c) The use or administration of any drug or feed additive affecting the central nervous system of the livestock, unless administered or prescribed by a licensed veterinarian for the treatment of an illness or an injury.

(d) The use or administration of diuretics for cosmetic purposes.

(e) The surgical manipulation or removal of tissue so as to change, transform, or enhance the true conformation, configuration, or natural color of the livestock unless the procedure is considered an accepted livestock management practice.

LA. REV. STAT. ANN. § 14:102.1 (2012). Cruelty to animals; simple and aggravated.

A.

(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

(a) Overdrives, overloads, drives when overloaded, or overworks a living animal.

(b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.

(c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.

(e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

(f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Injures any animal belonging to another person.

(i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.

(j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)

(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.

(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed, or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, § 2, effective August 15, 2008.

LA. REV. STAT. ANN. § 14:102.2 (2012). Seizure and disposition of animals cruelly treated.

A. When a person is charged with cruelty to animals, said person's animal may be seized by the arresting officer and held pursuant to this section.

B.

(1) The seizing officer shall notify the owner of the seized animal of the provisions of this Section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and discretion residing at that location within twenty-four hours of seizure.

(2) The seizing officer shall photograph the animal within fifteen days after posting of the notice of seizure and shall cause an affidavit to be prepared in order to document its condition in accordance with LA. REV. STAT. 15:436.2.

(3) The seizing officer shall appoint a licensed veterinarian or other suitable custodian to care for any such animal. The custodian shall retain custody of the animal in accordance with this Section.

(4) The seized animal shall be held by the custodian provided for in Paragraph (3) for a period of fifteen consecutive days including weekends and holidays, after such notice of seizure is given. Thereafter, if a person who claims an interest in such animal has not posted bond in accordance with Subsection C, the animal may be humanely disposed of by sale, adoption, or euthanasia.

C.

(1) A person claiming an interest in any animal seized pursuant to this Section may prevent the disposition of the animal as provided for in Subsection B of this section by posting bond with the court within fifteen days after receiving notice of such seizure. Such bond shall prevent the disposition of the animal for a period of thirty days commencing on the date of initial seizure.

(2)

(a) The amount of the bond shall be determined by the department, agency, humane society, and the custodian of the animal as authorized by the court and shall be sufficient to secure payment for all reasonable costs incurred during the thirty-day period for the boarding and medical treatment of the animal after examination by a licensed veterinarian.

(b) The court shall order that the bond be given to the custodian of the animal to cover such costs.

(3) Such bond shall not prevent the department, agency, humane society or other custodian of the animal from disposing of the animal in accordance with Subsection B of this section at the end of the thirty day period covered by bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional thirty day period. In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with Subsection E of this section.

D. Upon a person's conviction of cruelty to animals, it shall be proper for the court, in its discretion, to order the forfeiture and final determination of the custody of any animal found to be cruelly treated in accordance with this Section and the forfeiture of the bond posted pursuant to Subsection C as a part of the sentence. The court may, in its discretion, order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition, whether or not a bond was posted by the defendant. In the event of the acquittal or final discharge, without conviction of the accused, the court shall, on demand, direct the delivery of any animal held in custody to the owner thereof and order the return of any bond posted pursuant to Subsection C, less reasonable administrative costs.

E. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive and is suffering, as a result of any physical condition. In such instances, the court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

LA. REV. STAT. ANN. § 14:102.3 (2012). Search warrant; animal cruelty offenses.

If the complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that an animal has been or is being cruelly treated in violation of R.S. 14:102.1, in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant to any law enforcement officer authorized by law to make arrests for such offenses, authorizing any such officer to make a search of said building or place, and to arrest any person found violating R.S. 14:102.1. Said warrant may also authorize said officer to seize any animal believed to be cruelly treated and to take custody thereof. This section shall not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of the arrest.

LA. REV. STAT. ANN. § 14:102.4 (2012). Confined animals; necessary food and water.

When a living animal is impounded or confined, and continues without necessary food and water for more than twenty-four consecutive hours, any law enforcement officer may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined.

LA. REV. STAT. ANN. § 14:102.5 (2012). Dogfighting; training and possession of dogs for fighting.

A. No person shall intentionally do any of the following:

(1) For amusement or gain, cause any dog to fight with another dog, or cause any dogs to injure each other.

(2) Permit any act in violation of Paragraph (1) to be done on any premises under his charge or control, or aid or abet any such act.

(3) Promote, stage, advertise, or be employed at a dogfighting exhibition.

(4) Sell a ticket of admission or receive money for the admission of any person to any place used, or about to be used, for any activity described in Paragraph (2).

(5) Own, manage, or operate any facility kept or used for the purpose of dogfighting.

(6) Knowingly attend as a spectator at any organized dogfighting event.

(7)

(a) Own, possess, keep, or train a dog for purpose of dogfighting.

(b) The following activities shall be admissible as evidence of a violation of this Paragraph:

(i) Possession of any treadmill wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a dog to fight with another dog, along with the possession of any such dog.

(ii) Tying, attaching, or fastening any live animal to a machine or power propelled device, for the purpose of causing the animal to be pursued by a dog, together with the possession of a dog.

(iii) Possession or ownership of a dog exhibiting injuries or alterations consistent with dogfighting, including but not limited to torn or missing ears, scars, lacerations, bite wounds, puncture wounds, bruising or other injuries, together with evidence that the dog has been used or is intended for use in dogfighting.

B. "Dogfighting" means an organized event wherein there is a display of combat between two or more dogs in which the fighting, killing, maiming, or injuring of a dog is the significant feature, or main purpose, of the event.

C. Whoever violates any provision of Subsection A of this Section shall be fined not less than one thousand dollars nor more than twenty-five thousand dollars, or be imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

D. Nothing in this Section shall prohibit any of the following activities:

- (1) The use of dogs for hunting.
- (2) The use of dogs for management of livestock by the owner, his employees or agents, or any other person having lawful custody of livestock.
- (3) The training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.
- (4) The possessing or owning of dogs with ears cropped or otherwise surgically altered for cosmetic purposes.

LA. REV. STAT. ANN. § 14:102.6 (2012). Seizure and destruction or disposition of dogs and equipment used in dogfighting.

A.

- (1) Any law enforcement officer making an arrest under R.S. 14:102.5 may lawfully take possession of all fighting dogs on the premises where the arrest is made or in the immediate possession or control of the person being arrested, whether or not the dogs are actually engaged in a fight at the time, and all paraphernalia, implements, equipment, or other property or things used or employed in violation of that Section.
- (2) The legislature finds and declares that fighting dogs used or employed in violation of R.S. 14:102.5 are dangerous, vicious, and a threat to the health and safety of the public. Therefore, fighting dogs seized in accordance with this Section are declared to be contraband and, notwithstanding R.S. 14:102.1, the officer, an animal control officer, or a licensed veterinarian may cause them to be humanely euthanized as soon as possible by a licensed veterinarian or a qualified technician and shall not be civilly or criminally liable for so doing. Fighting dogs not destroyed immediately shall be disposed of in accordance with R.S. 14:102.2.

B.

(1) The officer, after taking possession of any dogs other than those destroyed or disposed of pursuant to Subsection A and of the other paraphernalia, implements, equipment, or other property or things, shall file with the district court of the parish within which the alleged violation occurred an affidavit stating therein the name of the person charged, a description of the property so taken and the time and place of the taking thereof, together with the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed in such violation.

(2) The seizing officer shall dispose of any dogs or other animals seized in the manner provided for in R.S. 14:102.2.

(3) He shall thereupon deliver the other property so taken to such court which shall, by order in writing, place such paraphernalia, implements, equipment, or other property in the custody of a suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the parish. The custodian so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which the accused shall be required to appear for trial.

C. Any person claiming an interest in a seized animal may post a bond with the court in accordance with the provisions of R.S. 14:102.2(C) in order to prevent the disposition of such animal.

D. Upon conviction of the person so charged, all dogs so seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same in accordance with R.S. 14:102.2. The court may also in its discretion order the forfeiture of the bond posted, as well as payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized dog, as provided in R.S. 14:102.2. In the event of the acquittal or final discharge, without conviction, of the accused, the court shall, on demand, direct the delivery of the animals and other property so held in custody to the owner thereof and order the return of any bond posted pursuant to R.S. 14:102.2(C), less reasonable administrative costs.

LA. REV. STAT. ANN. § 14:102.7 (2012). Search warrant for dogfighting offenses.

If complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that R.S. 14:102.5 has been violated within the past forty-eight hours, is being, or will be violated in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any law enforcement officer competent by law to make arrests for such offenses to make a search of said building or place, and to arrest any person found violating R.S. 14:102.5. This Section shall not be construed as a limitation on the power of law enforcement officers to seize animals or evidence at the time of arrest.

LA. REV. STAT. ANN. § 14:102.10 (2012). Bear wrestling; penalty.

A. Any person who intentionally commits any of the following shall be guilty of bear wrestling:

- (1) Promotes, engages in, or is employed by anyone who conducts a bear wrestling match.
- (2) Receives money for the admission of another person to a place kept for bear wrestling matches.
- (3) Sells, purchases, possesses, or trains a bear for a bear wrestling match.

B. For the purposes of this Section, a “bear wrestling match” means a match or contest between one or more persons and a bear for the purpose of fighting or engaging in a physical altercation.

C. Whoever commits the crime of bear wrestling shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

LA. REV. STAT. ANN. § 14:102.19 (2012). Hog and canine fighting prohibited; penalties.

A. It shall be unlawful for any person to organize or conduct any commercial or private event, wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

B. It shall be unlawful for any person to intentionally do any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in Subsection A of this Section:

- (1) Finance, commercially advertise, sell admission tickets, or employ persons.
- (2) Own, manage, or operate any facility or property.

(3) Supply, breed, train, or keep canines or hogs.

(4) Knowingly purchase tickets of admission.

C. The provisions of this Section shall not apply to any competitive event in which canines, which are trained for hunting or herding activities, are released in an open area or an enclosed area to locate and corner hogs, and in which competitive points are deducted if a hog is caught and held, unless by such actions it is reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

D. The provisions of this Section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this Subsection provided that such training is conducted in the field and is not in violation of the provisions of Subsection A of this Section.

E. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials," as defined in R.S. 49:170.10.

F. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

G. For the purposes of this Section:

(1) "Hog" shall include a pig, swine, or boar.

(2) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity.

LA. REV. STAT. ANN. § 14:102.23 (2012).Cockfighting.

A. It shall be unlawful for any person to:

(1) Organize or conduct any commercial or private cockfight wherein there is a display of combat or fighting among one or more domestic or feral chickens and in which it is intended or reasonably foreseeable that the chickens would be injured, maimed, mutilated, or killed; or

(2) Possess, train, purchase, or sell any chicken with the intent that the chicken shall be engaged in an unlawful commercial or private cockfight as prohibited in Paragraph (1) of this Subsection.

B. As used in this Section, the following words and phrases have the following meanings ascribed to them:

(1) "Chicken" means any bird which is of the species *Gallus gallus*, whether domestic or feral.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

C.

(1) Whoever violates the provisions of this Section, on conviction of a first offense, shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) On a conviction of a second offense, the offender shall be fined not less than seven hundred fifty dollars, nor more than two thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both. In addition to any other penalty imposed, on a conviction of a second offense, the offender shall be ordered to perform fifteen eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(3) On a conviction of a third offense, the offender shall be fined not less than one thousand dollars, nor more than two thousand dollars, and shall be imprisoned, with or without hard labor, for not less than one year nor more than three years. At least six months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

LA. REV. STAT. ANN. § 14:102.24 (2012).Participation in cockfighting.

A. It shall be unlawful for any person to attend a cockfight, or to bet on a cockfight, or to pay admission at any location to view or bet on a cockfight.

B. As used in this Section, the following words and phrases have the following meaning ascribed to them:

(1) "Chicken" means any bird which is of the species *Gallus gallus*, whether domestic or feral.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

LA. REV. STAT. ANN. § 14:403.6 (2012). Reporting of neglect or abuse of animals.

A. Any state or local law enforcement officer; or any employee of government or of a government contractor who in his professional capacity routinely investigates alleged abuse or neglect or sexual abuse of a child, or abuse or neglect of an adult under the provisions of R.S. 15:1507, who becomes aware of evidence of neglect or abuse of an animal.*

B. No person required to report under the provisions of Subsection A of this Section shall knowingly and willfully obstruct the procedures for receiving and investigating a report of abuse or neglect or shall disclose, without authorization, confidential information which was reported.

C. No person shall make a report required by this Section knowing that any information therein is false.

***Editor's note:** An amendment inadvertently removed previous language requiring the reporting of suspected animal abuse/neglect by law enforcement and social service professionals. A technical amendment is pending at the time of this publication to restore the following language to the end of paragraph A above:

“ . . . shall report such incident to the law enforcement authority of the governing authority in which the incident has occurred or the local animal welfare authority. The name and identifying information regarding the reporter of animal maltreatment shall be confidential.”

LA. REV. STAT. ANN. § 46:2135 (2012). Temporary restraining order

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any minor children, or any person alleged to be an incompetent. Any person who shows immediate and present danger of abuse shall constitute good cause for purposes of this Subsection. The order may include but is not limited to the following:

(1) Directing the defendant to refrain from abusing, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the minor children, or any person alleged to be incompetent, on whose behalf a petition was filed under this Part.

(2) Awarding to a party use and possession of specified jointly owned or leased property, such as an automobile.

(3) Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where:

(a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought;

(b) The residence is solely owned by the petitioner or the person on whose behalf the petition is brought; or

(c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.

(4) Prohibiting either party from the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor children.

(5) Awarding temporary custody of minor children or persons alleged to be incompetent.

(6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computer, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbook, keys, automobile, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.

B. If a temporary restraining order is granted without notice, the matter shall be set withintwenty-one days for a rule to show cause why the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law within twenty-four hours of the issuance of the order.

C. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to insure the protection and safety of the parties.

D. If no temporary restraining order has been granted, the court shall issue a rule to show cause why the protective order should not be issued, and set the rule for hearing on the earliest day that the business of the court will permit, but in any case within ten days from the date of service of

the petition, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice by service of process as required by law.

E. If the hearing pursuant to subsection B or D of this section is continued, the court shall make or extend such temporary restraining orders as it deems necessary. Any continuance of a hearing ordered pursuant to subsection B or D of this section shall not exceed fifteen days, unless good cause is shown for further continuance.

F. The court may, in its discretion, grant an emergency temporary restraining order outside regular court hours.

G. Immediately upon entering a temporary restraining order, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall forward it to the clerk of court for filing, all without delay.

H. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

I. The initial rule to show cause hearing required pursuant to Subsection B or D may be conducted by a hearing officer who is qualified and selected in the same manner provided in R.S. 46:236.5(C). The hearing officer shall be subject to the applicable limitations and shall follow the applicable procedures provided in R.S. 46:236.5(C). The hearing officer shall make recommendations to the court as to the action that should be taken in the matter.

ANIMAL PROTECTION LAWS OF MAINE

Editor's note: Maine has both civil and criminal dispositions in its statutes. "Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. No person may be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection shall not be subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011."ME. REV. STAT. ANN. tit.17, § 1031(4).

1. GENERAL PROHIBITIONS

Civil

Criminal

2. PENALTIES

Civil

Criminal

3. EXEMPTIONS

Civil

Criminal

4. COUNSELING / EVALUATIONS

Civil

Criminal

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

7. SEIZURE / ON-SITE SUPERVISION

8. FORFEITURE / POSSESSION

Civil

Criminal

9. **CROSS ENFORCEMENT / REPORTING**
10. **VETERINARIAN REPORTING / IMMUNITY**
11. **LAW ENFORCEMENT POLICIES**
12. **SEXUAL ASSAULT**
13. **FIGHTING**
14. **REFERENCED STATUTES**

This chapter contains Maine’s general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Maine may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MAINE

1. GENERAL PROHIBITIONS*

Civil:

(1)

Cruelty to animals

ME. REV. STAT. ANN. tit. 7, § 4011

(2)

Cruelty to birds

ME. REV. STAT. ANN. tit. 7, § 4012

(3)

Failure to provide necessary sustenance

ME. REV. STAT. ANN. tit. 7, § 4013

(4)

Failure to supply necessary medical attention

ME. REV. STAT. ANN. tit. 7, § 4014

(5)

Failure to provide proper shelter

ME. REV. STAT. ANN. tit. 7, § 4015

Criminal:

(6)

Aggravated cruelty to animals

ME. REV. STAT. ANN. tit. 17, § 1031(1-B)

(7)

Cruelty to animals

ME. REV. STAT. ANN. tit. 17, § 1031

(8)

Cruelty to birds

ME. REV. STAT. ANN. tit. 17, § 1032

(9)

Failure to provide necessary sustenance

ME. REV. STAT. ANN. tit. 17, § 1035

MAINE*continued*

<p>1. GENERAL PROHIBITIONS* <i>continued</i></p>	<p>(10) Failure to supply necessary medical attention ME. REV. STAT. ANN. tit. 17, § 1036</p> <p>(11) Failure to provide proper shelter ME. REV. STAT. ANN. tit. 17, § 1037</p> <p>(12) Abandoning animal at animal care facilities ME. REV. STAT. ANN. tit. 17, § 1038</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[E]very living, sentient creature not a human being” ME. REV. STAT. ANN. tit. 7, § 3907(2) ME. REV. STAT. ANN. tit. 17, § 1011(2)</p>
<p><i>Classification of Crimes</i></p>	<p>(1) - (5) Civil violation</p> <p>-----</p> <p>(6) Class C crime</p> <p>-----</p> <p>(7), (8) [1st offense]: Class D crime</p> <p>[3rd and subsequent offenses]: Class C crime</p> <p>-----</p> <p>(9), (10), (11), (12) Class D crime</p>

MAINE*continued*

2. MAXIMUM PENALTIES**

Civil:

[1st offense]:

\$2,500 fine

and

other sanctions, including reimbursement of costs, possession prohibitions and psychological evaluations

ME. REV. STAT. ANN. tit. 7, § 4016

[2nd and subsequent offenses of § 4011 – civil animal cruelty]:

\$5,000 fine

and

other sanctions, including reimbursement of costs, possession prohibitions and psychological evaluations

ME. REV. STAT. ANN. tit. 7, § 4016

MAINE*continued*

2. MAXIMUM PENALTIES ** *continued*

Criminal:

[Class D Crime]:

Less than 1 year imprisonment

ME. REV. STAT. ANN. tit. 17-A, § 1252(2)(D)

and/or

\$2,000 fine

ME. REV. STAT. ANN. tit. 17-A, § 1031

(1-A)(D)

and

mandatory \$500 fine

ME. REV. STAT. ANN. tit. 17, § 1031(3-B)

(or mandatory \$100 fine for cruelty to birds,

ME. REV. STAT. ANN. tit. 17, § 1032(2))

[Class C Crime]:

5 years imprisonment

ME. REV. STAT. ANN. tit. 17-A, § 1252(2)(C)

and/or

\$5,000 fine

ME. REV. STAT. ANN. tit. 17-A, § 1031

(1-A)(C)

and

mandatory \$500 fine

ME. REV. STAT. ANN. tit. 17, § 1031(3-B)

(or mandatory \$100 fine for cruelty to birds

ME. REV. STAT. ANN. tit. 17, § 1032(2))

[Aggravated animal cruelty]:

In addition to penalties for a Class C Crime:

\$10,000 fine

and

other sanctions, including reimbursement of

costs, possession prohibitions and

psychological evaluations and counseling

ME. REV. STAT. ANN. tit. 17, § 1031(1-B)

MAINE*continued*

<p>3.EXEMPTIONS***</p>	<p>Civil: 1 ME. REV. STAT. ANN. tit. 7, § 3907(20)</p> <p>1, 2, 4, 6, 9 ME. REV. STAT. ANN. tit. 7, §§ 4011(1)(B), (1)(D),(1-A),(2)</p> <p>3, 9 ME. REV. STAT. ANN. tit. 7, §§ 4012(2),(3)</p> <p>4 ME. REV. STAT. ANN. tit. 7, § 4016</p> <p>-----</p> <p>Criminal: 1 ME. REV. STAT. ANN. tit. 17, § 1011(20)</p> <p>1, 2, 4, 6, 9 ME. REV. STAT. ANN. tit. 17, § 1031(1)(A), (1)(B), (1)(D), (1)(I), (1-D), (1-E), (2)</p> <p>3 ME. REV. STAT. ANN. tit. 17, § 1032(3)</p> <p>4 ME. REV. STAT. ANN. tit. 17, § 1037-A</p>
<p>4.COUNSELING / EVALUATIONS^H</p>	<p>Civil: Upon conviction, court may order a psychological evaluation. ME. REV. STAT. ANN. tit. 7, § 4016</p> <p>Criminal: Court may order an evaluation and counseling at defendant's expense. ME. REV. STAT. ANN. tit. 17, § 1031(3-B)</p>
<p>MAINE<i>continued</i></p>	

<p>5.PROTECTIVE ORDERS^H</p>	<p>ME. REV. STAT. ANN. tit. 19-A, § 4007</p>
<p>6.RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal. ME. REV. STAT. ANN. tit. 7, § 4016</p> <p>Person taking possession of seized animal shall have a lien for costs of care. ME. REV. STAT. ANN. tit. 17, § 1021</p> <p>Court may order defendant to post security for costs of seizure and care of impounded animals. ME. REV. STAT. ANN. tit. 17, § 1027</p> <p>Court may order defendant to pay costs of care and relocation. ME. REV. STAT. ANN. tit. 17, § 1031(3-B)</p>
<p>7.SEIZURE / ON-SITE SUPERVISION</p>	<p>Humane agents, law enforcement officers, state veterinarians, and other authorized persons may seize neglected or cruelly treated animals. ME. REV. STAT. ANN. tit. 17, § 1021</p> <p>Upon a finding of probable cause, a law enforcement officer or humane agent may be issued a search warrant and may retain any animal specified in the warrant. ME. REV. STAT. ANN. tit. 17, § 1034</p>
<p>MAINE<i>continued</i></p>	
<p>8.FORFEITURE / POSSESSION^H</p>	<p>If defendant fails to file a show cause petition</p>

	<p>within 10 days of the date the seizure, or fails to post court-ordered security for costs of impoundment and care, impounded animals are forfeited. ME. REV. STAT. ANN. tit. 17, § 1027</p> <p>Court may order abused animals forfeited, and may also restrict ownership, possession or allowance on premises of animals following conviction. ME. REV. STAT. ANN. tit. 7, § 4016 ME. REV. STAT. ANN. tit. 17, §§ 1021, 1031(3-B)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>Persons in specific professions may report suspected animal offenses and are immune from any civil or criminal liability for so doing. ME. REV. STAT. ANN. tit. 22, § 3477(5) ME. REV. STAT. ANN. tit. 22, § 4011-A(6) ME. REV. STAT. ANN. tit. 34-B, § 1901</p> <p>Humane agents must report suspected abuse, neglect or exploitation of an incapacitated or dependent adult; and suspected abuse or neglect of a child. ME. REV. STAT. ANN. tit. 22, § 3477 ME. REV. STAT. ANN. tit. 22, § 4011-A</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>A licensed veterinarian may report suspected cruelty or neglect; shall report suspected aggravated cruelty; and is immune from any civil or criminal liability or professional disciplinary action. ME. REV. STAT. ANN. tit. 7, § 4018</p>
<p>MAINE<i>continued</i></p>	
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>The commissioner or any person authorized to make arrests may lawfully interfere to</p>

	<p>prevent the perpetration of any act of animal cruelty in that person's presence. ME. REV. STAT. ANN. tit. 17, § 1022</p> <p>Law enforcement officers, animal control officers and humane agents shall investigate alleged violations; the commissioner shall maintain records of such cases; and law enforcement officers, humane agents, commissioner, state veterinarian and animal control officers may exchange information relating to animal cruelty investigations. ME. REV. STAT. ANN. tit. 17, § 1023</p> <p>It is unlawful to impede the performance of an officer responding to animal cruelty or neglect. ME. REV. STAT. ANN. tit. 17, § 1024</p> <p>Arrests or detentions can only be made under criminal statutes. ME. REV. STAT. ANN. tit. 17, § 1031(4)</p> <p>No person may be detained or arrested for criminal cruelty to birds. ME. REV. STAT. ANN. tit. 17, § 1032(4)</p> <p>A law enforcement officer or humane agent may be issued a search warrant for probable cause. ME. REV. STAT. ANN. tit. 17, § 1034</p>
<p>12.SEXUAL ASSAULT</p>	<p>The sexual assault of an animal is a Class D crime on the 1st offense and a Class C crime on the third and subsequent offenses. ME. REV. STAT. ANN. tit. 17, § 1031(1)</p>
<p>MAINE<i>continued</i></p>	
<p>13.FIGHTING</p>	<p>Various animal fighting activities are Class C crimes; viewing animal fighting is a Class D crime.</p>

	ME. REV. STAT. ANN. tit. 17, § 1033
NOTES	Special provisions regulating the confinement of calves raised for veal and pregnant pigs ME. REV. STAT. ANN. tit. 17, § 1039
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

Civil

ME. REV. STAT. ANN. tit.7, § 3907 (2012). Definitions.

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. “Act” means the Animal Welfare Act.

1-A. Abandoned dog. “Abandoned dog” means a dog that has been deserted by its owner or keeper and has not been or is not being provided adequate care or continued care by the owner or keeper.

1-B. Adequate care. “Adequate care” means the ordinary and prudent care that meets the needs of an animal, including adequately nutritious food, clean water, proper shelter and protection from the elements and medical care to maintain good health and meet the basic needs of that species of animal.

2. Animal. “Animal” means every living, sentient creature not a human being.

3. Animal control. “Animal control” means control of dogs, cats, and domesticated or undomesticated animals in accordance with section 3948.

4. Animal control officer. “Animal control officer” means the person appointed periodically by a municipality pursuant to chapter 725.

5. Repealed. Laws 1993, c. 657, § 2.

5-A. Animal shelter. “Animal shelter” means a facility that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

6. At large. “At large” means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

7. Repealed. Laws 2005, c. 510, § 2.

8. *Boarding kennel.* “Boarding kennel” means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.

8-A. *Breeding kennel.* “Breeding kennel” means a location where 5 or more adult female dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. “Breeding kennel” does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

9. *Business day.* “Business day” means any day of the calendar year other than a Saturday, Sunday or legal holiday.

9-A. *Cat identification.* “Cat identification” means:

A. A registered microchip used in conjunction with a visible collar and tag, with a faceted, reflective ear stud or a tipped or notched ear;

B. A collar or collar and tag worn by the cat that provides the current name, address and telephone number of the owner; or

C. A collar and tag providing the name and address of the animal shelter that issued the tag.

10. *Clerk; municipal clerk.* “Clerk” or “municipal clerk” means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this Part.

11. *Commissioner.* “Commissioner” means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

11-A. *Companion animal.* “Companion animal” means a cat or dog.

11-B. *Council.* “Council” means the Animal Welfare Advisory Council as established by Title 5, section 12004-I, subsection 2-C or its duly authorized agent.

12. *Constable.* “Constable” means a law enforcement officer appointed by municipal officers pursuant to law.

12-A. *Repealed.* Laws 1999, c. 498, § 1.

12-B. *Repealed.* Laws 2005, c. 510, § 5.

12-C. Dog. “Dog” means a member of the genus and species known as canisfamiliaris, except that in chapters 720, 721, 725, 727, 729 and 739 “dog” means a member of the genus and species known as canisfamiliaris or any canine, regardless of generation, resulting from the interbreeding of a member of canisfamiliaris with a wolf hybrid.

12-D. Dangerous dog. “Dangerous dog” means a dog or wolf hybrid that bites an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner’s or keeper’s premises at the time of the bite or a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner’s or keeper’s premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual’s domestic animal. “Dangerous dog” does not include a dog certified by the State and used for law enforcement use. “Dangerous dog” does not include a dog or wolf hybrid that bites or threatens to assault an individual who is on the dog or wolf hybrid owner’s or keeper’s premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

For the purposes of this definition, “dog or wolf hybrid owner’s or keeper’s premises” means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

12-E. Feral cat. “Feral cat” means a cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people.

12-F. Cruelly. “Cruelly” means to act or fail to act in a way that causes or allows unnecessary pain or suffering of an animal.

13. Service dog kept for breeding purposes. “Service dog kept for breeding purposes” means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. “Service dog kept prior to training” means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. “Humane agent” means an employee of the department who assists in enforcing this Part.

15-A. Repealed. Laws 1993, c. 657, § 4.

15-B. Humanely clean conditions. “Humanely clean conditions” means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

16. *Keeper.* “Keeper” means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. *Kennel.* “Kennel” means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. *Law enforcement officer.* “Law enforcement officer” means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

18-A. *Livestock.* “Livestock” means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

19. *Municipality.* “Municipality” means an organized city, town or plantation.

20. *Mutilate.* “Mutilate” means to injure or disfigure by irreparably damaging body parts. “Mutilate” does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.

20-A. *Neglect.* “Neglect” means failure to provide an animal with humanely clean conditions and adequate care and other care generally considered to be ordinary and necessary for the health and well-being of that species, breed or type of animal.

21. *Owner.* “Owner” means a person owning, keeping or harboring a dog or other animal.

22. *Person.* “Person” means an individual, corporation, partnership, association or any other legal entity.

22-A. *Repealed.* Laws 1997, c. 690, § 6.

22-B. *Pet.* “Pet” means a dog, cat or other domesticated animal commonly kept as a companion, but does not include tamed animals that are ordinarily considered wild animals or livestock.

23. *Pet shop.* “Pet shop” means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

23-A. *Rescue group.* “Rescue group” means an organization or individual that receives animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes. “Rescue group” does not include a facility licensed under chapter 723.

24. *Respective municipality.* “Respective municipality” means, in the case of towns, plantations and cities, the municipality where the dog or ferret is found; in the case of unorganized territories, the municipality near or adjacent to the unorganized territory where the dog or ferret is found; or the designee of that municipality.

24-A. *Service dog.* “Service dog” means a dog that meets the definition of “service animal” set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

25. *Repealed.* Laws 1993, c. 657, § 10.

25-A. *Stray.* “Stray” means off the owner’s premises and not under the control of a person.

26. *Torment, torture and cruelty.* “Torment, torture and cruelty” means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

26-A. *Unorganized territory.* “Unorganized territory” means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. “Unorganized territory” does not include plantations.

27. *Vertebrate.* “Vertebrate” means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. *Warrant.* “Warrant” means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. *Well cared for.* “Well cared for” means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. *Wolf hybrid.* “Wolf hybrid” means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. “Wolf hybrid” includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

ME. REV. STAT. ANN. tit.7, § 4011 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. Except for a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. Is a licensed veterinarian or a person certified under Title 17, section 1042 and that person kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians;

D. Injures, overworks, tortures, torments, abandons, neglects or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to chapter 202-A and Title 12, Part 13;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition;

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal;

J. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering to the cat or dog.

2. Affirmative defenses. It is an affirmative defense to this section that:

A. The conduct was performed by a licensed veterinarian or was a part of scientific research governed by accepted standards;

B. The conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Evidence of proper care of any animal shall not be admissible in the defense of alleged cruelty to other animals.

ME. REV. STAT. ANN. tit.7, § 4012 (2012).Cruelty to birds.

1. *Cruelty to birds. A person is guilty of cruelty to birds if that person:*

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship;

B. Shoots at any bird or is present as a party, umpire or judge at a shooting; or

C. Rents any building, shed, room, yard, field or premises or knowingly allows the use of the same for the purposes of paragraphs A and B.

2. *Construction. This section may not be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.*

3. *Affirmative defense. It is an affirmative defense to this section that the conduct involved the use of live animals in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.*

ME. REV. STAT. ANN. tit.7, § 4013 (2012). Necessary sustenance.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. *Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.*

2. *Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.*

ME. REV. STAT. ANN. tit.7, § 4014 (2012).Necessary medical attention.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

ME. REV. STAT. ANN. tit.7, § 4015 (2012).Proper shelter and protection from the weather.

A person owning, keeping or responsible for confining or impounding any animal shall provide the animal with proper shelter and protection from the weather.

1. Indoor standards. Minimum indoor standards of shelter are as set out in this subsection.

A.The ambient temperature must be compatible with the health of the animal.

B.Indoor housing facilities must be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

C.An animal contained in an indoor enclosure must be removed from the indoor enclosure daily and provided with a safe environment to allow the exercise needs of the animal to be met in a manner appropriate for the age, size and breed of the animal.

2. Outdoor standards. Minimum outdoor standards of shelter are as set out in this subsection.

A. Sufficient shade by natural or artificial means must be provided to protect an animal from direct sunlight. This paragraph does not apply to livestock confined by farm fencing.

B.Except as provided in subsections 5, 5–A and 6, shelter from inclement weather must be as set out in this paragraph.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions and for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors, a shelter of suitable size with an aboveground floor and waterproof roof must be provided in accordance with subsection 6, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold and direct sunlight. Inadequate shelter from cold may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

For purposes of this subparagraph, “suitable size” means that the dog can enter the shelter unimpeded and turn around, stand in a normal posture and lay down in a normal position.

C.An animal may not be confined in a building, enclosure of any kind, car, boat, vehicle, trailer, camper or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

3. *Space standards. Minimum space requirements for both indoor and outdoor enclosures include the following.*

A. The housing facilities must be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures must be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. *Repealed.*

5. *Livestock. Livestock must be provided with shelter suitable for the health of the animal. Except as provided in subsection 5–A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, “livestock” includes large game as defined in section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in section 1341, subsection 1.*

5–A. *Livestock maintained under a rotational grazing system. Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, “rotational grazing system” means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.*

6. *Dogs confined by tethering for long time periods. In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:*

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure but may not exceed by more than 3 inches the width and height of the largest dog using the shelter. For dogs other than arctic breeds, the portal must be constructed with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must be constructed of materials with a thermal resistance factor of 0.9 or greater, must contain clean bedding material sufficient to retain the dog’s normal body heat and must be accessible to the dog at all times; and

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The

chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement.

For the purposes of this subsection, “primary means of confinement” means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, “arctic breeds” means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and “dogs kept as sled dogs or dogs used in competition” means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

Criminal

ME. REV. STAT. ANN. tit.17, § 1011 (2012). Definitions.

As used in this chapter, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. “Act” means the Animal Welfare Act.

1-A.Abandoned. “Abandoned,” as it pertains to an animal, means an animal has been deserted by its owner or keeper and has not been or is not being provided adequate care or continued care by the owner or keeper.

1-B.Adequate care. “Adequate care” means the ordinary and prudent care that meets the needs of an animal, including adequately nutritious food, clean water, proper shelter and protection from the elements and medical care to maintain good health and meet the basic needs of that species of animal.

2. Animal. “Animal” means every living, sentient creature not a human being.

3. Animal control. “Animal control” means control of dogs, cats, domesticated or undomesticated animals which may be a problem in the community and which are not controlled by any other law.

4. *Animal control officer.* “Animal control officer” means the person appointed periodically by municipal officers pursuant to Title 7, chapter 725.

5. *Repealed.* Laws 1993, c. 657, § 43.

5-A. *Animal shelter.* “Animal shelter” means a facility that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

6. *At large.* “At large” means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

7. *Repealed.* Laws 1999, c. 254, § 18.

8. *Boarding kennel.* “Boarding kennel” means any place, building, tract of land, abode or vehicle in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

8-A. *Breeding kennel.* “Breeding kennel” means a location where 5 or more adult dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. “Breeding kennel” does not include a kennel licensed by a municipality under Title 7, section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

9. *Business day.* “Business day” means any day of the calendar year other than a Saturday, Sunday or legal holiday.

10. *Clerk; municipal clerk.* “Clerk” or “municipal clerk” means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this chapter.

11. *Commissioner.* “Commissioner” means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

12-C. *Cruelly.* “Cruelly” means to act or fail to act in a way that causes or allows unnecessary pain or suffering of an animal.

12. *Constable.* “Constable” means a law enforcement officer appointed by municipal officers pursuant to law.

12-A. *Equine facility.* “Equine facility” means a boarding stable or commercial riding facility.

12-B. Dog. “Dog” means a member of the genus and species known as canisfamiliaris or any canine, regardless of generation, resulting from the interbreeding of a member of canisfamiliaris with a wolf hybrid as defined in subsection 30.

12-D. Domestic violence. “Domestic violence” means beating, torturing, mutilating or killing an animal without justification with the intent to threaten, intimidate, coerce, harass or terrorize a family or household member.

13. Service dog kept for breeding purposes. “Service dog kept for breeding purposes” means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. “Service dog kept prior to training” means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. “Humane agent” means an employee of the Department of Agriculture, Food and Rural Resources who assists in enforcing this chapter.

15-A. Humane society. “Humane society” means a nonprofit group or organization incorporated for the purpose of providing physical service directly to abused and abandoned animals, improving the conditions of animals, providing education concerning animals or fund-raising to promote animal welfare.

15-B. Humanely clean conditions. “Humanely clean conditions” means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

16. Keeper. “Keeper” means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. Kennel. “Kennel” means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. Law enforcement officer. “Law enforcement officer” means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

18-A. Livestock. *“Livestock” means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.*

19. Municipality. *“Municipality” means a city, town or plantation.*

20. Mutilate. *“Mutilate” means to injure or disfigure by irreparably damaging body parts. “Mutilate” does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.*

20-A. Neglect. *“Neglect” means failure to provide an animal with humanely clean conditions and adequate care and other care generally considered to be ordinary and necessary for the health and well-being of that species, breed or type of animal.*

21. Owner. *“Owner” means any person, firm, partnership, association or corporation owning, keeping or harboring a dog or other animal.*

22. Person. *“Person” means an individual, corporation, partnership, association or any other legal entity.*

22-A. Repealed. *Laws 1997, c. 690, § 58.*

23. Pet shop. *“Pet shop” means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.*

24. Respective municipality. *“Respective municipality” means, in the case of towns and cities, the municipality where the dog is found or in the case of unorganized townships, the municipality near or adjacent to the unorganized township where the dog is found or the designee of that municipality.*

24-A. Service dog. *“Service dog” means a dog that meets the definition of “service animal” set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.*

25. Shelter. *“Shelter” means any building or physical structure or part of any building or structure, other than a private dwelling, housing dogs or other animals and not used for agricultural purposes or as a laboratory, research facility, medical facility or educational institution.*

26. Torment, torture and cruelty. *“Torment, torture and cruelty” means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.*

27. Vertebrate. “Vertebrate” means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. “Warrant” means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. “Well cared for” means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. Wolf hybrid. “Wolf hybrid” means a mammal that is the offspring of the reproduction between any species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. “Wolf hybrid” includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner’s agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's

detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, “commits bestiality” means that a person:

(1) Engages in a sexual act with an animal for the purpose of that person’s sexual gratification;

(2) Coerces anyone to engage in a sexual act with an animal;

(3) Engages in a sexual act with an animal in the presence of a minor;

(4) Uses any part of the person’s body or an object to sexually stimulate an animal;

(5) Videotapes a person engaging in a sexual act with an animal; or

(6) For the purpose of that person’s sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, “sexual act” means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other

animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

ME. REV. STAT. ANN. tit.17, § 1032 (2012).Cruelty to birds.

1. *Cruelty to birds. A person is guilty of cruelty to birds if that person intentionally, knowingly or recklessly:*

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Shoots at any bird or is present as a party, umpire or judge at such shooting. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for any of the purposes described in paragraphs A and B. Violation of this paragraph is a Class D crime; or

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

2. Penalty. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section.

B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

4. *Criminal or civil prosecution.* A person may not be arrested or detained for cruelty to birds. The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection is not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.

ME. REV. STAT. ANN. tit.17, § 1035 (2012). Necessary sustenance.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

3. Penalty. Failure to provide a sufficient supply of food or water is a Class D crime.

ME. REV. STAT. ANN. tit.17, § 1036 (2012). Necessary medical attention.

A person owning or responsible for confining or impounding any animal may not fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. Failure to provide necessary medical attention is a Class D crime.

ME. REV. STAT. ANN. tit.17, § 1037 (2012). Proper shelter; protection from the weather and humanely clean conditions.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.

A. The ambient temperature shall be compatible with the health of the animal.

B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

B. Except as provided in subsections 5, 5-A and 7, shelter from inclement weather must be provided according to this paragraph.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors, a shelter of suitable size with an aboveground floor and waterproof roof must be provided in accordance with subsection 7, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold and direct sunlight. Inadequate shelter from cold may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

For purposes of this subparagraph, “suitable size” means that the dog can enter the shelter unimpeded and turn around, stand in a normal posture and lay down in a normal position.

C. Repealed. Laws 2007, c. 702, § 50.

3. Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Except as provided in subsection 5–A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, “livestock” includes large game as defined in Title 7, section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in Title 7, section 1341, subsection 1.

5–A. Livestock maintained under a rotational grazing system. Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent

them from accessing food and water and are in good body condition. For the purposes of this subsection, “rotational grazing system” means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.

6. Penalty. Failure to provide shelter in accordance with this section is a Class D crime.

7. Dogs confined by tethering for long time periods. In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure but may not exceed by more than 3 inches the width and height of the largest dog using the shelter. For dogs other than arctic breeds, the portal must be constructed with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must be constructed of materials with a thermal resistance factor of 0.9 or greater and must contain clean bedding material sufficient to retain the dog’s normal body heat; and

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement.

For the purposes of this subsection, “primary means of confinement” means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, “arctic breeds” means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and “dogs kept as sled dogs or dogs used in competition” means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

ME. REV. STAT. ANN. tit.17, § 1038 (2012). Animals abandoned at animal care facilities.

Abandoning an animal at a veterinarian’s office, boarding kennel, animal grooming facility or

animal day-care facility is a Class D crime.

1. Determination of abandonment. There is a rebuttable presumption of abandonment if an owner:

A. Places an animal in the custody of a licensed veterinarian for treatment, boarding or other care, or in a boarding kennel, animal grooming facility or animal day-care facility for services offered by that facility; and

B. Fails to claim the animal within 10 days after written notice is sent in accordance with subsection 2.

2. Notice requirement. Before any animal may be considered abandoned under this section, a veterinarian's office, boarding kennel, animal grooming facility or animal day-care facility shall send written notice, by registered or certified mail, return receipt requested, to the owner or keeper at the owner's or keeper's last known address. Proof of attempted delivery constitutes sufficient notice.

3. Ownership of abandoned animal. When an owner or keeper fails to claim an animal within 10 days of a notice being sent under subsection 2, the veterinarian, kennel, facility or individual who has custody and control of the animal is considered the owner of the animal and shall arrange for its care, including, but not limited to, its adoption, sale or placement with a licensed animal shelter.

4. Financial obligation. The disposal of an abandoned animal under this section does not relieve the owner or keeper of the animal of any financial obligation, including, but not limited to, costs incurred for veterinary treatment, boarding, grooming or other care.

5. Penalty. In addition to the penalties provided in Title 17-A for a Class D crime, the penalties in section 1031, subsection 3-B also apply.

2. PENALTIES

Civil

ME. REV. STAT. ANN. tit.7, § 4016 (2012). Violation.

1. *Penalty. A person who violates this chapter commits a civil violation.*

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment.

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. *Criminal or civil prosecution.* A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

3. *Affirmative defenses.* It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Criminal

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, “commits bestiality” means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person’s sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person’s body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person’s sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, “sexual act” means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

- A. Causes extreme physical pain to an animal;
- B. Causes the death of an animal; or
- C. Physically tortures an animal.

Violation of this subsection is a Class C crime. *Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.*

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

- A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or
- B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

- A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;
- B. Death is instantaneous;
- C. Maximum precaution is taken to protect the general public, employees and other animals; and
- D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. *Penalties.*

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. *A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals.* The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

ME. REV. STAT. ANN. tit.17, § 1032 (2012).Cruelty to birds.

1. Cruelty to birds. A person is guilty of cruelty to birds if that person intentionally, knowingly or recklessly:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Shoots at any bird or is present as a party, umpire or judge at such shooting. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for any of the purposes described in paragraphs A and B. Violation of this paragraph is a Class D crime; or

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

2. *Penalty. The following apply to violations of this section.*

A. *In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section.*

B. *Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.*

3. *Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.*

4. *Criminal or civil prosecution. A person may not be arrested or detained for cruelty to birds. The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection is not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.*

ME. REV. STAT. ANN. tit.17-A, § 1252 (2012). Imprisonment for crimes other than murder.

1. *In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.*

A. *For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.*

B. *For a Class A, Class B or Class C crime the court must:*

(1) Specify a county jail as the place of imprisonment if the term of imprisonment is 9 months or less; or

(2) Commit the person to the Department of Corrections if the term of imprisonment is more than 9 months.

C. Repealed. Laws 1995, c. 425, § 2.

2. *The court shall set the term of imprisonment as follows:*

A. *In the case of a Class A crime, the court shall set a definite period not to exceed 30 years;*

B. *In the case of a Class B crime, the court shall set a definite period not to exceed 10 years;*

C. *In the case of a Class C crime, the court shall set a definite period not to exceed 5 years;*

D. *In the case of a Class D crime, the court shall set a definite period of less than one year; or*

E. *In the case of a Class E crime, the court shall set a definite period not to exceed 6 months.*

2-A. Repealed. 1977, c. 510, § 76.

3. *The court may add to the sentence of imprisonment a restitution order as is provided for in chapter 49, section 1204, subsection 2-A, paragraph B. In such cases, it shall be the responsibility of the Department of Corrections to determine whether the order has been complied with and consideration shall be given in the department's administrative decisions concerning the imprisoned person as to whether the order has been complied with.*

3-A. *At the request of or with the consent of a convicted person, a sentence of imprisonment under this chapter in a county jail or a sentence of probation involving imprisonment in a county jail under chapter 49 may be ordered to be served intermittently.*

4. *If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be.* In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had 2 or more prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

4-B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of another jurisdiction.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. “Accompanied by sexual assault” as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or another jurisdiction.

4-C. If the State pleads and proves that a Class A crime of gross sexual assault was committed by a person who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, that prior conviction must be given serious consideration by the court in exercising its sentencing discretion.

4-D. If the State pleads and proves that a crime under section 282 was committed against a person who had not attained 12 years of age, the court, in exercising its sentencing discretion, shall give the age of the victim serious consideration.

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years.

5. Notwithstanding any other provision of this code, except as provided in this subsection, if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class for the crime is Class A, the minimum term of imprisonment is 4 years; when the sentencing class for the crime is Class B, the minimum term of imprisonment is 2 years; and when the sentencing class for the crime is Class C, the minimum term of imprisonment is one year. For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C or 1105-D:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year;

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C or 1105-D; and

(2) The court finds that:

(a) Deleted. Laws 2003, c. 232, § 1.

(b) The defendant is an appropriate candidate for an intensive supervision program, but would be ineligible to participate under a sentence imposed under paragraph A; or

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months.

5-B. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained the age of 6 years at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant.

5-C. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant.

5-D. In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that person, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum period of incarceration in the 2nd step in the sentencing process.

6. Repealed. Laws 1989, c. 693, § 6.

7. If a sentence to a term of imprisonment in a county jail is consecutive to or is to be followed by a sentence to a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence may order that both be served in the custody of the Department of Corrections. If a court imposes consecutive terms of imprisonment for Class D or Class E crimes and the aggregate length of the terms imposed is one year or more, the court may order that they be served in the custody of the Department of Corrections.

8. Repealed.

9. Subsections in this section that make the sentencing class for a crime one class higher than it would otherwise be when pled and proved may be applied successively if the subsections to be applied successively contain different class enhancement factors.

ME. REV. STAT. ANN. tit.17-A, § 1301 (2012).Amounts authorized.

1. Repealed. Laws 1989, c. 872, § 3.

1-A. A natural person who has been convicted of a Class A, Class B, Class C, Class D or Class E crime may be sentenced to pay a fine, unless the law that the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person must be sentenced to the imprisonment and required to pay the fine authorized in that law. Subject to these sentences and to section 1302, the fine may not exceed:

A. \$50,000 for a Class A crime;

B. \$20,000 for a Class B crime;

C. \$5,000 for a Class C crime;

D. \$2,000 for a Class D crime;

E. \$1,000 for a Class E crime; and

F. Regardless of the classification of the crime, any higher amount that does not exceed twice the pecuniary gain derived from the crime by the defendant.

2. As used in this section, “pecuniary gain” means the amount of money or the value of property at the time of the commission of the crime derived by the defendant from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed. When the court imposes a fine based on the amount of gain, the court shall make a finding as to the defendant’s gain from the crime. If the record does not contain sufficient evidence to support a finding, the court may conduct, in connection with its imposition of sentence, a hearing on this issue.

3. If the defendant convicted of a crime is an organization and the law that the organization is convicted of violating expressly provides that the fine it authorizes may not be suspended, the organization must be sentenced to pay the fine authorized in that law. Otherwise, the maximum allowable fine that such a defendant may be sentenced to pay is:

A. Any amount for murder;

B. \$100,000 for a Class A crime;

C. \$40,000 for a Class B crime;

D. \$20,000 for a Class C crime;

E. \$10,000 for a Class D crime or a Class E crime; and

F. Any higher amount that does not exceed twice the pecuniary gain derived from the crime by the convicted organization.

4. Whenever a statute makes the possession of a particular item, whether animate or inanimate, a criminal offense, the statute may expressly provide that the fine depends upon the quantity of the item possessed by the defendant. In such case, the fine is as provided for in the statute and is not subject to the maximum limits placed on fines by subsections 1-A and 3.

5. Notwithstanding any other provision of this section, any person convicted of a crime under section 1103, 1105-A, 1105-B, 1105-C, 1105-D, 1106 or 1107-A may be sentenced to pay a fine of an amount equal to the value at the time of the offense of the scheduled drug or drugs upon which the conviction is based.

When the court imposes a fine under this subsection, the court shall make a finding as to the value of the scheduled drug or drugs. If the record does not contain sufficient evidence to support a finding, the court may conduct, in connection with its imposition of a sentence, a hearing on this issue.

6. In addition to any other authorized sentencing alternative, the court shall impose a minimum fine of \$400, none of which may be suspended, for a person convicted of a crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; 1110; 1111; 1111-A, subsection 4, paragraph C or D; 1116; 1117; or 1118.

3. EXEMPTIONS

Civil

ME. REV. STAT. ANN. tit.7, § 3907 (2012). Definitions.

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. “Act” means the Animal Welfare Act.

1-A. Abandoned dog. “Abandoned dog” means a dog that has been deserted by its owner or keeper and has not been or is not being provided adequate care or continued care by the owner or keeper.

1-B. Adequate care. “Adequate care” means the ordinary and prudent care that meets the needs of an animal, including adequately nutritious food, clean water, proper shelter and protection from the elements and medical care to maintain good health and meet the basic needs of that species of animal.

2. Animal. “Animal” means every living, sentient creature not a human being.

3. Animal control. “Animal control” means control of dogs, cats, and domesticated or undomesticated animals in accordance with section 3948.

4. Animal control officer. “Animal control officer” means the person appointed periodically by a municipality pursuant to chapter 725.

5. Repealed. Laws 1993, c. 657, § 2.

5-A. Animal shelter. “Animal shelter” means a facility that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

6. At large. “At large” means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

7. Repealed. Laws 2005, c. 510, § 2.

8. Boarding kennel. “Boarding kennel” means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.

8-A. Breeding kennel. “Breeding kennel” means a location where 5 or more adult female dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. “Breeding kennel” does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

9. Business day. “Business day” means any day of the calendar year other than a Saturday, Sunday or legal holiday.

9-A. Cat identification. “Cat identification” means:

A. A registered microchip used in conjunction with a visible collar and tag, with a faceted, reflective ear stud or a tipped or notched ear;

B. A collar or collar and tag worn by the cat that provides the current name, address and telephone number of the owner; or

C. A collar and tag providing the name and address of the animal shelter that issued the tag.

10. Clerk; municipal clerk. “Clerk” or “municipal clerk” means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this Part.

11. Commissioner. “Commissioner” means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

11-A. Companion animal. “Companion animal” means a cat or dog.

11-B. Council. “Council” means the Animal Welfare Advisory Council as established by Title 5, section 12004-I, subsection 2-C or its duly authorized agent.

12. Constable. “Constable” means a law enforcement officer appointed by municipal officers pursuant to law.

12-A. Repealed. Laws 1999, c. 498, § 1.

12-B. Repealed. Laws 2005, c. 510, § 5.

12-C. Dog. “Dog” means a member of the genus and species known as *canis familiaris*, except that in chapters 720, 721, 725, 727, 729 and 739 “dog” means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid.

12-D. Dangerous dog. “Dangerous dog” means a dog or wolf hybrid that bites an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner’s or keeper’s premises at the time of the bite or a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner’s or keeper’s premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual’s domestic animal. “Dangerous dog” does not include a dog certified by the State and used for law enforcement use. “Dangerous dog” does not include a dog or wolf hybrid that bites or threatens to assault an individual who is on the dog or wolf hybrid owner’s or keeper’s premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

For the purposes of this definition, “dog or wolf hybrid owner’s or keeper’s premises” means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

12-E. Feral cat. “Feral cat” means a cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people.

12-F. Cruelly. “Cruelly” means to act or fail to act in a way that causes or allows unnecessary pain or suffering of an animal.

13. Service dog kept for breeding purposes. “Service dog kept for breeding purposes” means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. “Service dog kept prior to training” means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. “Humane agent” means an employee of the department who assists in enforcing this Part.

15-A. Repealed. Laws 1993, c. 657, § 4.

15-B. Humanely clean conditions. “Humanely clean conditions” means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

16. Keeper. “Keeper” means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. Kennel. “Kennel” means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. Law enforcement officer. “Law enforcement officer” means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

18-A. Livestock. “Livestock” means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

19. Municipality. “Municipality” means an organized city, town or plantation.

20. Mutilate. “Mutilate” means to injure or disfigure by irreparably damaging body parts. *“Mutilate” does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.*

20-A. Neglect. “Neglect” means failure to provide an animal with humanely clean conditions and adequate care and other care generally considered to be ordinary and necessary for the health and well-being of that species, breed or type of animal.

21. Owner. “Owner” means a person owning, keeping or harboring a dog or other animal.

22. Person. “Person” means an individual, corporation, partnership, association or any other legal entity.

22-A. Repealed. Laws 1997, c. 690, § 6.

22-B. Pet. “Pet” means a dog, cat or other domesticated animal commonly kept as a companion, but does not include tamed animals that are ordinarily considered wild animals or livestock.

23. Pet shop. “Pet shop” means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

23-A. Rescue group. “Rescue group” means an organization or individual that receives animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes. “Rescue group” does not include a facility licensed under chapter 723.

24. Respective municipality. “Respective municipality” means, in the case of towns, plantations and cities, the municipality where the dog or ferret is found; in the case of unorganized territories, the municipality near or adjacent to the unorganized territory where the dog or ferret is found; or the designee of that municipality.

24-A. Service dog. “Service dog” means a dog that meets the definition of “service animal” set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

25. Repealed. Laws 1993, c. 657, § 10.

25-A. Stray. “Stray” means off the owner’s premises and not under the control of a person.

26. Torment, torture and cruelty. “Torment, torture and cruelty” means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

26-A. Unorganized territory. “Unorganized territory” means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. “Unorganized territory” does not include plantations.

27. Vertebrate. “Vertebrate” means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. “Warrant” means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. “Well cared for” means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. Wolf hybrid. “Wolf hybrid” means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. “Wolf hybrid” includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

ME. REV. STAT. ANN. tit.7, § 4011 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. *Except for a licensed veterinarian or a person certified under Title 17, section 1042,* kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. Is a licensed veterinarian or a person certified under Title 17, section 1042 and that person kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians;

D. Injures, overworks, tortures, torments, abandons, neglects or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. *The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;*

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to chapter 202-A and Title 12, Part 13;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition;

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal;

J. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering to the cat or dog.

2. Affirmative defenses. It is an affirmative defense to this section that:

A. The conduct was performed by a licensed veterinarian or was a part of scientific research governed by accepted standards;

B. The conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Evidence of proper care of any animal shall not be admissible in the defense of alleged cruelty to other animals.

ME. REV. STAT. ANN. tit.7, § 4012 (2012).Cruelty to birds.

1. Cruelty to birds. A person is guilty of cruelty to birds if that person:

- A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship;
- B. Shoots at any bird or is present as a party, umpire or judge at a shooting; or
- C. Rents any building, shed, room, yard, field or premises or knowingly allows the use of the same for the purposes of paragraphs A and B.

2. Construction. This section may not be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

3. Affirmative defense. It is an affirmative defense to this section that the conduct involved the use of live animals in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.

ME. REV. STAT. ANN. tit.7, § 4016 (2012). Violation.

1. Penalty. A person who violates this chapter commits a civil violation.

- A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.
- B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.
- C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment.
- D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

3. Affirmative defenses. It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Criminal

ME. REV. STAT. ANN. tit.17, § 1011 (2012). Definitions.

As used in this chapter, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. “Act” means the Animal Welfare Act.

1-A. Abandoned. “Abandoned,” as it pertains to an animal, means an animal has been deserted by its owner or keeper and has not been or is not being provided adequate care or continued care by the owner or keeper.

1-B. Adequate care. “Adequate care” means the ordinary and prudent care that meets the needs of an animal, including adequately nutritious food, clean water, proper shelter and protection from the elements and medical care to maintain good health and meet the basic needs of that species of animal.

2. Animal. “Animal” means every living, sentient creature not a human being.

3. Animal control. “Animal control” means control of dogs, cats, domesticated or undomesticated animals which may be a problem in the community and which are not controlled by any other law.

4. Animal control officer. “Animal control officer” means the person appointed periodically by municipal officers pursuant to Title 7, chapter 725.

5. Repealed. Laws 1993, c. 657, § 43.

5-A. Animal shelter. “Animal shelter” means a facility that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

6. At large. “At large” means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

7. Repealed. Laws 1999, c. 254, § 18.

8. Boarding kennel. “Boarding kennel” means any place, building, tract of land, abode or vehicle in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

8-A. Breeding kennel. “Breeding kennel” means a location where 5 or more adult dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. “Breeding kennel” does not include a kennel licensed by a municipality under Title 7, section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

9. Business day. “Business day” means any day of the calendar year other than a Saturday, Sunday or legal holiday.

10. Clerk; municipal clerk. “Clerk” or “municipal clerk” means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this chapter.

11. Commissioner. “Commissioner” means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

12-C. Cruelly. “Cruelly” means to act or fail to act in a way that causes or allows unnecessary pain or suffering of an animal.

12. Constable. “Constable” means a law enforcement officer appointed by municipal officers pursuant to law.

12-A. Equine facility. “Equine facility” means a boarding stable or commercial riding facility.

12-B. Dog. “Dog” means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid as defined in subsection 30.

12-D. Domestic violence. “Domestic violence” means beating, torturing, mutilating or killing an animal without justification with the intent to threaten, intimidate, coerce, harass or terrorize a family or household member.

13. Service dog kept for breeding purposes. “Service dog kept for breeding purposes” means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. “Service dog kept prior to training” means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. “Humane agent” means an employee of the Department of Agriculture, Food and Rural Resources who assists in enforcing this chapter.

15-A. Humane society. “Humane society” means a nonprofit group or organization incorporated for the purpose of providing physical service directly to abused and abandoned animals, improving the conditions of animals, providing education concerning animals or fund-raising to promote animal welfare.

15-B. Humanely clean conditions. “Humanely clean conditions” means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

16. Keeper. “Keeper” means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. Kennel. “Kennel” means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. Law enforcement officer. “Law enforcement officer” means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

18-A. Livestock. “Livestock” means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

19. Municipality. “Municipality” means a city, town or plantation.

20. Mutilate. “Mutilate” means to injure or disfigure by irreparably damaging body parts. *“Mutilate” does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.*

20-A. Neglect. “Neglect” means failure to provide an animal with humanely clean conditions and adequate care and other care generally considered to be ordinary and necessary for the health and well-being of that species, breed or type of animal.

21. Owner. “Owner” means any person, firm, partnership, association or corporation owning, keeping or harboring a dog or other animal.

22. Person. “Person” means an individual, corporation, partnership, association or any other legal entity.

22-A. Repealed. Laws 1997, c. 690, § 58.

23. Pet shop. “Pet shop” means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

24. Respective municipality. “Respective municipality” means, in the case of towns and cities, the municipality where the dog is found or in the case of unorganized townships, the municipality near or adjacent to the unorganized township where the dog is found or the designee of that municipality.

24-A. Service dog. “Service dog” means a dog that meets the definition of “service animal” set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

25. Shelter. “Shelter” means any building or physical structure or part of any building or structure, other than a private dwelling, housing dogs or other animals and not used for agricultural purposes or as a laboratory, research facility, medical facility or educational institution.

26. Torment, torture and cruelty. “Torment, torture and cruelty” means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

27. Vertebrate. “Vertebrate” means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. “Warrant” means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. “Well cared for” means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. Wolf hybrid. “Wolf hybrid” means a mammal that is the offspring of the reproduction between any species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. “Wolf hybrid” includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner’s agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person *without the consent of the owner or without legal privilege*. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. *Except for a licensed veterinarian or a person certified under section 1042*, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. *The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal.* Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death

by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. *Affirmative defense. It is an affirmative defense to prosecution under this section that:*

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

ME. REV. STAT. ANN. tit.17, § 1032 (2012).Cruelty to birds.

1. Cruelty to birds. A person is guilty of cruelty to birds if that person intentionally, knowingly or recklessly:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Shoots at any bird or is present as a party, umpire or judge at such shooting. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for any of the purposes described in paragraphs A and B. Violation of this paragraph is a Class D crime; or

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

2. Penalty. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section.

B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

4. Criminal or civil prosecution. A person may not be arrested or detained for cruelty to birds. The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection is not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.

ME. REV. STAT. ANN. tit.17, § 1037-A (2012). Affirmative defense.

It is an affirmative defense to alleged violations of sections 1035, 1036 and 1037 that the animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

4. COUNSELING / EVALUATIONS

Civil

ME. REV. STAT. ANN. tit.7, § 4016 (2012). Violation.

1. Penalty. A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment.

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

3. Affirmative defenses. It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Criminal

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

(1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;

(2) Coerces anyone to engage in a sexual act with an animal;

- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

- A. Causes extreme physical pain to an animal;
- B. Causes the death of an animal; or
- C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

- A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or
- B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

- A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;
- B. Death is instantaneous;
- C. Maximum precaution is taken to protect the general public, employees and other animals; and
- D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. *The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.*

C. Title 17-A, section 9-A governs the use of prior convictions when determining a

sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

5. PROTECTIVE ORDERS

ME. REV. STAT. ANN. tit.19-A, § 4007 (2012). Relief.

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse or engaged in the alleged conduct described in section 4005, subsection 1, may grant a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse or the alleged conduct. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. The court may enter a finding that the defendant represents a credible threat to the physical safety of the plaintiff or a minor child residing in the plaintiff's household. Relief granted under this section may include:

A. Directing the defendant to refrain from threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff and any minor children residing in the household;

A-1. Directing the defendant not to possess a firearm or other dangerous weapon for the duration of the order;

A-2. Prohibiting the defendant from the use, attempted use or threatened use of physical force that would reasonably be expected to cause bodily injury against the plaintiff or a minor child residing in the household;

B. Directing the defendant to refrain from going upon the premises of the plaintiff's residence;

C. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff;

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; or

(3) Engaging in conduct defined as stalking in Title 17-A, section 210-A;

D. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff;

E. When the mutual residence or household of the parties is jointly owned or jointly leased or when one party has a duty to support the other or their minor children living in the residence or household and that party is the sole owner or lessee:

(1) Granting or restoring possession of the residence or household to one party, excluding the other; or

(2) A consent agreement, allowing the party with the duty to support to provide suitable alternate housing;

F. Ordering a division of the personal property and household goods and furnishings of the parties and placing any protective orders considered appropriate by the court, including an order to refrain from taking, converting or damaging property in which the plaintiff has a legal interest;

F-1. Ordering the termination of a life insurance policy or rider under that policy owned by the defendant if the plaintiff is the insured life under the policy or rider. Upon issuance, a copy of the court order must be sent to the insurer that issued the policy;

G. Either awarding some or all temporary parental rights and responsibilities with regard to minor children or awarding temporary rights of contact with regard to minor children, or both, under such conditions that the court finds appropriate as determined in accordance with the best interest of the child pursuant to section 1653, subsections 3 to 6-
B. The court's award of parental rights and responsibilities or rights of contact is not binding in any separate action involving an award of parental rights and responsibilities pursuant to chapter 55 or in a similar action brought in another jurisdiction exercising child custody jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act;

H. Requiring the defendant to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court considers appropriate. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under section 4014;

I. Ordering the payment of temporary support for the dependent party or for a child in the dependent party's custody in accordance with chapter 63, or both, when there is a legal obligation to support that dependent party or that child, or both;

J. Ordering the payment of temporary support payments to the State as provided in chapters 63 and 67;

K. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded;

L. Ordering the defendant to pay court costs or reasonable attorney's fees;

L-1. Ordering the plaintiff to pay court costs or reasonable attorney's fees, or both, only if a judgment is entered against the plaintiff after a hearing in which both the plaintiff and the defendant are present and the court finds that the complaint is frivolous;

M. Entering any other orders determined necessary or appropriate in the discretion of the court; or

N. Directing the care, custody or control of any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household.

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

1-A. No possession of firearm or dangerous weapons for duration of order. If the court prohibits the defendant from possessing a dangerous weapon other than a firearm, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm or other dangerous weapon, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms and other dangerous weapons at any location if there is probable cause to believe such firearms or dangerous weapons have not been relinquished by the defendant.

2. Duration. A protective order or approved consent agreement is for a fixed period not to exceed 2 years. At the expiration of that time, the court may extend an order, upon motion of the plaintiff, for such additional time as it determines necessary to protect the plaintiff or minor child from abuse. The court may continue the order in effect until the hearing under section 4006, subsection 1 on the motion to extend. Upon motion by either party, for sufficient cause, the court may modify the order or agreement from time to time as circumstances require.

3. Consequences of violation. A protective order or approved consent agreement must indicate, in a clear and conspicuous manner, the potential consequences of violation of the order or agreement, as provided in section 4011 and Title 15, section 393, subsection 1, paragraph D, if applicable.

4. Title to property. An order or agreement may not affect title to any real property.

5. Bond prohibited. The court may not require the execution of a bond by the plaintiff prior to issuance of an order of protection.

6. Service of order or consent decree. The court shall order a law enforcement agency; or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15; or, if the defendant is in the custody of the Department of Corrections, the chief administrative officer or the chief administrative officer's designee at the correctional facility, to serve the defendant personally with a protective order or consent decree.

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

7. Mutual order of protection or restraint. The court may not issue a mutual order of protection or restraint.

8. Action by plaintiff. A plaintiff may extinguish or modify an order only by legal process in accordance with the Maine Rules of Civil Procedure. Any other action or inaction on the part of the plaintiff does not alter, diminish or negate the effectiveness of the order. Criminal sanctions may not be imposed upon the plaintiff for violation of a provision of the plaintiff's order for protection.

9. Financial accounting. In all proceedings under this chapter, the court shall apply the child support guidelines in chapter 63 using the information the plaintiff is able to provide the court. Failure of a party to file an income affidavit may not unnecessarily delay a proceeding and does not preclude the issuance of an order, except that the court shall require the plaintiff to complete and file an income affidavit at a final hearing involving child support even if the defendant does not appear for the hearing.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

ME. REV. STAT. ANN. tit.7, § 4016 (2012). Violation.

1. Penalty. A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment.

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

3. Affirmative defenses. It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

ME. REV. STAT. ANN. tit.17, § 1021 (2012). Possession of animals.

1. Possession. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court or the Superior Court for authorization:

A. To take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn over the animal to the applicant or other suitable person; or

B. To cause the animal to be disposed of humanely.

2. Notice to owner. If the owner is known, a copy of the application must be served upon the owner with an order of court to appear at a stated time and place to show cause why the animal should not be taken and turned over to the applicant or other suitable person or disposed of humanely.

If the owner can not be found by reasonable diligence, or is out of state although a resident of this State, a copy of the application and order of court must be left at the owner's last and usual place of abode.

If the owner is not known, then the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found, stating the case and circumstances and giving 48 hours notice of the hearing.

3. Hearing. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated, malnourished or injured, the court shall:

A. Direct the applicant or other suitable person to take possession of and provide for the animal, order its sale, adoption or placement;

B. Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful; or

C. If appropriate, allow the animal to be returned to its owner.

4. Ex parte order. An ex parte order shall be as follows.

A. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn it over to the applicant or any other suitable person.

An order may be entered ex parte upon findings by the court or justice of the peace that there is a reasonable likelihood that:

(1) The defendant is not subject to the jurisdiction of the court for the purposes of a hearing or the owner cannot be found by reasonable diligence or is out-of-state although a resident of this State, and there is a danger that unless immediate action is taken:

(a) The condition of an injured, overworked, tormented, tortured, abandoned, poisoned or mutilated animal, or animal deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions will be substantially impaired or worsened;

(b) The animal's life will be jeopardized; or

(c) A great degree of medical attention will be necessary to restore the animal to a normal, healthy condition;

(2) There is a clear danger that if the owner or the owner's agent is notified in advance of the issuance of the order of court, as provided in subsection 3, the owner or the owner's agent may remove the animal from the State, conceal it or otherwise make it unavailable;

(3) There is immediate danger that the owner or the owner's agent will kill or injure the animal; or

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, or deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions and, unless an ex parte order issues allowing the applicant to take possession of the animal, the animal will die, its condition will be substantially impaired or worsened or medical attention will be necessary to restore the animal to a normal, healthy condition.

B. This subsection does not apply to animals currently being well cared for when euthanasia is necessary due to old age or to a person's conduct designed to control or eliminate rodents, ants or other common pests.

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

The court shall hear and determine the motion, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

5. Seizure for observation and examination. Seizure of animals for observation and examination is as follows.

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, humane agent, state veterinarian or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court must receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within 30 days.

B. If the owner is known, the owner must be advised of the time and place of hearing and asked to show cause why the animal should not be seized permanently or disposed of humanely.

C. If the court finds at the hearing that the animal is disabled, diseased, dehydrated or malnourished, the court shall:

(1) Declare the animal forfeited and order its sale, adoption or donation; or

(2) Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful.

5-A. Seizure by state humane agent or state veterinarian without court order. A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of and retain the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state

veterinarian shall present the owner with a notice that:

- A. States the reason for seizure;
- B. Gives the name, address and phone number of the humane agent or the state veterinarian to contact for information regarding the animal; and
- C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. Upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.

For an expedited hearing, the state, prior to the prehearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the state's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.

All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.

6. *Attachment and enforcement of lien. Attachment and enforcement of liens shall be as follows.*

A. Any person taking possession of an animal as provided in this subchapter shall have a lien for expenses as provided in this subsection unless the complaint is dismissed for lack of merit. If the complaint is dismissed for lack of merit, the board and the municipality where the possession occurred may share in paying the lienor's expenses.

B. Expenses covered by this subsection include expenses reasonably incident to taking an animal into custody such as transportation, food, shelter, veterinary care and expenses of disposing of an animal taken into custody.

C. The lienor may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631. In giving judgment for the lien, the court shall include expenses as set forth in paragraph B, incurred by the lienor from the date of commencement of proceedings to the entry of judgment or final disposition of the animal as ordered by the court.

In the event of the sale of the animal, all expenses incurred in transporting, taking, keeping and caring for the animal shall be deducted from the sale price and the balance, if any, turned over to the owner.

D. The defendant may appeal as in a civil action, but before appeal is allowed, the defendant shall give sufficient security to satisfy the applicant or person taking custody of the animal that he will pay all expenses for its care and support pending appeal.

ME. REV. STAT. ANN. tit.17, § 1027 (2012). Security for seizure and impoundment of animals relating to cruelty to animals or animal fighting.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authority" means the commissioner or a state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer or animal control officer that seizes or impounds an animal pursuant to section 1021.

2. Show cause hearing. When an animal is lawfully seized or impounded pursuant to section 1021 or 1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest must petition the court for a show cause hearing. The petition must be filed within 10 days of the date the seizure occurred or the search warrant was executed. If the owner fails to petition the court for a hearing within 10 days, the animal is ordered forfeited to the State.

Upon petition by the owner, custodian or person claiming an interest in the animal in accordance with this subsection, the court shall hold a hearing. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Upon a showing of good cause, the court may extend the time needed to hold the hearing.

3. Post security. If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized or, if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order the person from whom an animal is seized or a person claiming an interest in the seized animal to post a security.

4. Payment of expenses. The security must be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a period of at least 30 days. The court upon the recommendation of the authority shall determine the amount of the security. Reasonable expenses include, but are not limited to, estimated medical care, shelter and board.

5. Draw actual reasonable costs. When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, board and record keeping.

6. Post with clerk. If the court orders the posting of security, the security must be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

7. Disposition of animal. Posting of the security does not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

8. Order denied. The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. *If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.*

9. *Recover damages. The owner or custodian of an animal humanely killed pursuant to this section is not entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.*

10. *Refund. The court may direct a refund to the person who posted the security in whole or in part for expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.*

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions

for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed.Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § 1-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. *The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.*

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

7. SEIZURE / ON-SITE SUPERVISION

ME. REV. STAT. ANN. tit.17, § 1021 (2012). Possession of animals.

1. Possession. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court or the Superior Court for authorization:

A. To take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn over the animal to the applicant or other suitable person; or

B. To cause the animal to be disposed of humanely.

2. Notice to owner. If the owner is known, a copy of the application must be served upon the owner with an order of court to appear at a stated time and place to show cause why the animal should not be taken and turned over to the applicant or other suitable person or disposed of humanely.

If the owner can not be found by reasonable diligence, or is out of state although a resident of this State, a copy of the application and order of court must be left at the owner's last and usual place of abode.

If the owner is not known, then the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found, stating the case and circumstances and giving 48 hours notice of the hearing.

3. Hearing. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated, malnourished or injured, the court shall:

A. Direct the applicant or other suitable person to take possession of and provide for the animal, order its sale, adoption or placement;

B. Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful; or

C. If appropriate, allow the animal to be returned to its owner.

4. Ex parte order. An ex parte order shall be as follows.

A. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn it over to the applicant or any other suitable person.

An order may be entered ex parte upon findings by the court or justice of the peace that there is a reasonable likelihood that:

(1) The defendant is not subject to the jurisdiction of the court for the purposes of a hearing or the owner cannot be found by reasonable diligence or is out-of-state although a resident of this State, and there is a danger that unless immediate action is taken:

(a) The condition of an injured, overworked, tormented, tortured, abandoned, poisoned or mutilated animal, or animal deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions will be substantially impaired or worsened;

(b) The animal's life will be jeopardized; or

(c) A great degree of medical attention will be necessary to restore the animal to a normal, healthy condition;

(2) There is a clear danger that if the owner or the owner's agent is notified in advance of the issuance of the order of court, as provided in subsection 3, the owner or the owner's agent may remove the animal from the State, conceal it or otherwise make it unavailable;

(3) There is immediate danger that the owner or the owner's agent will kill or injure the animal; or

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, or deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions and, unless an ex parte order issues allowing the applicant to take possession of the animal, the animal will die, its condition will be substantially impaired or worsened or medical attention will be necessary to restore the animal to a normal, healthy condition.

B. This subsection does not apply to animals currently being well cared for when euthanasia is necessary due to old age or to a person's conduct designed to control or eliminate rodents, ants or other common pests.

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

The court shall hear and determine the motion, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

5. Seizure for observation and examination. Seizure of animals for observation and examination is as follows.

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, humane agent, state veterinarian or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court must receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within 30 days.

B. If the owner is known, the owner must be advised of the time and place of hearing and asked to show cause why the animal should not be seized permanently or disposed of humanely.

C. If the court finds at the hearing that the animal is disabled, diseased, dehydrated or malnourished, the court shall:

(1) Declare the animal forfeited and order its sale, adoption or donation; or

(2) Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful.

5-A. Seizure by state humane agent or state veterinarian without court order. A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of and retain the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the

state veterinarian shall present the owner with a notice that:

A. States the reason for seizure;

B. Gives the name, address and phone number of the humane agent or the state veterinarian to contact for information regarding the animal; and

C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. Upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.

For an expedited hearing, the state, prior to the prehearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the state's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.

All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.

6. Attachment and enforcement of lien. Attachment and enforcement of liens shall be as follows.

A. Any person taking possession of an animal as provided in this subchapter shall have a lien for expenses as provided in this subsection unless the complaint is dismissed for lack of merit. If the complaint is dismissed for lack of merit, the board and the municipality where the possession occurred may share in paying the lienor's expenses.

B. Expenses covered by this subsection include expenses reasonably incident to taking an animal into custody such as transportation, food, shelter, veterinary care and expenses of disposing of an animal taken into custody.

C. The lienor may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631. In giving judgment for the lien, the court shall include expenses as set forth in paragraph B, incurred by the lienor from the date of commencement of proceedings to the entry of judgment or final disposition of the animal as ordered by the court.

In the event of the sale of the animal, all expenses incurred in transporting, taking, keeping and caring for the animal shall be deducted from the sale price and the balance, if any, turned over to the owner.

D. The defendant may appeal as in a civil action, but before appeal is allowed, the defendant shall give sufficient security to satisfy the applicant or person taking custody of the animal that he will pay all expenses for its care and support pending appeal.

ME. REV. STAT. ANN. tit.17, § 1034 (2012).Application for search warrant.

A law enforcement officer or humane agent, having probable cause to believe that a violation of section 1031, 1032 or 1033 has taken place or is taking place, shall enter the premises where the animal is kept with the consent of the owner or shall make application for a search warrant. If the judge or justice of the peace is satisfied that probable cause exists, he shall issue a search warrant directing a law enforcement officer or humane agent in the county to proceed immediately to the location of the alleged violation and directing the law enforcement officer or humane agent to search the place designated in the warrant, retaining in his custody, subject to the order of the court, such property or things as specified in the warrant, including any animal.

8. FORFEITURE / POSSESSION

Civil

ME. REV. STAT. ANN. tit.7, § 4016 (2012). Violation.

1. Penalty. A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment.

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

3. Affirmative defenses. It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Criminal

ME. REV. STAT. ANN. tit.17, § 1021 (2012). Possession of animals.

1. Possession. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court or the Superior Court for authorization:

A. To take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn over the animal to the applicant or other suitable person; or

B. To cause the animal to be disposed of humanely.

2. Notice to owner. If the owner is known, a copy of the application must be served upon the owner with an order of court to appear at a stated time and place to show cause why the animal should not be taken and turned over to the applicant or other suitable person or disposed of humanely.

If the owner can not be found by reasonable diligence, or is out of state although a resident of this State, a copy of the application and order of court must be left at the owner's last and usual place of abode.

If the owner is not known, then the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found, stating the case and circumstances and giving 48 hours notice of the hearing.

3. Hearing. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated, malnourished or injured, the court shall:

A. Direct the applicant or other suitable person to take possession of and provide for the animal, order its sale, adoption or placement;

B. Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful; or

C. If appropriate, allow the animal to be returned to its owner.

4. Ex parte order. An ex parte order shall be as follows.

A. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn it over to the applicant or any other suitable person.

An order may be entered ex parte upon findings by the court or justice of the peace that there is a reasonable likelihood that:

(1) The defendant is not subject to the jurisdiction of the court for the purposes of a hearing or the owner cannot be found by reasonable diligence or is out-of-state although a resident of this State, and there is a danger that unless immediate action is taken:

(a) The condition of an injured, overworked, tormented, tortured, abandoned, poisoned or mutilated animal, or animal deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions will be substantially impaired or worsened;

(b) The animal's life will be jeopardized; or

(c) A great degree of medical attention will be necessary to restore the animal to a normal, healthy condition;

(2) There is a clear danger that if the owner or the owner's agent is notified in advance of the issuance of the order of court, as provided in subsection 3, the owner or the owner's agent may remove the animal from the State, conceal it or otherwise make it unavailable;

(3) There is immediate danger that the owner or the owner's agent will kill or injure the animal; or

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, or deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions and, unless an ex parte order issues allowing the applicant to take possession of the animal, the animal will die, its condition will be substantially impaired or worsened or medical attention will be necessary to restore the animal to a normal, healthy condition.

B. This subsection does not apply to animals currently being well cared for when euthanasia is necessary due to old age or to a person's conduct designed to control or eliminate rodents, ants or other common pests.

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

The court shall hear and determine the motion, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

5. Seizure for observation and examination. Seizure of animals for observation and examination is as follows.

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, humane agent, state veterinarian or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court must receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within 30 days.

B. If the owner is known, the owner must be advised of the time and place of hearing and asked to show cause why the animal should not be seized permanently or disposed of humanely.

C. If the court finds at the hearing that the animal is disabled, diseased, dehydrated or malnourished, the court shall:

(1) Declare the animal forfeited and order its sale, adoption or donation; or

(2) Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful.

5-A. Seizure by state humane agent or state veterinarian without court order. A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of and retain the cruelly treated animal. *Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:*

A. States the reason for seizure;

B. Gives the name, address and phone number of the humane agent or the state veterinarian to contact for information regarding the animal; and

C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. Upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.

For an expedited hearing, the state, prior to the prehearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the state's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.

All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.

6. Attachment and enforcement of lien. Attachment and enforcement of liens shall be as follows.

A. Any person taking possession of an animal as provided in this subchapter shall have a lien for expenses as provided in this subsection unless the complaint is dismissed for lack of merit. If the complaint is dismissed for lack of merit, the board and the municipality where the possession occurred may share in paying the lienor's expenses.

B. Expenses covered by this subsection include expenses reasonably incident to taking an animal into custody such as transportation, food, shelter, veterinary care and expenses of disposing of an animal taken into custody.

C. The lienor may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631. In giving judgment for the lien, the court shall include expenses as set forth in paragraph B, incurred by the lienor from the date of commencement of proceedings to the entry of judgment or final disposition of the animal as ordered by the court.

In the event of the sale of the animal, all expenses incurred in transporting, taking, keeping and caring for the animal shall be deducted from the sale price and the balance, if any, turned over to the owner.

D. The defendant may appeal as in a civil action, but before appeal is allowed, the defendant shall give sufficient security to satisfy the applicant or person taking custody of the animal that he will pay all expenses for its care and support pending appeal.

ME. REV. STAT. ANN. tit.17, § 1027 (2012).Security for seizure and impoundment of animals relating to cruelty to animals or animal fighting.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authority" means the commissioner or a state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer or animal control officer that seizes or impounds an animal pursuant to section 1021.

2. Show cause hearing. When an animal is lawfully seized or impounded pursuant to section 1021 or 1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest must petition the court for a show cause hearing. The petition must be filed within 10 days of the date the seizure occurred or the search warrant was executed. If the owner fails to petition the court for a hearing within 10 days, the animal is ordered forfeited to the State.

Upon petition by the owner, custodian or person claiming an interest in the animal in accordance with this subsection, the court shall hold a hearing. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Upon a showing of good cause, the court may extend the time needed to hold the hearing.

3. Post security. If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized or, if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order the person from whom an animal is seized or a person claiming an interest in the seized animal to post a security.

4. Payment of expenses. The security must be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a period of at least 30 days. The court upon the recommendation of the authority shall determine the amount of the security. Reasonable expenses include, but are not limited to, estimated medical care, shelter and board.

5. Draw actual reasonable costs. When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, board and record keeping.

6. *Post with clerk.* If the court orders the posting of security, the security must be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

7. *Disposition of animal.* Posting of the security does not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

8. *Order denied.* The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

9. **Recover damages.** The owner or custodian of an animal humanely killed pursuant to this section is not entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

10. **Refund.** The court may direct a refund to the person who posted the security in whole or in part for expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. **Cruelty to animals.** Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill

that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

9. CROSS ENFORCEMENT / REPORTING

ME. REV. STAT. ANN. tit.22, § 3477 (2012). Persons mandated to report suspected abuse, neglect or exploitation.

1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or likely to be abused, neglected or exploited:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical resident or intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist, dental hygienist or dental assistant;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy;
- (18) Emergency room personnel;
- (19) An ambulance attendant;

- (20) An emergency medical technician or other licensed medical service provider;
- (21) Unlicensed assistive personnel;
- (22) *A humane agent employed by the Department of Agriculture, Food and Rural Resources;*
- (23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (24) A sexual assault counselor;
- (25) A family or domestic violence victim advocate;
- (26) A naturopathic doctor;
- (27) A respiratory therapist;
- (28) A court-appointed guardian or conservator; or
- (29) A chair of a professional licensing board that has jurisdiction over mandated reporters;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation;

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation; or

D. Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation. The duty to report under this subsection applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate reporting consistent with this chapter and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are consistent with this chapter.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.

2. Reports. Reports regarding abuse, neglect or exploitation must be made immediately by telephone to the department and must be followed by a written report within 48 hours if requested by the department. The reports must contain the name and address of the involved adult; information regarding the nature and extent of the abuse, neglect or exploitation; the source of the report; the person making the report; that person's occupation; and where that person can be contacted. The report may contain any other information that the reporter believes may be helpful.

3. Confidentiality in case of treatment of individual suspected of causing abuse, neglect or exploitation. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of causing the abuse, neglect or exploitation;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the abused, neglected or exploited adult's life or health is not immediately threatened.

4. Confidentiality in case of treatment of individual suspected of being abused, neglected or exploited. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of being abused, neglected or exploited;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the individual is not incapacitated and the individual's life or health is not immediately threatened.

5. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter

under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

6. Photographs of visible trauma. Whenever a person required to report as a staff member of a law enforcement agency or a hospital sees areas of trauma on an incapacitated or dependent adult, that person shall make reasonable efforts to take, or cause to be taken, color photographs of those areas of trauma.

A. The taking of photographs must be done with minimal trauma to the incapacitated or dependent adult and in a manner consistent with professional forensic standards. Consent to the taking of photographs is not required from the adult's legal guardian or by a health care power of attorney.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for adult protective services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to subsequent adult protection proceedings.

7. Information about duty to report. Whenever possible, the department and state licensing boards of professionals required to report under this section shall collaborate to facilitate the dissemination of information regarding the duty to report and the reporting procedure.

ME. REV. STAT. ANN. tit.22, § 4011-A (2012). Reporting of suspected abuse or neglect.

1. Required report to department. The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;

- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A youth camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;

(27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;

(28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and

(29) *A humane agent employed by the Department of Agriculture, Food and Rural Resources;*

(30) A sexual assault counselor;

(31) A family or domestic violence victim advocate; and

(32) A school bus driver or school bus attendant.

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation.

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected comes from treatment of a person responsible for the abuse or neglect, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.

B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely.

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse or neglect. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse or neglect to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion.

The intent of this subsection is to encourage offenders to seek and effectively utilize treatment and, at the same time, provide any necessary protection and treatment for the child and other family members.

5. Photographs of visible trauma. Whenever a person is required to report as a staff member of a law enforcement agency or a hospital, that person shall make reasonable efforts to take, or cause to be taken, color photographs of any areas of trauma visible on a child.

A. The taking of photographs must be done with minimal trauma to the child and in a manner consistent with professional standards. The parent's or custodian's consent to the taking of photographs is not required.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for child welfare services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse or neglect or to subsequent child protection proceedings.

6. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

ME. REV. STAT. ANN. tit.34-B, § 1901 (2012).Animal cruelty, abuse or neglect; reporting.

1. Definitions.

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Animal" means every living, sentient creature not a human being.

B. "Cruelty, abuse or neglect" means every act, omission or instance of neglect when unnecessary or unjustifiable pain or suffering is caused or permitted.

C. "Owner" means a person, firm, partnership, association or corporation owning, keeping or harboring an animal.

D. "Reasonably suspect" means to hold an objectively reasonable suspicion based upon facts that would cause a reasonable person in a like position to draw on that person's training or experience to suspect animal cruelty, abuse or neglect.

2. Report.

An employee of a state-funded child or adult protective services agency or other social service agency, including those providing mental health services that are funded or licensed by the department, while acting in the employee's professional capacity or within the scope of the employee's employment, who has knowledge of or observes an animal that the employee knows or reasonably suspects has been the victim of cruelty, abuse or neglect may report the known or reasonably suspected animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902.

3. Duty.

Nothing in this section may be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse or neglect.

4. Immunity from liability.

A person participating in good faith in reporting under this subchapter is immune from any civil or criminal liability that might otherwise result from these actions, including, but not limited to, any civil or criminal liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

10. VETERINARIAN REPORTING / IMMUNITY

ME. REV. STAT. ANN. tit.7, § 4018 (2012).Report of suspected cruelty.

1. Report by veterinarian. Except as provided in subsection 1-A, a veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of cruelty or neglect in violation of this chapter or Title 17, chapter 42 may report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.

1-A. Report by veterinarian required. A veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of aggravated cruelty under Title 17, section 1031, subsection 1-B shall report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.

2. Immunity. A veterinarian reporting or testifying under this section is immune from criminal or civil liability or professional disciplinary action that might otherwise result from these actions. The immunity from liability for releasing confidential information applies only to the release of information to the court or to the department, an animal control officer, attorney for the State or law enforcement agency involved in the investigation.

11. LAW ENFORCEMENT POLICIES

ME. REV. STAT. ANN. tit.17, § 1022 (2012).Prevention of cruelty.

The commissioner or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in that person's presence.

ME. REV. STAT. ANN. tit.17, § 1023 (2012).Investigation and reporting of cruelty.

1. Investigations; reports. Law enforcement officers, animal control officers and humane agents shall investigate alleged violations of Title 7, chapter 739 and this chapter. The commissioner shall maintain a record of each alleged case of cruelty to animals investigated by a humane agent. The commissioner shall report annually on the disposition of cases as required under Title 7, section 3906-B.

A law enforcement officer or animal control officer who investigates a case of alleged cruelty to animals and pursues a civil or criminal action based on that investigation shall report to the commissioner on the final disposition of the case.

2. Repealed. Laws 1997, c. 690, § 67.

3. Cooperation between agencies. For the purposes of this section, law enforcement officers, the commissioner or the commissioner's designee, humane agents, a state veterinarian and certified animal control officers may exchange information and reports pertaining to an investigation of cruelty to animals pursuant to Title 16, chapter 3, subchapter VIII.

ME. REV. STAT. ANN. tit.17, § 1024 (2012).Impeding the performance of an officer.

It is unlawful for a person to assault, resist, oppose, impede, intimidate or interfere with a person engaged in or on account of the performance of that person's official duties under this subchapter.

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an

animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

ME. REV. STAT. ANN. tit.17, § 1032 (2012).Cruelty to birds.

1. Cruelty to birds. A person is guilty of cruelty to birds if that person intentionally, knowingly or recklessly:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Shoots at any bird or is present as a party, umpire or judge at such shooting. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for any of the purposes described in paragraphs A and B. Violation of this paragraph is a Class D crime; or

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

2. Penalty. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section.

B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

4. Criminal or civil prosecution. *A person may not be arrested or detained for cruelty to birds.* The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection is not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.

ME. REV. STAT. ANN. tit.17, § 1034 (2012).Application for search warrant.

A law enforcement officer or humane agent, having probable cause to believe that a violation of section 1031, 1032 or 1033 has taken place or is taking place, shall enter the premises where the animal is kept with the consent of the owner or shall make application for a search warrant. If the judge or justice of the peace is satisfied that probable cause exists, he shall issue a search warrant directing a law enforcement officer or humane agent in the county to proceed immediately to the location of the alleged violation and directing the law enforcement officer or humane agent to search the place designated in the warrant, retaining in his custody, subject to the order of the court, such property or things as specified in the warrant, including any animal.

12. SEXUAL ASSAULT

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

(1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;

(2) Coerces anyone to engage in a sexual act with an animal;

- (3) Engages in a sexual act with an animal in the presence of a minor;*
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;*
- (5) Videotapes a person engaging in a sexual act with an animal; or*
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.*

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

- A. Causes extreme physical pain to an animal;
- B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

13. FIGHTING

ME. REV. STAT. ANN. tit.17, § 1033 (2012).Animal fighting.

1. Animal fighting. A person is guilty of animal fighting if that person knowingly:

A. Owns, possesses, keeps or trains any animal with the intent that the animal engage in an exhibition of fighting with another animal;

B. For amusement or gain, causes any animal to fight with another animal or causes any animals to injure each other; or

C. Permits any act in violation of paragraph A or B to be done on any premises under that person's charge or control.

1-A. Penalty. A person who violates subsection 1 commits a Class C crime. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of subsection 1.

2. Viewing animal fighting. A person is guilty of viewing animal fighting if that person knowingly is present at any place or building where preparations are being made for an exhibition of the fighting of animals or is present at such an exhibition.

2-A. Penalty. A person who violates subsection 2 commits a Class D crime.

3. Affirmative defense. It is an affirmative defense to prosecution under subsections 1 and 2 that the activity charged involves the possession, training, exhibition or use of an animal in the otherwise lawful sport of animal hunting and the training or use of hunting dogs. It is also an affirmative defense that the defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.

4. Exception. Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, farming and security services is exempt from subsections 1 and 2.

14. REFERENCED STATUTES

ME. REV. STAT. ANN. tit.7, § 3907 (2012). Definitions.

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. “Act” means the Animal Welfare Act.

1-A. Abandoned dog. “Abandoned dog” means a dog that has been deserted by its owner or keeper and has not been or is not being provided adequate care or continued care by the owner or keeper.

1-B. Adequate care. “Adequate care” means the ordinary and prudent care that meets the needs of an animal, including adequately nutritious food, clean water, proper shelter and protection from the elements and medical care to maintain good health and meet the basic needs of that species of animal.

2. Animal. “Animal” means every living, sentient creature not a human being.

3. Animal control. “Animal control” means control of dogs, cats, and domesticated or undomesticated animals in accordance with section 3948.

4. Animal control officer. “Animal control officer” means the person appointed periodically by a municipality pursuant to chapter 725.

5. Repealed. Laws 1993, c. 657, § 2.

5-A. Animal shelter. “Animal shelter” means a facility that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

6. At large. “At large” means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

7. Repealed. Laws 2005, c. 510, § 2.

8. Boarding kennel. “Boarding kennel” means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.

8-A. Breeding kennel. “Breeding kennel” means a location where 5 or more adult female dogs or

cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

9. Business day. "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.

9-A. Cat identification. "Cat identification" means:

A. A registered microchip used in conjunction with a visible collar and tag, with a faceted, reflective ear stud or a tipped or notched ear;

B. A collar or collar and tag worn by the cat that provides the current name, address and telephone number of the owner; or

C. A collar and tag providing the name and address of the animal shelter that issued the tag.

10. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this Part.

11. Commissioner. "Commissioner" means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

11-A. Companion animal. "Companion animal" means a cat or dog.

11-B. Council. "Council" means the Animal Welfare Advisory Council as established by Title 5, section 12004-I, subsection 2-C or its duly authorized agent.

12. Constable. "Constable" means a law enforcement officer appointed by municipal officers pursuant to law.

12-A. Repealed. Laws 1999, c. 498, § 1.

12-B. Repealed. Laws 2005, c. 510, § 5.

12-C. Dog. "Dog" means a member of the genus and species known as *canis familiaris*, except that in chapters 720, 721, 725, 727, 729 and 739 "dog" means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid.

12-D. Dangerous dog. “Dangerous dog” means a dog or wolf hybrid that bites an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner’s or keeper’s premises at the time of the bite or a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner’s or keeper’s premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual’s domestic animal. “Dangerous dog” does not include a dog certified by the State and used for law enforcement use. “Dangerous dog” does not include a dog or wolf hybrid that bites or threatens to assault an individual who is on the dog or wolf hybrid owner’s or keeper’s premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

For the purposes of this definition, “dog or wolf hybrid owner’s or keeper’s premises” means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.

12-E. Feral cat. “Feral cat” means a cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people.

12-F. Cruelly. “Cruelly” means to act or fail to act in a way that causes or allows unnecessary pain or suffering of an animal.

13. Service dog kept for breeding purposes. “Service dog kept for breeding purposes” means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. “Service dog kept prior to training” means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. “Humane agent” means an employee of the department who assists in enforcing this Part.

15-A. Repealed. Laws 1993, c. 657, § 4.

15-B. Humanely clean conditions. “Humanely clean conditions” means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

16. Keeper. “Keeper” means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. Kennel. “Kennel” means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The

sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. Law enforcement officer. “Law enforcement officer” means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

18-A. Livestock. “Livestock” means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

19. Municipality. “Municipality” means an organized city, town or plantation.

20. Mutilate. “Mutilate” means to injure or disfigure by irreparably damaging body parts. “Mutilate” does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.

20-A. Neglect. “Neglect” means failure to provide an animal with humanely clean conditions and adequate care and other care generally considered to be ordinary and necessary for the health and well-being of that species, breed or type of animal.

21. Owner. “Owner” means a person owning, keeping or harboring a dog or other animal.

22. Person. “Person” means an individual, corporation, partnership, association or any other legal entity.

22-A. Repealed. Laws 1997, c. 690, § 6.

22-B. Pet. “Pet” means a dog, cat or other domesticated animal commonly kept as a companion, but does not include tamed animals that are ordinarily considered wild animals or livestock.

23. Pet shop. “Pet shop” means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

23-A. Rescue group. “Rescue group” means an organization or individual that receives animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes. “Rescue group” does not include a facility licensed under chapter 723.

24. Respective municipality. “Respective municipality” means, in the case of towns, plantations and cities, the municipality where the dog or ferret is found; in the case of unorganized territories, the municipality near or adjacent to the unorganized territory where the dog or ferret is found; or the designee of that municipality.

24-A. Service dog. “Service dog” means a dog that meets the definition of “service animal” set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

25. Repealed. Laws 1993, c. 657, § 10.

25-A. Stray. “Stray” means off the owner’s premises and not under the control of a person.

26. Torment, torture and cruelty. “Torment, torture and cruelty” means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

26-A. Unorganized territory. “Unorganized territory” means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. “Unorganized territory” does not include plantations.

27. Vertebrate. “Vertebrate” means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. “Warrant” means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. “Well cared for” means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. Wolf hybrid. “Wolf hybrid” means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. “Wolf hybrid” includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

ME. REV. STAT. ANN. tit.7, § 4011 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege;

B. Except for a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death;

C. Is a licensed veterinarian or a person certified under Title 17, section 1042 and that person kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians;

D. Injures, overworks, tortures, torments, abandons, neglects or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to chapter 202-A and Title 12, Part 13;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition;

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal;

J. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

1-A. Animal cruelty. Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV.

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering to the cat or dog.

2. Affirmative defenses. It is an affirmative defense to this section that:

A. The conduct was performed by a licensed veterinarian or was a part of scientific research governed by accepted standards;

B. The conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

Evidence of proper care of any animal shall not be admissible in the defense of alleged cruelty to other animals.

ME. REV. STAT. ANN. tit.7, § 4012 (2012).Cruelty to birds.

1. Cruelty to birds. A person is guilty of cruelty to birds if that person:

- A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship;
- B. Shoots at any bird or is present as a party, umpire or judge at a shooting; or
- C. Rents any building, shed, room, yard, field or premises or knowingly allows the use of the same for the purposes of paragraphs A and B.

2. Construction. This section may not be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

3. Affirmative defense. It is an affirmative defense to this section that the conduct involved the use of live animals in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.

ME. REV. STAT. ANN. tit.7, § 4013 (2012). Necessary sustenance.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

ME. REV. STAT. ANN. tit.7, § 4014 (2012).Necessary medical attention.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

ME. REV. STAT. ANN. tit.7, § 4015 (2012).Proper shelter and protection from the weather.

A person owning, keeping or responsible for confining or impounding any animal shall provide the animal with proper shelter and protection from the weather.

1. Indoor standards. Minimum indoor standards of shelter are as set out in this subsection.

A.The ambient temperature must be compatible with the health of the animal.

B.Indoor housing facilities must be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

C.An animal contained in an indoor enclosure must be removed from the indoor enclosure daily and provided with a safe environment to allow the exercise needs of the animal to be met in a manner appropriate for the age, size and breed of the animal.

2. Outdoor standards. Minimum outdoor standards of shelter are as set out in this subsection.

A. Sufficient shade by natural or artificial means must be provided to protect an animal from direct sunlight. This paragraph does not apply to livestock confined by farm fencing.

B.Except as provided in subsections 5, 5–A and 6, shelter from inclement weather must be as set out in this paragraph.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions and for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors, a shelter of suitable size with an aboveground floor and waterproof roof must be provided in accordance with subsection 6, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold and direct sunlight. Inadequate shelter from cold may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

For purposes of this subparagraph, “suitable size” means that the dog can enter the shelter unimpeded and turn around, stand in a normal posture and lay down in a normal position.

C.An animal may not be confined in a building, enclosure of any kind, car, boat, vehicle, trailer, camper or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

3. Space standards. Minimum space requirements for both indoor and outdoor enclosures include the following.

A. The housing facilities must be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures must be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Repealed.

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Except as provided in subsection 5–A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, “livestock” includes large game as defined in section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in section 1341, subsection 1.

5–A. Livestock maintained under a rotational grazing system. Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, “rotational grazing system” means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.

6. Dogs confined by tethering for long time periods. In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure but may not exceed by more than 3 inches the width and height of the largest dog using the shelter. For dogs other than arctic breeds, the portal must be constructed with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must be constructed of materials with a thermal resistance factor of 0.9 or greater, must contain clean bedding material sufficient to retain the dog’s normal body heat and must be accessible to the dog at all times; and

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The

chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement.

For the purposes of this subsection, “primary means of confinement” means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, “arctic breeds” means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and “dogs kept as sled dogs or dogs used in competition” means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

ME. REV. STAT. ANN. tit.7, § 4016 (2012). Violation.

1. Penalty. A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than \$500 nor more than \$2,500 for the first violation, none of which may be suspended, and a civil fine of not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended.

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal.

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant’s premises an animal for a period of time up to and including permanent relinquishment.

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court.

2. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

3. Affirmative defenses. It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

ME. REV. STAT. ANN. tit.7, § 4018 (2012). Report of suspected cruelty

1. Report by veterinarian. Except as provided in subsection 1-A, a veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of cruelty or neglect in violation of this chapter or Title 17, chapter 42 may report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.

1-A. Report by veterinarian required. A veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of aggravated cruelty under Title 17, section 1031, subsection 1-B shall report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.

2. Immunity. A veterinarian reporting or testifying under this section is immune from criminal or civil liability or professional disciplinary action that might otherwise result from these actions. The immunity from liability for releasing confidential information applies only to the release of information to the court or to the department, an animal control officer, attorney for the State or law enforcement agency involved in the investigation.

ME. REV. STAT. ANN. tit.17, § 1011 (2012). Definitions.

As used in this chapter, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. “Act” means the Animal Welfare Act.

1-A. Abandoned. “Abandoned,” as it pertains to an animal, means an animal has been deserted by its owner or keeper and has not been or is not being provided adequate care or continued care by the owner or keeper.

1-B. Adequate care. “Adequate care” means the ordinary and prudent care that meets the needs of an animal, including adequately nutritious food, clean water, proper shelter and protection from the elements and medical care to maintain good health and meet the basic needs of that species of animal.

2. Animal. “Animal” means every living, sentient creature not a human being.

3. Animal control. “Animal control” means control of dogs, cats, domesticated or undomesticated animals which may be a problem in the community and which are not controlled by any other law.

4. Animal control officer. “Animal control officer” means the person appointed periodically by municipal officers pursuant to Title 7, chapter 725.

5. Repealed. Laws 1993, c. 657, § 43.

5-A. Animal shelter. “Animal shelter” means a facility that houses animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.

6. At large. “At large” means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.

7. Repealed. Laws 1999, c. 254, § 18.

8. Boarding kennel. “Boarding kennel” means any place, building, tract of land, abode or vehicle in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

8-A. Breeding kennel. “Breeding kennel” means a location where 5 or more adult dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. “Breeding kennel” does not include a kennel licensed by a municipality under Title 7, section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

9. Business day. “Business day” means any day of the calendar year other than a Saturday, Sunday or legal holiday.

10. Clerk; municipal clerk. “Clerk” or “municipal clerk” means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this chapter.

11. Commissioner. “Commissioner” means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agent.

12-C. Cruelly. “Cruelly” means to act or fail to act in a way that causes or allows unnecessary pain or suffering of an animal.

12. Constable. “Constable” means a law enforcement officer appointed by municipal officers pursuant to law.

12-A. Equine facility. “Equine facility” means a boarding stable or commercial riding facility.

12-B. Dog. “Dog” means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid as defined in subsection 30.

12-D. Domestic violence. “Domestic violence” means beating, torturing, mutilating or killing an animal without justification with the intent to threaten, intimidate, coerce, harass or terrorize a family or household member.

13. Service dog kept for breeding purposes. “Service dog kept for breeding purposes” means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.

14. Service dog kept prior to training. “Service dog kept prior to training” means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.

15. Humane agent. “Humane agent” means an employee of the Department of Agriculture, Food and Rural Resources who assists in enforcing this chapter.

15-A. Humane society. “Humane society” means a nonprofit group or organization incorporated for the purpose of providing physical service directly to abused and abandoned animals, improving the conditions of animals, providing education concerning animals or fund-raising to promote animal welfare.

15-B. Humanely clean conditions. “Humanely clean conditions” means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.

16. Keeper. “Keeper” means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.

17. Kennel. “Kennel” means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

18. Law enforcement officer. “Law enforcement officer” means any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

18-A. Livestock. “Livestock” means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.

19. Municipality. “Municipality” means a city, town or plantation.

20. Mutilate. “Mutilate” means to injure or disfigure by irreparably damaging body parts. “Mutilate” does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.

20-A. Neglect. “Neglect” means failure to provide an animal with humanely clean conditions and adequate care and other care generally considered to be ordinary and necessary for the health and well-being of that species, breed or type of animal.

21. Owner. “Owner” means any person, firm, partnership, association or corporation owning, keeping or harboring a dog or other animal.

22. Person. “Person” means an individual, corporation, partnership, association or any other legal entity.

22-A. Repealed. Laws 1997, c. 690, § 58.

23. Pet shop. “Pet shop” means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.

24. Respective municipality. “Respective municipality” means, in the case of towns and cities, the municipality where the dog is found or in the case of unorganized townships, the municipality near or adjacent to the unorganized township where the dog is found or the designee of that municipality.

24-A. Service dog. “Service dog” means a dog that meets the definition of “service animal” set forth in Title 5, section 4553, subsection 9-E, paragraph A or B.

25. Shelter. “Shelter” means any building or physical structure or part of any building or structure, other than a private dwelling, housing dogs or other animals and not used for agricultural purposes or as a laboratory, research facility, medical facility or educational institution.

26. Torment, torture and cruelty. “Torment, torture and cruelty” means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.

27. Vertebrate. “Vertebrate” means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.

28. Warrant. “Warrant” means an order of municipal officers directing a police officer, constable, sheriff or animal control officer to enter a complaint and summons against the owners or keepers of unlicensed dogs following notice of and noncompliance with a violation of law.

29. Well cared for. “Well cared for” means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

30. Wolf hybrid. “Wolf hybrid” means a mammal that is the offspring of the reproduction between any species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. “Wolf hybrid” includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.

ME. REV. STAT. ANN. tit.17, § 1021 (2012). Possession of animals.

1. Possession. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court or the Superior Court for authorization:

A. To take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn over the animal to the applicant or other suitable person; or

B. To cause the animal to be disposed of humanely.

2. Notice to owner. If the owner is known, a copy of the application must be served upon the owner with an order of court to appear at a stated time and place to show cause why the animal should not be taken and turned over to the applicant or other suitable person or disposed of humanely.

If the owner can not be found by reasonable diligence, or is out of state although a resident of this State, a copy of the application and order of court must be left at the owner's last and usual place of abode.

If the owner is not known, then the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found, stating the case and circumstances and giving 48 hours notice of the hearing.

3. Hearing. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated, malnourished or injured, the court shall:

A. Direct the applicant or other suitable person to take possession of and provide for the animal, order its sale, adoption or placement;

B. Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful; or

C. If appropriate, allow the animal to be returned to its owner.

4. Ex parte order. An ex parte order shall be as follows.

A. A state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner may apply to the District Court, Superior Court or a justice of the peace for an ex parte order for authorization to take possession of any maimed, disabled, diseased, dehydrated, malnourished or injured animal or any animal whose owner has abandoned or cruelly treated it and turn it over to the applicant or any other suitable person.

An order may be entered ex parte upon findings by the court or justice of the peace that there is a reasonable likelihood that:

(1) The defendant is not subject to the jurisdiction of the court for the purposes of a hearing or the owner cannot be found by reasonable diligence or is out-of-state although a resident of this State, and there is a danger that unless immediate action is taken:

(a) The condition of an injured, overworked, tormented, tortured, abandoned, poisoned or mutilated animal, or animal deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions will be substantially impaired or worsened;

(b) The animal's life will be jeopardized; or

(c) A great degree of medical attention will be necessary to restore the animal to a normal, healthy condition;

(2) There is a clear danger that if the owner or the owner's agent is notified in advance of the issuance of the order of court, as provided in subsection 3, the owner or the owner's agent may remove the animal from the State, conceal it or otherwise make it unavailable;

(3) There is immediate danger that the owner or the owner's agent will kill or injure the animal; or

(4) An animal is being or has been injured, overworked, tormented, tortured, abandoned, poisoned, mutilated, or deprived of necessary sustenance, necessary medical attention, proper shelter or protection from the weather or humanely clean conditions and, unless an ex parte order issues allowing the applicant to take possession of the animal, the animal will die, its condition will be substantially impaired or worsened or medical attention will be necessary to restore the animal to a normal, healthy condition.

B. This subsection does not apply to animals currently being well cared for when euthanasia is necessary due to old age or to a person's conduct designed to control or eliminate rodents, ants or other common pests.

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

The court shall hear and determine the motion, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

5. Seizure for observation and examination. Seizure of animals for observation and examination is as follows.

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, humane agent, state veterinarian or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court must receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within 30 days.

B. If the owner is known, the owner must be advised of the time and place of hearing and asked to show cause why the animal should not be seized permanently or disposed of humanely.

C. If the court finds at the hearing that the animal is disabled, diseased, dehydrated or malnourished, the court shall:

(1) Declare the animal forfeited and order its sale, adoption or donation; or

(2) Order the animal to be disposed of humanely if, given reasonable time and care, the animal's recovery is doubtful.

5-A. Seizure by state humane agent or state veterinarian without court order. A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of and retain the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:

A. States the reason for seizure;

B. Gives the name, address and phone number of the humane agent or the state veterinarian to contact for information regarding the animal; and

C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. Upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.

For an expedited hearing, the state, prior to the prehearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the state's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.

All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.

6. Attachment and enforcement of lien. Attachment and enforcement of liens shall be as follows.

A. Any person taking possession of an animal as provided in this subchapter shall have a lien for expenses as provided in this subsection unless the complaint is dismissed for lack of merit. If the complaint is dismissed for lack of merit, the board and the municipality where the possession occurred may share in paying the lienor's expenses.

B. Expenses covered by this subsection include expenses reasonably incident to taking an animal into custody such as transportation, food, shelter, veterinary care and expenses of disposing of an animal taken into custody.

C. The lienor may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631. In giving judgment for the lien, the court shall include expenses as set forth in paragraph B, incurred by the lienor from the date of commencement of proceedings to the entry of judgment or final disposition of the animal as ordered by the court.

In the event of the sale of the animal, all expenses incurred in transporting, taking, keeping and caring for the animal shall be deducted from the sale price and the balance, if any, turned over to the owner.

D. The defendant may appeal as in a civil action, but before appeal is allowed, the defendant shall give sufficient security to satisfy the applicant or person taking custody of the animal that he will pay all expenses for its care and support pending appeal.

ME. REV. STAT. ANN. tit.17, § 1022 (2012).Prevention of cruelty.

The commissioner or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in that person's presence.

ME. REV. STAT. ANN. tit.17, § 1023 (2012).Investigation and reporting of cruelty.

1. Investigations; reports. Law enforcement officers, animal control officers and humane agents shall investigate alleged violations of Title 7, chapter 739 and this chapter. The commissioner shall maintain a record of each alleged case of cruelty to animals investigated by a humane agent. The commissioner shall report annually on the disposition of cases as required under Title 7, section 3906-B.

A law enforcement officer or animal control officer who investigates a case of alleged cruelty to animals and pursues a civil or criminal action based on that investigation shall report to the commissioner on the final disposition of the case.

2. Repealed. Laws 1997, c. 690, § 67.

3. Cooperation between agencies. For the purposes of this section, law enforcement officers, the commissioner or the commissioner's designee, humane agents, a state veterinarian and certified animal control officers may exchange information and reports pertaining to an investigation of cruelty to animals pursuant to Title 16, chapter 3, subchapter VIII.

ME. REV. STAT. ANN. tit.17, § 1024 (2012).Impeding the performance of an officer.

It is unlawful for a person to assault, resist, oppose, impede, intimidate or interfere with a person engaged in or on account of the performance of that person's official duties under this subchapter.

ME. REV. STAT. ANN. tit.17, § 1025 (2012).Handling of animals seized or held.

1. Handling of animals. No humane agent, animal control officer, animal shelter, pound, animal care center, humane society or veterinarian and anyone acting under their authority and having possession of any animal by reason of his office may:

A. Provide or supply dealers, commercial kennels or laboratories with the animal; or

B. Give, release, sell, trade, loan, transfer or otherwise provide any live animal to any individual, firm, association, corporation, educational institution, laboratory, medical facility or anyone else for purposes of experimentation or vivisection.

2. Livestock. Livestock to be sold at public auction is exempt from this section.

ME. REV. STAT. ANN. tit.17, § 1027 (2012).Security for seizure and impoundment of animals relating to cruelty to animals or animal fighting.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. “Authority” means the commissioner or a state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer or animal control officer that seizes or impounds an animal pursuant to section 1021.

2. Show cause hearing. When an animal is lawfully seized or impounded pursuant to section 1021 or 1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest must petition the court for a show cause hearing. The petition must be filed within 10 days of the date the seizure occurred or the search warrant was executed. If the owner fails to petition the court for a hearing within 10 days, the animal is ordered forfeited to the State.

Upon petition by the owner, custodian or person claiming an interest in the animal in accordance with this subsection, the court shall hold a hearing. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Upon a showing of good cause, the court may extend the time needed to hold the hearing.

3. Post security. If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized or, if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order the person from whom an animal is seized or a person claiming an interest in the seized animal to post a security.

4. Payment of expenses. The security must be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a period of at least 30 days. The court upon the recommendation of the authority shall determine the amount of the security. Reasonable expenses include, but are not limited to, estimated medical care, shelter and board.

5. Draw actual reasonable costs. When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, board and record keeping.

6. Post with clerk. If the court orders the posting of security, the security must be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

7. Disposition of animal. Posting of the security does not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

8. Order denied. The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

9. Recover damages. The owner or custodian of an animal humanely killed pursuant to this section is not entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

10. Refund. The court may direct a refund to the person who posted the security in whole or in part for expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

ME. REV. STAT. ANN. tit.17, § 1031 (2012).Cruelty to animals.

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other

jurisdictions. Violation of this paragraph is a Class C crime;

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime;

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime;

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13. Violation of this paragraph is a Class D crime;

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime;

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime;

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

J. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime;

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime.

1-A. Repealed. Laws 2003, c. 452, § I-14, eff. July 1, 2004.

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal;

B. Causes the death of an animal; or

C. Physically tortures an animal.

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, section 1301, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death

by a single shot;

B. Death is instantaneous;

C. Maximum precaution is taken to protect the general public, employees and other animals; and

D. Any restraint of the cat or dog during the shooting does not cause undue suffering.

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards;

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

3. Repealed.Laws 2003, c. 452, § 1-18, eff. July 1, 2004.

3-A. Repealed.Laws 2003, c. 452, § I-19, eff. July 1, 2004.

3-B. Penalties.

The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal.

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation

of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense.

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

ME. REV. STAT. ANN. tit.17, § 1032 (2012).Cruelty to birds.

1. Cruelty to birds. A person is guilty of cruelty to birds if that person intentionally, knowingly or recklessly:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship. Violation of this paragraph is a Class D crime;

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

B. Shoots at any bird or is present as a party, umpire or judge at such shooting. Violation of this paragraph is a Class D crime;

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime;

C. Rents any building, shed, room, yard, field or premises or knowingly suffers the use of the building, shed, room, yard, field or premises for any of the purposes described in paragraphs A and B. Violation of this paragraph is a Class D crime; or

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1031 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime.

2. Penalty. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$100 for each violation of this section.

B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

3. Exception. Nothing in this section may be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

4. Criminal or civil prosecution. A person may not be arrested or detained for cruelty to birds. The attorney for the State shall elect to charge a defendant with the crime of cruelty to birds under this section or the civil violation of cruelty to birds under Title 7, section 4012. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of birds involved, any prior convictions or adjudications of bird cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection is not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of bird cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4012.

ME. REV. STAT. ANN. tit.17, § 1033 (2012).Animal fighting.

1. Animal fighting. A person is guilty of animal fighting if that person knowingly:

A. Owns, possesses, keeps or trains any animal with the intent that the animal engage in an exhibition of fighting with another animal;

B. For amusement or gain, causes any animal to fight with another animal or causes any animals to injure each other; or

C. Permits any act in violation of paragraph A or B to be done on any premises under that person's charge or control.

1-A. Penalty. A person who violates subsection 1 commits a Class C crime. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of subsection 1.

2. Viewing animal fighting. A person is guilty of viewing animal fighting if that person knowingly is present at any place or building where preparations are being made for an exhibition of the fighting of animals or is present at such an exhibition.

2-A. Penalty. A person who violates subsection 2 commits a Class D crime.

3. Affirmative defense. It is an affirmative defense to prosecution under subsections 1 and 2 that the activity charged involves the possession, training, exhibition or use of an animal in the otherwise lawful sport of animal hunting and the training or use of hunting dogs. It is also an affirmative defense that the defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.

4. Exception. Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, farming and security services is exempt from subsections 1 and 2.

ME. REV. STAT. ANN. tit.17, § 1034 (2012).Application for search warrant.

A law enforcement officer or humane agent, having probable cause to believe that a violation of section 1031, 1032 or 1033 has taken place or is taking place, shall enter the premises where the animal is kept with the consent of the owner or shall make application for a search warrant. If the judge or justice of the peace is satisfied that probable cause exists, he shall issue a search warrant directing a law enforcement officer or humane agent in the county to proceed immediately to the location of the alleged violation and directing the law enforcement officer or humane agent to search the place designated in the warrant, retaining in his custody, subject to the order of the court, such property or things as specified in the warrant, including any animal.

ME. REV. STAT. ANN. tit.17, § 1035 (2012). Necessary sustenance.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.
2. Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.
3. Penalty. Failure to provide a sufficient supply of food or water is a Class D crime.

ME. REV. STAT. ANN. tit.17, § 1036 (2012).Necessary medical attention.

A person owning or responsible for confining or impounding any animal may not fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. Failure to provide necessary medical attention is a Class D crime.

ME. REV. STAT. ANN. tit.17, § 1037 (2012).Proper shelter; protection from the weather and humanely clean conditions.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.
 - A. The ambient temperature shall be compatible with the health of the animal.

B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.

B. Except as provided in subsections 5, 5–A and 7, shelter from inclement weather must be provided according to this paragraph.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors, a shelter of suitable size with an aboveground floor and waterproof roof must be provided in accordance with subsection 7, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold and direct sunlight. Inadequate shelter from cold may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog.

For purposes of this subparagraph, “suitable size” means that the dog can enter the shelter unimpeded and turn around, stand in a normal posture and lay down in a normal position.

C. Repealed. Laws 2007, c. 702, § 50.

3. Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Except as provided in subsection 5–A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, “livestock” includes large game as defined in Title 7, section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in Title 7, section 1341, subsection 1.

5–A. Livestock maintained under a rotational grazing system. Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, “rotational grazing system” means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.

6. Penalty. Failure to provide shelter in accordance with this section is a Class D crime.

7. Dogs confined by tethering for long time periods. In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure but may not exceed by more than 3 inches the width and height of the largest dog using the shelter. For dogs other than arctic breeds, the portal must be constructed with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must be constructed of materials with a thermal resistance factor of 0.9 or greater and must contain clean bedding material sufficient to retain the dog’s normal body heat; and

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement.

For the purposes of this subsection, “primary means of confinement” means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, “arctic breeds” means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and “dogs kept as sled dogs or dogs used in competition” means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.

ME. REV. STAT. ANN. tit.17, § 1037-A (2012). Affirmative defense.

It is an affirmative defense to alleged violations of sections 1035, 1036 and 1037 that the animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Food and Rural Resources.

ME. REV. STAT. ANN. tit.17, § 1038(2012). Animals abandoned at animal care facilities.

Abandoning an animal at a veterinarian’s office, boarding kennel, animal grooming facility or animal day-care facility is a Class D crime.

1. Determination of abandonment. There is a rebuttable presumption of abandonment if an owner:

A. Places an animal in the custody of a licensed veterinarian for treatment, boarding or other care, or in a boarding kennel, animal grooming facility or animal day-care facility for services offered by that facility; and

B. Fails to claim the animal within 10 days after written notice is sent in accordance with subsection 2.

2. Notice requirement. Before any animal may be considered abandoned under this section, a veterinarian’s office, boarding kennel, animal grooming facility or animal day-care facility shall send written notice, by registered or certified mail, return receipt requested, to the owner or keeper at the owner’s or keeper’s last known address. Proof of attempted delivery constitutes sufficient notice.

3. Ownership of abandoned animal. When an owner or keeper fails to claim an animal within 10 days of a notice being sent under subsection 2, the veterinarian, kennel, facility or individual who has custody and control of the animal is considered the owner of the animal and shall arrange for its care, including, but not limited to, its adoption, sale or placement with a licensed animal shelter.

4. Financial obligation. The disposal of an abandoned animal under this section does not relieve the owner or keeper of the animal of any financial obligation, including, but not limited to, costs incurred for veterinary treatment, boarding, grooming or other care.

5. Penalty. In addition to the penalties provided in Title 17-A for a Class D crime, the penalties in section 1031, subsection 3-B also apply.

ME. REV. STAT. ANN. tit.17-A, § 1252 (2012).Imprisonment for crimes other than murder.

1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.

A. For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

B. For a Class A, Class B or Class C crime the court must:

(1) Specify a county jail as the place of imprisonment if the term of imprisonment is 9 months or less; or

(2) Commit the person to the Department of Corrections if the term of imprisonment is more than 9 months.

C. Repealed. Laws 1995, c. 425, § 2.

2. The court shall set the term of imprisonment as follows:

A. In the case of a Class A crime, the court shall set a definite period not to exceed 30 years;

B. In the case of a Class B crime, the court shall set a definite period not to exceed 10 years;

C. In the case of a Class C crime, the court shall set a definite period not to exceed 5 years;

D. In the case of a Class D crime, the court shall set a definite period of less than one year; or

E. In the case of a Class E crime, the court shall set a definite period not to exceed 6 months.

2-A. Repealed. 1977, c. 510, § 76.

3. The court may add to the sentence of imprisonment a restitution order as is provided for in chapter 49, section 1204, subsection 2-A, paragraph B. In such cases, it shall be the responsibility of the Department of Corrections to determine whether the order has been complied with and consideration shall be given in the department's administrative decisions concerning the imprisoned person as to whether the order has been complied with.

3-A. At the request of or with the consent of a convicted person, a sentence of imprisonment under this chapter in a county jail or a sentence of probation involving imprisonment in a county jail under chapter 49 may be ordered to be served intermittently.

4. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had 2 or more prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

4-B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, “repeat sexual assault offender” means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of another jurisdiction.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. “Accompanied by sexual assault” as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or another jurisdiction.

4-C. If the State pleads and proves that a Class A crime of gross sexual assault was committed by a person who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, that prior conviction must be given serious consideration by the court in exercising its sentencing discretion.

4-D. If the State pleads and proves that a crime under section 282 was committed against a person who had not attained 12 years of age, the court, in exercising its sentencing discretion, shall give the age of the victim serious consideration.

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years.

5. Notwithstanding any other provision of this code, except as provided in this subsection, if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class for the crime is Class A, the minimum term of imprisonment is 4 years; when the sentencing class for the crime is Class B, the minimum term of imprisonment is 2 years; and when the sentencing class for the crime is Class C, the minimum term of imprisonment is one year. For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C or 1105-D:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year;

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C or 1105-D; and

(2) The court finds that:

(a) Deleted. Laws 2003, c. 232, § 1.

(b) The defendant is an appropriate candidate for an intensive supervision program, but would be ineligible to participate under a sentence imposed under paragraph A; or

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months.

5-B. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained the age of 6 years at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant.

5-C. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant.

5-D. In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that person, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum period of incarceration in the 2nd step in the sentencing process.

6. Repealed. Laws 1989, c. 693, § 6.

7. If a sentence to a term of imprisonment in a county jail is consecutive to or is to be followed by a sentence to a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence may order that both be served in the custody of the Department of Corrections. If a court imposes consecutive terms of imprisonment for Class D or Class E crimes and the aggregate length of the terms imposed is one year or more, the court may order that they be served in the custody of the Department of Corrections.

8. Repealed.

9. Subsections in this section that make the sentencing class for a crime one class higher than it would otherwise be when pled and proved may be applied successively if the subsections to be applied successively contain different class enhancement factors.

ME. REV. STAT. ANN. tit.17-A, § 1301 (2012).Amounts authorized.

1. Repealed. Laws 1989, c. 872, § 3.

1-A. A natural person who has been convicted of a Class A, Class B, Class C, Class D or Class E crime may be sentenced to pay a fine, unless the law that the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person must be sentenced to the imprisonment and required to pay the fine authorized in that law. Subject to these sentences and to section 1302, the fine may not exceed:

- A. \$50,000 for a Class A crime;
- B. \$20,000 for a Class B crime;
- C. \$5,000 for a Class C crime;
- D. \$2,000 for a Class D crime;
- E. \$1,000 for a Class E crime; and

F. Regardless of the classification of the crime, any higher amount that does not exceed twice the pecuniary gain derived from the crime by the defendant.

2. As used in this section, “pecuniary gain” means the amount of money or the value of property at the time of the commission of the crime derived by the defendant from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed. When the court imposes a fine based on the amount of gain, the court shall make a finding as to the defendant’s gain from the crime. If the record does not contain sufficient evidence to support a finding, the court may conduct, in connection with its imposition of sentence, a hearing on this issue.

3. If the defendant convicted of a crime is an organization and the law that the organization is convicted of violating expressly provides that the fine it authorizes may not be suspended, the organization must be sentenced to pay the fine authorized in that law. Otherwise, the maximum allowable fine that such a defendant may be sentenced to pay is:

A. Any amount for murder;

B. \$100,000 for a Class A crime;

C. \$40,000 for a Class B crime;

D. \$20,000 for a Class C crime;

E. \$10,000 for a Class D crime or a Class E crime; and

F. Any higher amount that does not exceed twice the pecuniary gain derived from the crime by the convicted organization.

4. Whenever a statute makes the possession of a particular item, whether animate or inanimate, a criminal offense, the statute may expressly provide that the fine depends upon the quantity of the item possessed by the defendant. In such case, the fine is as provided for in the statute and is not subject to the maximum limits placed on fines by subsections 1-A and 3.

5. Notwithstanding any other provision of this section, any person convicted of a crime under section 1103, 1105-A, 1105-B, 1105-C, 1105-D, 1106 or 1107-A may be sentenced to pay a fine of an amount equal to the value at the time of the offense of the scheduled drug or drugs upon which the conviction is based.

When the court imposes a fine under this subsection, the court shall make a finding as to the value of the scheduled drug or drugs. If the record does not contain sufficient evidence to support a finding, the court may conduct, in connection with its imposition of a sentence, a hearing on this issue.

6. In addition to any other authorized sentencing alternative, the court shall impose a minimum fine of \$400, none of which may be suspended, for a person convicted of a crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; 1110; 1111; 1111-A, subsection 4, paragraph C or D; 1116; 1117; or 1118.

ME. REV. STAT. ANN. tit.19-A, § 4007 (2012). Relief.

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse or engaged in the alleged conduct described in section 4005, subsection 1, may grant a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse or the alleged conduct. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. The court may enter a finding that the defendant represents a credible threat to the physical safety of the plaintiff or a minor child residing in the plaintiff's household. Relief granted under this section may include:

A. Directing the defendant to refrain from threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff and any minor children residing in the household;

A-1. Directing the defendant not to possess a firearm or other dangerous weapon for the duration of the order;

A-2. Prohibiting the defendant from the use, attempted use or threatened use of physical force that would reasonably be expected to cause bodily injury against the plaintiff or a minor child residing in the household;

B. Directing the defendant to refrain from going upon the premises of the plaintiff's residence;

C. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff;

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; or

(3) Engaging in conduct defined as stalking in Title 17-A, section 210-A;

D. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff;

E. When the mutual residence or household of the parties is jointly owned or jointly leased or when one party has a duty to support the other or their minor children living in the residence or household and that party is the sole owner or lessee:

(1) Granting or restoring possession of the residence or household to one party, excluding the other; or

(2) A consent agreement, allowing the party with the duty to support to provide suitable alternate housing;

F. Ordering a division of the personal property and household goods and furnishings of the parties and placing any protective orders considered appropriate by the court, including an order to refrain from taking, converting or damaging property in which the plaintiff has a legal interest;

F-1. Ordering the termination of a life insurance policy or rider under that policy owned by the defendant if the plaintiff is the insured life under the policy or rider. Upon issuance, a copy of the court order must be sent to the insurer that issued the policy;

G. Either awarding some or all temporary parental rights and responsibilities with regard to minor children or awarding temporary rights of contact with regard to minor children, or both, under such conditions that the court finds appropriate as determined in accordance with the best interest of the child pursuant to section 1653, subsections 3 to 6-B. The court's award of parental rights and responsibilities or rights of contact is not binding in any separate action involving an award of parental rights and responsibilities pursuant to chapter 55 or in a similar action brought in another jurisdiction exercising child custody jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act;

H. Requiring the defendant to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court considers appropriate. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under section 4014;

I. Ordering the payment of temporary support for the dependent party or for a child in the dependent party's custody in accordance with chapter 63, or both, when there is a legal obligation to support that dependent party or that child, or both;

J. Ordering the payment of temporary support payments to the State as provided in chapters 63 and 67;

K. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded;

L. Ordering the defendant to pay court costs or reasonable attorney's fees;

L-1. Ordering the plaintiff to pay court costs or reasonable attorney's fees, or both, only if a judgment is entered against the plaintiff after a hearing in which both the plaintiff and the defendant are present and the court finds that the complaint is frivolous;

M. Entering any other orders determined necessary or appropriate in the discretion of the court; or

N. Directing the care, custody or control of any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household.

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

1-A. No possession of firearm or dangerous weapons for duration of order. If the court prohibits the defendant from possessing a dangerous weapon other than a firearm, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm or other dangerous weapon, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms and other dangerous weapons at any location if there is probable cause to believe such firearms or dangerous weapons have not been relinquished by the defendant.

2. Duration. A protective order or approved consent agreement is for a fixed period not to exceed 2 years. At the expiration of that time, the court may extend an order, upon motion of the plaintiff, for such additional time as it determines necessary to protect the plaintiff or minor child from abuse. The court may continue the order in effect until the hearing under section 4006, subsection 1 on the motion to extend. Upon motion by either party, for sufficient cause, the court may modify the order or agreement from time to time as circumstances require.

3. Consequences of violation. A protective order or approved consent agreement must indicate, in a clear and conspicuous manner, the potential consequences of violation of the order or agreement, as provided in section 4011 and Title 15, section 393, subsection 1, paragraph D, if applicable.

4. Title to property. An order or agreement may not affect title to any real property.

5. Bond prohibited. The court may not require the execution of a bond by the plaintiff prior to issuance of an order of protection.

6. Service of order or consent decree. The court shall order a law enforcement agency; or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15; or, if the defendant is in the custody of the Department of Corrections, the chief administrative officer or the chief administrative officer's designee at the correctional facility, to serve the defendant personally with a protective order or consent decree.

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service.

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order.

7. Mutual order of protection or restraint. The court may not issue a mutual order of protection or restraint.

8. Action by plaintiff. A plaintiff may extinguish or modify an order only by legal process in accordance with the Maine Rules of Civil Procedure. Any other action or inaction on the part of the plaintiff does not alter, diminish or negate the effectiveness of the order. Criminal sanctions may not be imposed upon the plaintiff for violation of a provision of the plaintiff's order for protection.

9. Financial accounting. In all proceedings under this chapter, the court shall apply the child support guidelines in chapter 63 using the information the plaintiff is able to provide the court. Failure of a party to file an income affidavit may not unnecessarily delay a proceeding and does not preclude the issuance of an order, except that the court shall require the plaintiff to complete and file an income affidavit at a final hearing involving child support even if the defendant does not appear for the hearing.

9. Financial accounting. In all proceedings under this chapter, the court shall apply the child support guidelines in chapter 63 using the information the plaintiff is able to provide the court. Failure of a party to file an income affidavit may not unnecessarily delay a proceeding and does not preclude the issuance of an order, except that the court shall require the plaintiff to complete and file an income affidavit at a final hearing involving child support even if the defendant does not appear for the hearing.

ME. REV. STAT. ANN. tit.22, § 3477 (2012). Persons mandated to report suspected abuse, neglect or exploitation.

1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or likely to be abused, neglected or exploited:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical resident or intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist, dental hygienist or dental assistant;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;

- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy;
- (18) Emergency room personnel;
- (19) An ambulance attendant;
- (20) An emergency medical technician or other licensed medical service provider;
- (21) Unlicensed assistive personnel;
- (22) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
- (23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (24) A sexual assault counselor;
- (25) A family or domestic violence victim advocate;
- (26) A naturopathic doctor;
- (27) A respiratory therapist;
- (28) A court-appointed guardian or conservator; or
- (29) A chair of a professional licensing board that has jurisdiction over mandated reporters;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation;

C. Any person affiliated with a church or religious institution who serves in an

administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation; or

D. Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation. The duty to report under this subsection applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate reporting consistent with this chapter and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are consistent with this chapter.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.

2. Reports. Reports regarding abuse, neglect or exploitation must be made immediately by telephone to the department and must be followed by a written report within 48 hours if requested by the department. The reports must contain the name and address of the involved adult; information regarding the nature and extent of the abuse, neglect or exploitation; the source of the report; the person making the report; that person's occupation; and where that person can be contacted. The report may contain any other information that the reporter believes may be helpful.

3. Confidentiality in case of treatment of individual suspected of causing abuse, neglect or exploitation. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of causing the abuse, neglect or exploitation;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the abused, neglected or exploited adult's life or health is not immediately threatened.

4. Confidentiality in case of treatment of individual suspected of being abused, neglected or exploited. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of being abused, neglected or exploited;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the individual is not incapacitated and the individual's life or health is not immediately threatened.

5. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

6. Photographs of visible trauma. Whenever a person required to report as a staff member of a law enforcement agency or a hospital sees areas of trauma on an incapacitated or dependent adult, that person shall make reasonable efforts to take, or cause to be taken, color photographs of those areas of trauma.

A. The taking of photographs must be done with minimal trauma to the incapacitated or dependent adult and in a manner consistent with professional forensic standards. Consent to the taking of photographs is not required from the adult's legal guardian or by a health care power of attorney.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for adult protective services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to subsequent adult protection proceedings.

7. Information about duty to report. Whenever possible, the department and state licensing boards of professionals required to report under this section shall collaborate to facilitate the dissemination of information regarding the duty to report and the reporting procedure.

ME. REV. STAT. ANN. tit.22, § 4011-A (2012). Reporting of suspected abuse or neglect.

1. Required report to department. The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected:

A. When acting in a professional capacity:

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A youth camp administrator or counselor;

- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and
- (29) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
- (30) A sexual assault counselor;
- (31) A family or domestic violence victim advocate; and
- (32) A school bus driver or school bus attendant.

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation.

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected comes from treatment of a person responsible for the abuse or neglect, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.

B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely.

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse or neglect. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse or neglect to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion.

The intent of this subsection is to encourage offenders to seek and effectively utilize treatment and, at the same time, provide any necessary protection and treatment for the child and other family members.

5. Photographs of visible trauma. Whenever a person is required to report as a staff member of a law enforcement agency or a hospital, that person shall make reasonable efforts to take, or cause to be taken, color photographs of any areas of trauma visible on a child.

A. The taking of photographs must be done with minimal trauma to the child and in a manner consistent with professional standards. The parent's or custodian's consent to the taking of photographs is not required.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for child welfare services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse or neglect or to subsequent child protection proceedings.

6. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

ME. REV. STAT. ANN. tit.34-B, § 1901 (2012).Animal cruelty, abuse or neglect; reporting.

1. Definitions.

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. “Animal” means every living, sentient creature not a human being.

B. “Cruelty, abuse or neglect” means every act, omission or instance of neglect when unnecessary or unjustifiable pain or suffering is caused or permitted.

C. “Owner” means a person, firm, partnership, association or corporation owning, keeping or harboring an animal.

D. “Reasonably suspect” means to hold an objectively reasonable suspicion based upon facts that would cause a reasonable person in a like position to draw on that person’s training or experience to suspect animal cruelty, abuse or neglect.

2. Report.

An employee of a state-funded child or adult protective services agency or other social service agency, including those providing mental health services that are funded or licensed by the department, while acting in the employee’s professional capacity or within the scope of the employee’s employment, who has knowledge of or observes an animal that the employee knows or reasonably suspects has been the victim of cruelty, abuse or neglect may report the known or reasonably suspected animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902.

3. Duty.

Nothing in this section may be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse or neglect.

4. Immunity from liability.

A person participating in good faith in reporting under this subchapter is immune from any civil or criminal liability that might otherwise result from these actions, including, but not limited to, any civil or criminal liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

ANIMAL PROTECTION LAWS OF MANITOBA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains Manitoba's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Manitoba may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in Manitoba. Because the law is continually evolving, always review an official source for the most current language of any statute.

MANITOBA

<p>1. GENERAL PROHIBITIONS*</p>	<p>Duties of an owner C.C.S.M. c. A84, s.2(1)</p> <p>Infliction of suffering prohibited C.C.S.M. c. A84, s.3(1)</p> <p>Prohibition re transporting unfit animals C.C.S.M. c. A84, s.5.1(1)</p> <p>Prohibition re unloading or accepting unfit commercial animal C.C.S.M. c. A84, s.5.2(1)</p> <p>Animal in distress C.C.S.M. c. A84, s. 6(1)</p> <p>Improper confinement & transportation M. R. 126/98, s. 5</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[N]on-human living being with a developed nervous system” C.C.S.M. c. A84, s.1(1)</p>
<p><i>Classification of Crimes</i></p>	<p>Offence</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>[1st offence]: 6 months imprisonment <i>and/or</i> \$10,000 fine</p> <p>[Subsequent offences]: 12 months imprisonment <i>and/or</i> \$20,000 fine C.C.S.M. c. A84, s. 34(1)</p>

MANITOBA*continued*

<p>3. EXEMPTIONS ***</p>	<p>1-9 C.C.S.M. c. A84, s. 4</p> <p>4, 9 C.C.S.M. c. A84, ss. 2(2), 3(2), 5.1(2), 6(2)</p> <p>8, 9 M. R. 126/98, s. 1.2</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>The owner is liable for the costs of care for an impounded animal C.C.S.M. c. A84, s.21(1)</p> <p>Proceeds from any sale of an animal shall first go towards reimbursement of costs of care; the former owner is liable for any costs not covered by a sale C.C.S.M. c. A84, s. 23</p> <p>Any amount for which a person is liable for costs of care is a debt due by that person to the province C.C.S.M. c. A84, s. 24(1)</p> <p>A lien is placed on a seized animal for an amount equal to the costs of care for that animal C.C.S.M. c. A84, s. 24(2)</p> <p>Amount recovered from an owner of a seized animal, or received from the sale of such animal, may be retained for reimbursement of expenses C.C.S.M. c. A84, s. 37(2)</p>

MANITOBA*continued*

7. SEIZURE / ON-SITE SUPERVISION

Entry and inspection of places and vehicles

C.C.S.M. c. A84, s. 8(1)

Warrant to enter and inspect

C.C.S.M. c. A84, s.8(2)

Assistance to animal protection officer

C.C.S.M. c. A84, s. 8(3)

Driver of vehicle must stop

C.C.S.M. c. A84, s.8(4)

Companion animal in distress

C.C.S.M. c. A84, s. 8(5)

Viewing animal at dwelling place

C.C.S.M. c. A84, s. 8(6)

No restriction on inspection power

C.C.S.M. c. A84, s. 8(7)

Animal in dwelling to be produced

C.C.S.M. c. A84, s.8(8)

Warrant to enter dwelling for an animal in distress

C.C.S.M. c. A84, s.8(9)

Warrant to search and seize animal

C.C.S.M. c. A84, s.8(10)

Where warrant not necessary

C.C.S.M. c. A84, s.8(11)

Duty to notify absent occupant

	C.C.S.M. c. A84, s.8(12)
MANITOBA <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION <i>continued</i>	<p>Use of reasonable force authorized C.C.S.M. c. A84, s. 8.1</p> <p>Care or seizure of animal in distress C.C.S.M. c. A84, s.9(1)</p> <p>Notification of owner upon seizure C.C.S.M. c. A84, s.10(2)</p> <p>On-site orders C.C.S.M. c. A84, s. 10.1</p> <p>Entry and inspection to enforce orders C.C.S.M. c. A84, s. 10.3</p> <p>Seizing animals for non-compliance with order C.C.S.M. c. A84, s. 10.4</p> <p>Abandoned animals may be seized C.C.S.M. c. A84, s. 10.4</p> <p>Provisions for caregivers of seized animals C.C.S.M. c. A84, s.13(1)-(4)</p>
8. FORFEITURE / POSSESSION^H	<p>If a seized animal is in such distress that it would be inhumane to allow the animal to continue to live, it may be destroyed C.C.S.M. c. A84, s. 10</p> <p>A court order may be issued to restrict ownership of animals up to 3 years when owner is determined unable to carry out duties of care, and to forfeit any animals not allowed under the order</p>

	C.C.S.M. c. A84, s. 10.2
MANITOBA <i>continued</i>	
8. FORFEITURE / POSSESSION^H <i>continued</i>	<p>Seized commercial animals are forfeited after seven days have elapsed and the owner has not delivered an objection C.C.S.M. c. A84, s. 14</p> <p>Provisions for when an owner objects to the pending forfeiture of commercial animals C.C.S.M. c. A84, s. 15</p> <p>Provisions for the return of a seized companion animal to the animal's owner C.C.S.M. c. A84, s. 16</p> <p>Provisions for the forfeiture of a seized companion animal after seven days in custody and owner has not filed notice of appeal C.C.S.M. c. A84, s. 17</p> <p>Provisions for when an owner objects to the pending forfeiture of seized companion animals C.C.S.M. c. A84, s. 18</p> <p>7 days following seizure, companion animals that are unclaimed, despite due inquiry, may be forfeited C.C.S.M. c. A84, s. 19(1)</p> <p>Upon conviction, a justice may prohibit the offender from owning or having possession or control of animals or of a number or type of animals for a period the court feels appropriate, up to a lifetime ban, and may order the forfeiture of other animals owned by the offender C.C.S.M. c. A84, s. 35(1)</p>

<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>MANITOBA<i>continued</i></p>	
<p>10. VETERINARIAN REPORTING / IMMUNITY</p>	<p>Veterinarians shall promptly report suspected abuse and neglect; and are immune from liability for reporting and providing information relating to the case C.C.S.M. c. A84, ss. 5.3, 38</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>The director may delegate powers and duties to any staff member conferred or imposed on the director C.C.S.M. c. A84, s. 1.1</p> <p>Report required for unfit animal not accepted C.C.S.M. c. A84, s.5.2</p> <p>Appointment of animal protection officers & agents C.C.S.M. c. A84, ss.7(1), 37(1)</p> <p>An animal protection officer may use reasonable force C.C.S.M. c. A84, s. 8.1</p> <p>No person shall obstruct an animal protection officer C.C.S.M. c. A84, s. 8.2</p> <p>Duty to provide information C.C.S.M. c. A84, s. 37.1</p> <p>Persons acting in good faith in compliance with the Act, including agents and others, are immune from liability C.C.S.M. c. A84, ss. 37.1(2), 38</p>
<p>12. SEXUAL ASSAULT</p>	<p>-----</p>

13. FIGHTING	Animal fighting is prohibited C.C.S.M. c. A84, s. 5
MANITOBA <i>continued</i>	
NOTES	Cruelty to livestock is prohibited under the Highway Traffic Act, C.C.S.M. c. H60, s. 233 Manitoba has additional statutes and regulations for commercial animal enterprises

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

The Animal Care Act, C.C.S.M. c. A84, ss. 1-3, 5, 5.1, 5.2, 6 (2012)

Definitions

1(1)

In this Act,

"abandoned animal" means an animal that

(a) is apparently ownerless and not running at large,

(b) is found on rented premises after the expiration or termination of the tenancy agreement,

(c) is found on premises after the owner has sold or vacated the premises, or

(d) by agreement between the animal's owner and another person, has been left in the care of the other person and has not been retrieved from the other person for more than four days after the agreed-upon retrieval time;

"animal" means a non-human living being with a developed nervous system;

"animal protection officer" means a person appointed as an animal protection officer under this Act and any police officer;

"appeal board" means the Animal Care Appeal Board established in section 33.1;

"care" includes the provision of food, water, shelter and medical attention to an animal;

"caregiver" means a person or organization selected by an animal protection officer to provide care to an animal that has been seized or taken into custody;

"commercial animal assembling station" means any place where commercial animals are assembled for shipment by any form of transportation;

"commercial animal market" means a stockyard or auction mart that is operated as a public market for the purchase or sale of commercial animals;

"commercial animals" include

(a) horses, cattle, sheep, swine and live poultry,

(b) wildlife that is not the property of the Crown under The Wildlife Act,

(c) animals of a type usually raised for meat production or the production of products from the animals, and includes breeding stock of such animals, and

(d) species or types of animals designated in the regulations as commercial animals;

"companion animal" means an animal that is not a commercial animal;

"costs of care" means any amount established in the regulations to be costs of care or, where no such amount is established, any reasonable and necessary costs incurred under this Act to seize, take custody of, transport, provide care to, sell, or destroy an animal;

"court" means the Court of Queen's Bench;

"director" means the person appointed under The Civil Service Act as the director for the purpose of this Act;

"licence" means a licence issued under this Act;

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

"needless suffering" means suffering that is not inevitable or intrinsic to an accepted activity;

"owner" includes

(a) a person having possession or control of an animal or occupying premises containing an animal, and

(b) a person who possessed or controlled an animal, or occupied premises containing the animal, immediately before it was seized or taken into custody under this Act;

"panel" means a panel of the appeal board;

"person" includes a partnership and unincorporated association;

"personal information" means personal information as defined in The Freedom of Information and Protection of Privacy Act;

"police officer" means a member of the Royal Canadian Mounted Police or a municipal police force;

"prescribed" means prescribed by regulation;

"regulations" means the regulations made under this Act;

"vehicle" means a vehicle as defined in The Highway Traffic Act;

"veterinarian" means a person registered under The Veterinary Medical Act and authorized to practise veterinary medicine in Manitoba.

Reference to "Act" includes regulations

1(2) In this Act, a reference to "this Act" includes the regulations made under this Act.

* * * * *

Duties of owner

2(1)

A person who has ownership, possession or control of an animal

(a) shall ensure that the animal has an adequate source of food and water;

(b) shall provide the animal with adequate medical attention when the animal is wounded or ill;

(c) shall provide the animal with reasonable protection from injurious heat or cold; and

(d) shall not confine the animal to an enclosure or area

(i) with inadequate space,

(ii) with unsanitary conditions,

(iii) with inadequate ventilation or lighting, or

(iv) without providing an opportunity for exercise,

so as to significantly impair the animal's health or well-being.

Standards for essentials

2(2)

A person shall not be convicted of an offence under subsection (1) for treating an animal in a manner

- (a) consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;
- (b) consistent with generally accepted practices or procedures for such activity; or
- (c) otherwise reasonable in the circumstances.

Infliction of suffering prohibited

3(1)

No person shall inflict upon an animal acute suffering, serious injury or harm, or extreme anxiety or distress that significantly impairs its health or well-being.

Accepted activity re suffering

3(2)

Subsection (1) does not apply where the suffering, injury, harm, anxiety or distress is caused by a treatment, process, or condition that occurs in the course of an accepted activity.

Prohibited practices and procedures

5

No person shall engage in a practice or procedure specified as prohibited in the regulations.

Prohibition re transporting unfit animals

5.1(1)

No person shall load or transport an animal, or permit an animal to be loaded or transported, in a vehicle if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or would suffer unduly during transport.

Prohibition re unloading or accepting unfit commercial animal

5.2(1)

No person shall, for the purpose of resale or further shipment,

(a) unload a commercial animal, or permit a commercial animal to be unloaded, from a vehicle; or

(b) accept, or permit a commercial animal to be accepted;

at a commercial animal market or commercial animal assembling station if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or is suffering unduly.

Animal in distress

6(1)

Subject to subsection (2), for the purposes of this Act, an animal is in distress if it is

(a) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;

(b) subjected to conditions that cause the animal to suffer acute pain;

(c) not provided food and water sufficient to maintain the animal in a state of good health;

(d) not provided appropriate medical attention when the animal is wounded or ill;

(e) unduly exposed to cold or heat; or

(f) subjected to conditions that will, over time, significantly impair the animal's health or well-being, including

(i) confinement in an area of insufficient space,

(ii) confinement in unsanitary conditions,

(iii) confinement without adequate ventilation or lighting,

(iv) not being allowed an opportunity for adequate exercise, and

(v) conditions that cause the animal extreme anxiety or distress.

Accepted activity re distress

6(2)

For the purposes of this Act, an animal shall not be considered to be in distress as a result of any treatment, process, or condition that occurs in the course of an accepted activity.

Animal Care Regulation, Man. Reg. 126/98, ss. 1, 1.1, 5(2012)

Definitions

1

The following definitions apply in this regulation.

"Act" means The Animal Care Act.

"Agriculture and Agri-Food Canada" means the department of the Government of Canada known by that name on the day this regulation comes into force and includes any successor to that department and any agency of the Government of Canada that after that day carries out any function of that department.

"Canadian Agri-Food Research Council" means the non-profit corporation known by that name on the day this regulation comes into force and includes any successor to that corporation that carries out any function of that corporation.

"humane", in relation to the custody and maintenance of an animal, means to provide the animal all the necessities of life and to maintain the animal in living conditions that do not cause it distress.

"non-domestic species" means a species of animal that is not one of the following:

- (a) horse (*Equus ferus caballus*), mule or donkey (*Equus africanus asinus*);
- (b) cattle (*Bos primigenius indicus*, *Bos primigenius taurus*);
- (c) swine (*Sus scrofa domestica*);
- (d) sheep (*Ovis aries*);
- (e) goat (*Capra aegagrus hircus*);
- (f) poultry (*Gallus gallus domesticus*, *Meleagris gallopavo*);

(g) dog (*Canis lupus familiaris*);

(h) cat (*Feliscatus*).

"PMU operation" means an establishment where horses are kept for the purpose of collection of urine of pregnant mares.

Meaning of "suffering unduly"

1.1

For the purposes of 5.2 of the Act and sections 5.1 and 5.2 of this regulation, an animal is suffering unduly

(a) if it has suffered serious injury or harm that has not received veterinary treatment or extreme anxiety or distress that has significantly impaired its health or well-being and has not received such treatment; and

(b) if veterinary treatment to relieve the animal's suffering is not immediately available or it would be inhumane to leave the animal untreated for any length of time.

Prohibited practices

5

For the purpose of section 5 of the Act, the following practices and procedures are prohibited:

(a) contests involving fighting between two or more animals;

(b) the outdoor tethering of untended horses by rope or chain where there is no direct supervision;

(c) the keeping or confinement of an animal in a facility

(i) that contains items or debris that constitute, or

(ii) is in a state of disrepair that constitutes, a hazard likely to injure the animal;

(d) the confinement of animals together where there is a high risk of injury to or distress on the part of any of the animals either

(i) by, or due to the presence of, any of the other animals,

(ii) by or due to the means of confinement, or

(iii) by or due to the physical characteristics of the place of confinement;

(e) the transportation of a companion animal in the open back of a pickup truck

*(i) in a manner or in circumstances where the animal is exposed to a high risk of injury,
and*

*(ii) notwithstanding subclause (i), on a highway as defined in The Highway Traffic Act
except with a proper restraining device or in a closed cage.*

2. PENALTIES

The Animal Care Act, C.C.S.M. c. A84, s. 34 (2012)

Offences

34(1)

A person who contravenes any provision of this Act or an order made under this Act is guilty of an offence and is liable, on summary conviction,

(a) for a first offence, to a fine of not more than \$10,000, or to imprisonment for a term of not more than six months, or both; and

(b) for a subsequent offence, to a fine of not more than \$20,000, or to imprisonment for a term of not more than 12 months, or both.

Directors and officers of corporations

34(2)

Where a corporation is guilty of an offence, a director or officer of the corporation who authorized, permitted or acquiesced to the offence is also guilty of the offence and is liable on summary conviction to the penalty for the offence provided for in this section.

3. EXEMPTIONS

The Animal Care Act, C.C.S.M. c. A84, ss. 2-4, 5.1, 6 (2012)

Duties of owner

2(1)

A person who has ownership, possession or control of an animal

- (a) shall ensure that the animal has an adequate source of food and water;
- (b) shall provide the animal with adequate medical attention when the animal is wounded or ill;
- (c) shall provide the animal with reasonable protection from injurious heat or cold; and
- (d) shall not confine the animal to an enclosure or area
 - (i) with inadequate space,
 - (ii) with unsanitary conditions,
 - (iii) with inadequate ventilation or lighting, or
 - (iv) without providing an opportunity for exercise,so as to significantly impair the animal's health or well-being.

Standards for essentials

2(2)

A person shall not be convicted of an offence under subsection (1) for treating an animal in a manner

- (a) consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;*
- (b) consistent with generally accepted practices or procedures for such activity; or*
- (c) otherwise reasonable in the circumstances.*

Infliction of suffering prohibited

3(1)

No person shall inflict upon an animal acute suffering, serious injury or harm, or extreme anxiety or distress that significantly impairs its health or well-being.

Accepted activity re suffering

3(2)

Subsection (1) does not apply where the suffering, injury, harm, anxiety or distress is caused by a treatment, process, or condition that occurs in the course of an accepted activity.

Accepted activities

4(1)

Subject to subsection (2), for the purposes of this Act, an accepted activity includes the following activities

- (a) agricultural uses of animals;*
- (b) exhibitions and fairs;*
- (c) zoological displays;*
- (d) animal slaughter;*
- (e) medical care;*
- (f) animal discipline and training;*
- (g) protection of people or property;*
- (h) sporting events;*
- (i) fishing and hunting;*
- (j) trapping;*
- (k) research and teaching involving animals;*
- (l) pest control;*

(m) control of predators;

(n) euthanasia of animals;

(o) any other activity designated by the regulations as an accepted activity.

Standards for accepted activities

4(2)

An activity is an accepted activity under subsection (1) only if it is carried out in a manner

(a) consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;

(b) consistent with generally accepted practices or procedures for such activity, and that does not cause needless suffering; or

(c) that is otherwise reasonable in the circumstances, and that does not cause needless suffering;

and is not a practice or procedure specified as prohibited in the regulations.

Prohibition re transporting unfit animals

5.1(1)

No person shall load or transport an animal, or permit an animal to be loaded or transported, in a vehicle if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or would suffer unduly during transport.

Exception

5.1(2)

Despite subsection (1), as long as the animal is loaded and transported humanely, a person may transport it to or from a veterinary clinic or the nearest suitable place to obtain medical attention.

Animal in distress

6(1)

Subject to subsection (2), for the purposes of this Act, an animal is in distress if it is

- (a) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;
- (b) subjected to conditions that cause the animal to suffer acute pain;
- (c) not provided food and water sufficient to maintain the animal in a state of good health;
- (d) not provided appropriate medical attention when the animal is wounded or ill;
- (e) unduly exposed to cold or heat; or
- (f) subjected to conditions that will, over time, significantly impair the animal's health or well-being, including
 - (i) confinement in an area of insufficient space,
 - (ii) confinement in unsanitary conditions,
 - (iii) confinement without adequate ventilation or lighting,
 - (iv) not being allowed an opportunity for adequate exercise, and
 - (v) conditions that cause the animal extreme anxiety or distress.

Accepted activity re distress

6(2)

For the purposes of this Act, an animal shall not be considered to be in distress as a result of any treatment, process, or condition that occurs in the course of an accepted activity.

Animal Care Regulation, Man. Reg. 126/98, s. 1.2(2012)

Additional accepted activities

1.2

For the purpose of clause 4(1)(o) of the Act, the following are accepted activities:

(a) keeping, using, handling and displaying animals in the course of operating, working in or participating in a circus;

(b) kennelling companion animals;

(c) breeding companion animals;

(d) keeping, handling, displaying and selling companion animals in a companion animal retail store or a part of the business operations of such a store.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

The Animal Care Act, C.C.S.M. c. A84, ss. 21-24, 37(2012)

Owner liable for costs

21(1)

The owner of an animal that has been seized or taken into custody is liable to pay to the director on demand an amount equal to the costs of care for the animal.

Statement of account

21(2)

The director may at any time, and shall upon the request of an owner of an animal that has been seized or taken into custody, provide to the owner a statement of account setting out the costs of care for the animal claimed by the director.

Waiving payment of costs

21(3)

The director may waive all or any part of the costs of an animal's care if the owner satisfies the director that payment of the waived amount would be an unreasonable hardship for the owner.

Objection to amount claimed

22(1)

On application by an owner who has been provided a statement of account under subsection 21(2), the court shall review and determine the amount to be paid to the director for the costs of care for the animal.

Time for application

22(2)

A notice of application under this section shall be filed with the court and served upon the director within seven days of receipt of the statement of account by the owner.

Disposition for failure to pay costs

22.1

If the owner of an animal that has been seized or taken into custody under this Act

(a) has failed to pay the costs of care set out in a statement of account provided under subsection 21(2) and the owner has not made an application under section 22; or

(b) has made an application under section 22, and has failed to pay the costs of care determined by the court to be payable within three days of the determination of the costs of care by the court;

the director may sell, give away or destroy the animal.

Proceeds of sale

23(1)

Subject to subsections (2) and (3), where an animal is sold by the director under this Act, proceeds of the sale shall be disbursed in the following order of priority

(a) the director shall retain an amount equal to the costs of care; and

(b) the balance of the sale proceeds shall be paid to the former owner of the animal.

Care costs in excess of proceeds of sale

23(2)

The former owner of an animal that is sold by the director under this Act shall pay to the director an amount equal to any portion of the costs of care that are not recovered from the proceeds of the sale of the animal.

Creditor rights

23(3)

In the event the director has reason to believe a creditor may have a security interest in an animal sold by the director under this Act, the director may apply to the court for an interpleader order in respect of the balance of the sale proceeds over and above an amount equal to the costs of care for the animal.

Sale proceeds where owner unknown

23(4)

Where, despite due inquiry by an animal protection officer, the owner of an animal that has been seized or taken into custody is unknown, the balance of the sale proceeds over and above an amount equal to the costs of care for the animal, if any, shall be retained by the director and forfeited to the Crown.

Costs recoverable as debt due

24(1)

Any amount for which a person is liable for costs of care under this Act is a debt due by that person to the government.

Lien on animal

24(2)

The government has a lien on an animal that has been seized or taken into custody for an amount equal to the costs of care for that animal.

Retention of monies by agent

37(2)

Notwithstanding The Financial Administration Act, the director may authorize an agent appointed under subsection (1) to retain as a fee for service and as reimbursement for expenses, all or a portion of the amount recovered by the agent from an owner of an animal that has been seized or taken into custody, or received from the sale of such an animal.

7. SEIZURE / ON-SITE SUPERVISION

The Animal Care Act, C.C.S.M. c. A84, ss. 8-10.5, 13 (2012)

Entry and inspection of places and vehicles

8(1)

An animal protection officer may, at any reasonable time and where reasonably required to administer or determine compliance with this Act,

(a) enter and inspect any facility, premises or other place, or stop and inspect any vehicle, that is being operated in the course of an activity

(i) for which a person is or is required to be licensed under this Act,

(ii) that purports to be an accepted activity under subsection 4(1) and in respect of which a standard or code of conduct, criteria, practice or procedure has been specified as acceptable in the regulations,

(iii) that relates to the operation of a commercial animal market or commercial animal assembling station, or

(iv) that involves a commercial animal;

(b) open any receptacle, package, cage or thing that the animal protection officer believes on reasonable grounds is being kept in the course of that activity;

(c) view any animal or conduct an examination of any animal in the place or vehicle, whether or not the animal is apparently in distress;

(d) conduct any test, take any sample or make any other examination of the place or vehicle or of any animal, substance or thing, including the carcass of a dead animal, that is in or has been in the place or vehicle;

(e) inspect any licence, record or other information;

(f) make a copy, or obtain a printout or an electronically readable format, of any licence, record or other information in the place or vehicle; and

(g) remove any licence, record or information for copying, subject to its being returned as soon as reasonably practicable.

Warrant to enter and inspect

8(2)

A justice who is satisfied by information on oath that

(a) a reasonable effort to exercise any of the powers referred to in subsection (1) has been made but was unsuccessful; or

(b) there are reasonable grounds to believe that an attempt to exercise any of the powers referred to in subsection (1) would be denied without a warrant;

may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter the place or vehicle and carry out an inspection in accordance with the powers referred to in subsection (1).

Assistance to animal protection officer

8(3)

The owner or person in charge of a place entered by an animal protection officer under this section, and any person found in that place, shall

(a) give the animal protection officer all reasonable assistance to enable the animal protection officer to carry out any action authorized under this Act;

(b) furnish the animal protection officer with any licence, record or information he or she may reasonably require to carry out any action authorized under this Act; and

(c) produce any animal that the animal protection officer requires for viewing or examination.

Driver of vehicle must stop, etc.

8(4)

Where an animal protection officer signals or requests a person driving a vehicle that is subject to being inspected to stop, the person shall immediately bring the vehicle to a stop and shall not proceed until permitted to do so by the animal protection officer, and shall give the animal protection officer assistance in the same manner as specified in subsection (3).

Companion animal in distress

8(5)

Without restricting the generality of subsection (1) with respect to inspection of facilities, premises or other places, or vehicles containing companion animals, an animal protection officer may, at any reasonable time and where reasonably required to determine compliance with this Act,

(a) enter and inspect any facility, premises or other place that is not a dwelling place, or stop and inspect any vehicle, in which the animal protection officer believes on reasonable grounds there is a companion animal in distress; and

(b) view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

Viewing at dwelling place

8(6)

An animal protection officer may, at any reasonable time and where reasonably required to determine whether an animal is in distress,

(a) enter onto the land on which a dwelling place is located;

(b) require any person in the dwelling place to produce the animal for viewing or examination; and

(c) once the animal is produced, view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

No restriction on inspection power

8(7)

The power to require production of an animal under subsection (6) does not restrict or extinguish the power to conduct an inspection under subsection (1) with respect to any activity referred to in clause (1)(a) that occurs inside a dwelling place.

Requirement to produce

8(8)

A person in a dwelling place who is required to produce an animal for viewing or examination under subsection (6) shall immediately produce the animal.

Warrant to search for animal in distress

8(9)

A justice who is satisfied by information on oath that there are reasonable grounds to believe that there is an animal in distress in a dwelling place may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the dwelling place for the animal and to take any action in relation to the animal as is authorized under this Act with respect to an animal in distress.

Warrant to search and seize re offence

8(10)

A justice who is satisfied by information on oath that there are reasonable grounds to believe that

(a) an offence under this Act has been committed or is being committed; and

(b) there is to be found in any place or vehicle an animal or thing that will afford evidence of the offence;

may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the place or vehicle for the animal or thing and to seize it and to bring it before a justice or to report on it to a justice to be dealt with according to law.

Where warrant not necessary

8(11)

An animal protection officer may take any action authorized under subsection (9) or (10) without a warrant if conditions for obtaining a warrant under subsection (9) or (10) exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant.

Duty to notify absent occupant

8(12)

An animal protection officer who enters an unoccupied place or vehicle under this section shall leave in the place or vehicle a notice indicating the animal protection officer's name, the time of entry and the reason for entry.

Use of reasonable force

8.1

An animal protection officer may use whatever force is reasonably necessary to execute a warrant or to carry out an authorized action under this Act.

Care, seizure or order re distressed animal

9(1)

An animal protection officer who discovers an animal that the officer believes on reasonable grounds is in distress may do one or more of the following:

- (a) provide any care or take any other action the animal protection officer considers necessary to relieve the animal's distress;*
- (b) seize the animal;*
- (c) notify the director for the purpose of making an order under subsection 10.1(1).*

Notification re wildlife

9(2)

Where an animal to which subsection (1) applies is wildlife under The Wildlife Act, the animal protection officer shall notify an officer under The Wildlife Act of the animal in distress.

Destruction of animal

10(1)

If a seized animal is, in the opinion of

- (a) a veterinarian;
- (b) two other individuals, if a veterinarian is not readily available on a timely basis; or
- (c) an animal protection officer, if neither a veterinarian or two other individuals are readily available on a timely basis;

in such distress that it would be inhumane to allow the animal to continue to live, an animal protection officer may destroy the animal or cause the animal to be destroyed.

Notification of owner

10(2)

An animal protection officer who provides care to or seizes an animal under subsection 9(1) or destroys an animal under subsection (1) shall take reasonable steps to locate the owner of the animal as soon as reasonably practicable and to advise the owner that the animal was found to be in distress and of any action taken by the animal protection officer in respect to the animal.

Order to animal's owner

10.1(1)

If the director has reasonable grounds to believe that

(a) an animal is in distress; or

(b) an animal's owner is not carrying out his or her duties toward the animal as set out in section 2;

the director may order the owner to take any action that the director believes is necessary, including having the animal examined and treated by a veterinarian at the expense of the owner, in order to

(c) relieve the animal of its distress; or

(d) ensure that the owner carries out his or her duties toward the animal.

Contents of order

10.1(2)

The order must state the reasons for making it and advise the owner of the right to appeal the order under subsection (6).

Giving order

10.1(3)

The order must be given to the owner in accordance with the regulations.

Revoking order

10.1(4)

If, in the director's opinion, the circumstances that gave rise to the order no longer exist, he or she shall revoke the order and give written notice of the revocation to the owner.

Duration of order

10.1(5)

An order expires one year after the date it is given, unless it is

(a) sooner revoked by the director under subsection (4) or varied or rescinded by the appeal board under subsection (8); or

(b) extended by the director for a further period that must not exceed one year.

Right of appeal

10.1(6)

The owner to whom an order is directed may appeal the order by filing a notice of appeal with the appeal board within seven days after receiving a copy of the order.

Order not stayed

10.1(7)

An appeal of an order does not stay the operation of the order.

Order

10.1(8)

After a hearing, the appeal board may make any of the following orders:

(a) an order confirming, varying or rescinding the director's order;

(b) if the director's order is varied or rescinded, an order that all or any part of the costs incurred by the owner in complying with the director's order be paid by the government to the owner;

(c) any other order that the appeal board considers appropriate in the circumstances.

Entry and inspection to enforce orders

10.3(1)

An animal protection officer may, at any reasonable time and where reasonably required to determine compliance with an order made under subsection 10.1(1) or 10.2(2) or clause 35(1)(a),

(a) enter and inspect any place in which the animal protection officer believes on reasonable grounds there is or should be an animal, structure, supply of food or water, shelter, enclosure, area, document, record or other thing to which the order applies;

(b) inspect, test or examine the structure, supply of food or water, shelter, enclosure, area, document, record or thing; and

(c) view or conduct an examination of any animal.

Warrant to enter and inspect

10.3(2)

A justice who is satisfied by information on oath that

(a) a reasonable effort to exercise any of the powers referred to in subsection (1) has been made but was unsuccessful; or

(b) there are reasonable grounds to believe that an attempt to exercise any of those powers would be denied without a warrant;

may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, with such police officers as are required to assist, to enter and inspect the place and exercise such other powers referred to in subsection (1) as may be specified in the warrant.

Seizing animals for non-compliance with order

10.4(1)

Where as a result of an inspection under section 10.3 an animal protection officer has reasonable grounds to believe that an owner has not complied with an order referred to in that section, the officer may

(a) with respect to an order under subsection 10.1(1), seize the animal the order relates to; and

(b) with respect to an order under subsection 10.2(2) or clause 35(1)(a), seize any or all of the owner's animals so that the number or type of animals owned, possessed or controlled by the owner is in compliance with the order.

Act applies if animal seized

10.4(2)

The provisions of this Act that apply to a seizure under subsection 9(1) also apply, with necessary changes, to a seizure under subsection (1). In the case of an appeal of a seizure, the appeal board may order that an animal be returned to its owner only if it is satisfied that the owner is in compliance with the order in relation to which the seizure was made.

Abandoned animals taken into custody

10.5

An animal protection officer who discovers an animal that he or she believes on reasonable grounds is abandoned may take the animal into custody and provide it with any care the officer considers necessary.

Placement with caregiver

13(1)

An animal protection officer who seizes an animal or takes an abandoned animal into custody under this Act may act as a caregiver or may put the animal under the control of a caregiver.

Provision of care

13(2)

A caregiver may provide such care to an animal that has been seized or taken into custody under this Act as the caregiver considers reasonable in the circumstances or as may be directed by the director.

Changing caregiver

13(3)

The director or an animal protection officer may remove an animal from the control of a caregiver and put the animal under the control of a different caregiver or otherwise deal with the animal in accordance with this Act.

Duty to notify director

13(4)

When an animal protection officer

(a) provides care to or seizes an animal under subsection 9(1);

(a.1) takes an abandoned animal into custody under section 10.5;

(b) destroys an animal under subsection 10(1); or

(c) puts an animal under the control of a caregiver under this section;

the animal protection officer shall, within a period of time and in a form as may be required by the director, notify the director of such action.

8. FORFEITURE / POSSESSION

The Animal Care Act, C.C.S.M. c. A84, ss. 10, 10.2, 14-20, 35 (2012)

Destruction of animal

10(1)

If a seized animal is, in the opinion of

- (a) a veterinarian;*
- (b) two other individuals, if a veterinarian is not readily available on a timely basis; or*
- (c) an animal protection officer, if neither a veterinarian or two other individuals are readily available on a timely basis;*

in such distress that it would be inhumane to allow the animal to continue to live, an animal protection officer may destroy the animal or cause the animal to be destroyed.

Notification of owner

10(2)

An animal protection officer who provides care to or seizes an animal under subsection 9(1) or destroys an animal under subsection (1) shall take reasonable steps to locate the owner of the animal as soon as reasonably practicable and to advise the owner that the animal was found to be in distress and of any action taken by the animal protection officer in respect to the animal.

Application for order — restricting ownership of animals

10.2(1)

The director may apply to a justice for an order under subsection (2) in respect of an owner, if

- (a) animals have been seized from the owner under subsection 9(1) or the owner has voluntarily surrendered animals to the director; and*
- (b) the director believes on reasonable grounds that*
 - (i) at the time those animals were seized or surrendered, the owner was unable to carry out his or her duties under this Act because the number or type of animals owned, possessed or controlled by the owner exceeded the owner's ability to carry out his or her duties toward them, and*

(ii) the owner is not, or may not be, able to carry out his or her duties under this Act toward the animals that the owner presently owns, possesses or controls, or may own, possess or control, because the circumstances mentioned in subclause (i) continue to exist or may occur again.

Order

10.2(2)

On an application under subsection (1), a justice may make an order

(a) prohibiting an owner from owning or having possession or control of more than a specified number or type of animals, for a period up to three years; and

(b) directing that any animals owned, possessed or controlled by the owner at the time the order is made

(i) beyond the number of animals allowed under the order, or

(ii) other than the type of animal allowed under the order,

become the property of the Crown.

Notice to owner of right to appeal

14(1)

Within seven days after a commercial animal is seized under subsection 9(1) or taken into custody under section 10.5, the director must give the owner notice that the animal will be sold, given away or destroyed if the owner does not file an appeal within the time required under subsection 15(2).

Commercial animal may be sold if no appeal

14(2)

If the time for filing an appeal under subsection 15(2) has elapsed and the owner of a commercial animal that has been seized or taken into custody has not filed an appeal, the director may sell, give away or destroy the animal.

If owner not located

14(3)

If seven days have elapsed after a commercial animal is seized or taken into custody and, despite reasonable inquiries by an animal protection officer, the animal's owner has not been located, the director may sell, give away or destroy the animal.

Appeal by owner of commercial animal

15(1)

The owner of a commercial animal that has been seized under subsection 9(1) or taken into custody under section 10.5 may request the appeal board to order the animal's return by filing a notice of appeal with the appeal board.

Time for filing appeal

15(2)

A notice of appeal must be filed with the appeal board within seven days after the day notice under subsection 14(1) is given to the owner.

Order by appeal board

15(3)

After a hearing, the appeal board may make any of the following orders:

- (a) an order that the commercial animal be returned to the owner;*
- (b) an order that the director may sell, give away or destroy the animal;*
- (c) any other order that the appeal board considers appropriate in the circumstances.*

Director to deal with animal

15(4)

When the appeal board has made an order under subsection (3), the director must deal with the animal in the manner ordered.

Companion animal shall be returned

16

A companion animal that has been seized under subsection 9(1) shall be returned to the owner of the animal by an animal protection officer within seven days of the seizure of the animal unless

*(a) the owner has not been located despite due inquiry by an animal protection officer;
or*

(b) the director has given the owner of the animal a notice under clause 17(1)(a) that the animal will be sold, given away or destroyed after seven days have elapsed since the date the notice was given.

Companion animal may be sold

17(1)

The director may sell, give away or destroy a companion animal that has been seized under subsection 9(1) or taken into custody under section 10.5 if

(a) the director has given notice to the owner that the animal will be sold, given away or destroyed; and

(b) seven days have elapsed since the notice was given and the owner has not filed a notice of appeal under subsection 18(1).

Notice to owner

17(2)

The notice under clause (1)(a) must be given to the owner in accordance with the regulations.

Notice of appeal by owner

18(1)

The owner of a companion animal that has been seized under subsection 9(1) or taken into custody under section 10.5 may request the appeal board to order the animal's return by filing a notice of appeal with the appeal board.

Time for filing appeal

18(2)

A notice of appeal must be filed within seven days after the day notice under clause 17(1)(a) is given to the owner.

Animal to remain in the care of the caregiver

18(3)

When a notice of appeal has been filed with the appeal board, the companion animal that has been seized or taken into custody is to remain in the care of the caregiver until the appeal board has made an order.

Order by appeal board

18(4)

After a hearing, the appeal board may make any of the following orders:

- (a) an order that the director return the companion animal to the owner;*
- (b) an order that the director may sell, give away or destroy the companion animal;*
- (c) any other order that the appeal board considers appropriate in the circumstances.*

Director to deal with animal

18(5)

When the appeal board has made an order under subsection (4), the director shall deal with the animal in the manner ordered.

Companion animal's owner not located

19

If seven days have elapsed after a companion animal has been seized or taken into custody under this Act and, despite reasonable inquiries by an animal protection officer, the animal's owner has not been located, the director may sell, give away or destroy the animal.

Transfer of ownership

20

Where the director sells or gives away an animal under this Act, the animal becomes the property of the person to whom the animal was sold or given.

Prohibition of ownership

35(1)

Where a person is found guilty of an offence, the justice may

(a) prohibit the person from owning or having possession or control of animals or of a number or type of animals for any period that the justice considers appropriate, including a lifetime ban on an individual or any corporation controlled by the individual;

(b) direct that any other animals owned by the person become the property of the Crown.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

The Animal Care Act, C.C.S.M. c. A84, ss.5.3, 37.1(2012)

Veterinarian to report suspected neglect or abuse

5.3

A veterinarian who believes on reasonable grounds that an animal has been or is subject to neglect or abuse that compromises the animal's health, other than in the course of an accepted activity, shall promptly

(a) report his or her belief to the director; and

(b) provide any information respecting the matter that the director requests.

Persons reporting protected from liability

37.1(2)

No action or proceeding may be brought against a person who in good faith complies with a request or requirement to report or provide information under this Act.

11. LAW ENFORCEMENT POLICIES

The Animal Care Act, C.C.S.M. c. A84, ss.1.1, 5.2, 7, 35.1, 37, 37.1, 38(2012)

Delegation by director

1.1 The director may delegate to any person on his or her staff, with or without conditions, any power or duty conferred or imposed on the director by this Act.

Report required if unfit animal not accepted

5.2(2)

When a commercial animal is not accepted under clause (1)(b), the operator of the commercial animal market or commercial animal assembling station shall promptly

(a) notify the director that the animal was not accepted; and

(b) provide any information respecting the matter that the director requests.

Appointment of animal protection officers

7(1)

The minister may, on such terms and conditions as the minister may specify, appoint any person as an animal protection officer under this Act.

Certificate to be provided

7(2)

The minister shall provide an animal protection officer with a certificate of appointment.

Certificate to be produced

7(3)

An animal protection officer carrying out a responsibility or authorized action under this Act shall produce his or her certificate of appointment when requested to do so.

Use of reasonable force

8.1

An animal protection officer may use whatever force is reasonably necessary to execute a warrant or to carry out an authorized action under this Act.

No obstruction

8.2

No person shall obstruct or hinder or make a false or misleading statement to an animal protection officer who is carrying out an authorized action under this Act.

Time limit for prosecution

35.1

A prosecution under this Act may not be commenced later than two years after the day the alleged offence was committed.

Authority of director to appoint agents

37(1)

Subject to the approval of the minister, the director may, by agreement in writing, appoint any qualified person or organization to act as the agent of the director to perform any responsibility or exercise any authorized action on behalf of the director under sections 13 to 24 with respect to a type of animal or to a geographic area as such agreement may specify on such terms and conditions as may be set out in the agreement including

- (a) placing an animal with a caregiver;*
- (b) selling, giving away or destroying an animal;*
- (c) providing a notice to an owner;*
- (d) responding to an order of the minister; and*
- (e) dealing with costs of care and matters relating to costs of care.*

Duty to provide information

37.1(1)

A requirement to report or provide information under this Act applies even if

- (a) it requires the disclosure of personal information;*
- (b) it requires the disclosure of proprietary information or confidential information; or*
- (c) disclosure of the information is restricted by legislation or otherwise.*

Persons reporting protected from liability

37.1(2)

No action or proceeding may be brought against a person who in good faith complies with a request or requirement to report or provide information under this Act.

Immunity from action

38

No action or proceeding may be commenced against the minister, the director, an agent of the director, an animal protection officer, a caregiver, or a member of the appeal board or an advisory committee for any act done in good faith in the performance or intended performance of a responsibility or in the exercise or intended exercise of an authorized action under this Act, or for any neglect or default in the performance of a responsibility or the exercise of an authorized action in good faith.

12. SEXUAL ASSAULT

13. FIGHTING

The Animal Care Act, C.C.S.M. c. A84, s. 5 (2012)

Prohibited practices

5

For the purpose of section 5 of the Act, the following practices and procedures are prohibited:

- (a) contests involving fighting between two or more animals;*
- (b) the outdoor tethering of untended horses by rope or chain where there is no direct supervision;*
- (c) the keeping or confinement of an animal in a facility
 - (i) that contains items or debris that constitute, or*
 - (ii) is in a state of disrepair that constitutes, a hazard likely to injure the animal;**
- (d) the confinement of animals together where there is a high risk of injury to or distress on the part of any of the animals either
 - (i) by, or due to the presence of, any of the other animals,*
 - (ii) by or due to the means of confinement, or*
 - (iii) by or due to the physical characteristics of the place of confinement;**
- (e) the transportation of a companion animal in the open back of a pickup truck
 - (i) in a manner or in circumstances where the animal is exposed to a high risk of injury, and*
 - (ii) notwithstanding subclause (i), on a highway as defined in The Highway Traffic Act except with a proper restraining device or in a closed cage.**

14. REFERENCED STATUTES & REGULATIONS

The Animal Care Act, C.C.S.M. c. A84, s. 1- 41 (2012)

PART 1

INTRODUCTORY PROVISIONS

DEFINITIONS

Definitions

1(1)

In this Act,

"abandoned animal" means an animal that

- (a) is apparently ownerless and not running at large,
- (b) is found on rented premises after the expiration or termination of the tenancy agreement,
- (c) is found on premises after the owner has sold or vacated the premises, or
- (d) by agreement between the animal's owner and another person, has been left in the care of the other person and has not been retrieved from the other person for more than four days after the agreed-upon retrieval time;

"animal" means a non-human living being with a developed nervous system;

"animal protection officer" means a person appointed as an animal protection officer under this Act and any police officer;

"appeal board" means the Animal Care Appeal Board established in section 33.1;

"care" includes the provision of food, water, shelter and medical attention to an animal;

"caregiver" means a person or organization selected by an animal protection officer to provide care to an animal that has been seized or taken into custody;

"commercial animal assembling station" means any place where commercial animals are assembled for shipment by any form of transportation;

"commercial animal market" means a stockyard or auction mart that is operated as a public market for the purchase or sale of commercial animals;

"commercial animals" include

- (a) horses, cattle, sheep, swine and live poultry,
- (b) wildlife that is not the property of the Crown under The Wildlife Act,
- (c) animals of a type usually raised for meat production or the production of products from the animals, and includes breeding stock of such animals, and
- (d) species or types of animals designated in the regulations as commercial animals;

"companion animal" means an animal that is not a commercial animal;

"costs of care" means any amount established in the regulations to be costs of care or, where no such amount is established, any reasonable and necessary costs incurred under this Act to seize, take custody of, transport, provide care to, sell, or destroy an animal;

"court" means the Court of Queen's Bench;

"director" means the person appointed under The Civil Service Act as the director for the purpose of this Act;

"licence" means a licence issued under this Act;

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

"needless suffering" means suffering that is not inevitable or intrinsic to an accepted activity;

"owner" includes

- (a) a person having possession or control of an animal or occupying premises containing an animal, and
- (b) a person who possessed or controlled an animal, or occupied premises containing the animal, immediately before it was seized or taken into custody under this Act;

"panel" means a panel of the appeal board;

"person" includes a partnership and unincorporated association;

"personal information" means personal information as defined in The Freedom of Information and Protection of Privacy Act;

"police officer" means a member of the Royal Canadian Mounted Police or a municipal police force;

"prescribed" means prescribed by regulation;

"regulations" means the regulations made under this Act;

"vehicle" means a vehicle as defined in The Highway Traffic Act;

"veterinarian" means a person registered under The Veterinary Medical Act and authorized to practise veterinary medicine in Manitoba.

Reference to "Act" includes regulations

1(2) In this Act, a reference to "this Act" includes the regulations made under this Act.

Delegation by director

1.1 The director may delegate to any person on his or her staff, with or without conditions, any power or duty conferred or imposed on the director by this Act.

PART 2

PROTECTION OF ANIMALS

Duties of owner

2(1)

A person who has ownership, possession or control of an animal

- (a) shall ensure that the animal has an adequate source of food and water;
- (b) shall provide the animal with adequate medical attention when the animal is wounded or ill;
- (c) shall provide the animal with reasonable protection from injurious heat or cold; and
- (d) shall not confine the animal to an enclosure or area
 - (i) with inadequate space,
 - (ii) with unsanitary conditions,
 - (iii) with inadequate ventilation or lighting, or
 - (iv) without providing an opportunity for exercise,so as to significantly impair the animal's health or well-being.

Standards for essentials

2(2)

A person shall not be convicted of an offence under subsection (1) for treating an animal in a manner

- (a) consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;
- (b) consistent with generally accepted practices or procedures for such activity; or
- (c) otherwise reasonable in the circumstances.

Infliction of suffering prohibited

3(1)

No person shall inflict upon an animal acute suffering, serious injury or harm, or extreme anxiety or distress that significantly impairs its health or well-being.

Accepted activity re suffering

3(2)

Subsection (1) does not apply where the suffering, injury, harm, anxiety or distress is caused by a treatment, process, or condition that occurs in the course of an accepted activity.

Accepted activities

4(1)

Subject to subsection (2), for the purposes of this Act, an accepted activity includes the following activities

- (a) agricultural uses of animals;
- (b) exhibitions and fairs;
- (c) zoological displays;
- (d) animal slaughter;
- (e) medical care;
- (f) animal discipline and training;
- (g) protection of people or property;
- (h) sporting events;
- (i) fishing and hunting;
- (j) trapping;
- (k) research and teaching involving animals;
- (l) pest control;

- (m) control of predators;
- (n) euthanasia of animals;
- (o) any other activity designated by the regulations as an accepted activity.

Standards for accepted activities

4(2)

An activity is an accepted activity under subsection (1) only if it is carried out in a manner

- (a) consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;
- (b) consistent with generally accepted practices or procedures for such activity, and that does not cause needless suffering; or
- (c) that is otherwise reasonable in the circumstances, and that does not cause needless suffering;

and is not a practice or procedure specified as prohibited in the regulations.

Prohibited practices and procedures

5

No person shall engage in a practice or procedure specified as prohibited in the regulations.

Prohibition re transporting unfit animals

5.1(1)

No person shall load or transport an animal, or permit an animal to be loaded or transported, in a vehicle if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or would suffer unduly during transport.

Exception

5.1(2)

Despite subsection (1), as long as the animal is loaded and transported humanely, a person may transport it to or from a veterinary clinic or the nearest suitable place to obtain medical attention.

Prohibition re unloading or accepting unfit commercial animal

5.2(1)

No person shall, for the purpose of resale or further shipment,

(a) unload a commercial animal, or permit a commercial animal to be unloaded, from a vehicle; or

(b) accept, or permit a commercial animal to be accepted;

at a commercial animal market or commercial animal assembling station if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or is suffering unduly.

Report required if unfit animal not accepted

5.2(2)

When a commercial animal is not accepted under clause (1)(b), the operator of the commercial animal market or commercial animal assembling station shall promptly

(a) notify the director that the animal was not accepted; and

(b) provide any information respecting the matter that the director requests.

Veterinarian to report suspected neglect or abuse

5.3

A veterinarian who believes on reasonable grounds that an animal has been or is subject to neglect or abuse that compromises the animal's health, other than in the course of an accepted activity, shall promptly

(a) report his or her belief to the director; and

(b) provide any information respecting the matter that the director requests.

PART 3

INTERVENTION

ANIMALS IN DISTRESS

Animal in distress

6(1)

Subject to subsection (2), for the purposes of this Act, an animal is in distress if it is

- (a) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;
- (b) subjected to conditions that cause the animal to suffer acute pain;
- (c) not provided food and water sufficient to maintain the animal in a state of good health;
- (d) not provided appropriate medical attention when the animal is wounded or ill;
- (e) unduly exposed to cold or heat; or
- (f) subjected to conditions that will, over time, significantly impair the animal's health or well-being, including
 - (i) confinement in an area of insufficient space,
 - (ii) confinement in unsanitary conditions,
 - (iii) confinement without adequate ventilation or lighting,
 - (iv) not being allowed an opportunity for adequate exercise, and
 - (v) conditions that cause the animal extreme anxiety or distress.

Accepted activity re distress

6(2)

For the purposes of this Act, an animal shall not be considered to be in distress as a result of any treatment, process, or condition that occurs in the course of an accepted activity.

ANIMAL PROTECTION OFFICERS AND THEIR POWERS

Appointment of animal protection officers

7(1)

The minister may, on such terms and conditions as the minister may specify, appoint any person as an animal protection officer under this Act.

Certificate to be provided

7(2)

The minister shall provide an animal protection officer with a certificate of appointment.

Certificate to be produced

7(3)

An animal protection officer carrying out a responsibility or authorized action under this Act shall produce his or her certificate of appointment when requested to do so.

Entry and inspection of places and vehicles

8(1)

An animal protection officer may, at any reasonable time and where reasonably required to administer or determine compliance with this Act,

(a) enter and inspect any facility, premises or other place, or stop and inspect any vehicle, that is being operated in the course of an activity

(i) for which a person is or is required to be licensed under this Act,

(ii) that purports to be an accepted activity under subsection 4(1) and in respect of which a standard or code of conduct, criteria, practice or procedure has been specified as acceptable in the regulations,

(iii) that relates to the operation of a commercial animal market or commercial animal assembling station, or

(iv) that involves a commercial animal;

(b) open any receptacle, package, cage or thing that the animal protection officer believes on reasonable grounds is being kept in the course of that activity;

- (c) view any animal or conduct an examination of any animal in the place or vehicle, whether or not the animal is apparently in distress;
- (d) conduct any test, take any sample or make any other examination of the place or vehicle or of any animal, substance or thing, including the carcass of a dead animal, that is in or has been in the place or vehicle;
- (e) inspect any licence, record or other information;
- (f) make a copy, or obtain a printout or an electronically readable format, of any licence, record or other information in the place or vehicle; and
- (g) remove any licence, record or information for copying, subject to its being returned as soon as reasonably practicable.

Warrant to enter and inspect

8(2)

A justice who is satisfied by information on oath that

- (a) a reasonable effort to exercise any of the powers referred to in subsection (1) has been made but was unsuccessful; or
- (b) there are reasonable grounds to believe that an attempt to exercise any of the powers referred to in subsection (1) would be denied without a warrant;

may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter the place or vehicle and carry out an inspection in accordance with the powers referred to in subsection (1).

Assistance to animal protection officer

8(3)

The owner or person in charge of a place entered by an animal protection officer under this section, and any person found in that place, shall

- (a) give the animal protection officer all reasonable assistance to enable the animal protection officer to carry out any action authorized under this Act;
- (b) furnish the animal protection officer with any licence, record or information he or she may reasonably require to carry out any action authorized under this Act; and

(c) produce any animal that the animal protection officer requires for viewing or examination.

Driver of vehicle must stop, etc.

8(4)

Where an animal protection officer signals or requests a person driving a vehicle that is subject to being inspected to stop, the person shall immediately bring the vehicle to a stop and shall not proceed until permitted to do so by the animal protection officer, and shall give the animal protection officer assistance in the same manner as specified in subsection (3).

Companion animal in distress

8(5)

Without restricting the generality of subsection (1) with respect to inspection of facilities, premises or other places, or vehicles containing companion animals, an animal protection officer may, at any reasonable time and where reasonably required to determine compliance with this Act,

(a) enter and inspect any facility, premises or other place that is not a dwelling place, or stop and inspect any vehicle, in which the animal protection officer believes on reasonable grounds there is a companion animal in distress; and

(b) view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

Viewing at dwelling place

8(6)

An animal protection officer may, at any reasonable time and where reasonably required to determine whether an animal is in distress,

(a) enter onto the land on which a dwelling place is located;

(b) require any person in the dwelling place to produce the animal for viewing or examination; and

(c) once the animal is produced, view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

No restriction on inspection power

8(7)

The power to require production of an animal under subsection (6) does not restrict or extinguish the power to conduct an inspection under subsection (1) with respect to any activity referred to in clause (1)(a) that occurs inside a dwelling place.

Requirement to produce

8(8)

A person in a dwelling place who is required to produce an animal for viewing or examination under subsection (6) shall immediately produce the animal.

Warrant to search for animal in distress

8(9)

A justice who is satisfied by information on oath that there are reasonable grounds to believe that there is an animal in distress in a dwelling place may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the dwelling place for the animal and to take any action in relation to the animal as is authorized under this Act with respect to an animal in distress.

Warrant to search and seize re offence

8(10)

A justice who is satisfied by information on oath that there are reasonable grounds to believe that

(a) an offence under this Act has been committed or is being committed; and

(b) there is to be found in any place or vehicle an animal or thing that will afford evidence of the offence;

may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the place or vehicle for the animal or thing and to seize it and to bring it before a justice or to report on it to a justice to be dealt with according to law.

Where warrant not necessary

8(11)

An animal protection officer may take any action authorized under subsection (9) or (10) without a warrant if conditions for obtaining a warrant under subsection (9) or (10) exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant.

Duty to notify absent occupant

8(12)

An animal protection officer who enters an unoccupied place or vehicle under this section shall leave in the place or vehicle a notice indicating the animal protection officer's name, the time of entry and the reason for entry.

Use of reasonable force

8.1

An animal protection officer may use whatever force is reasonably necessary to execute a warrant or to carry out an authorized action under this Act.

No obstruction

8.2

No person shall obstruct or hinder or make a false or misleading statement to an animal protection officer who is carrying out an authorized action under this Act.

ACTION RE DISTRESSED ANIMALS

Care, seizure or order re distressed animal

9(1)

An animal protection officer who discovers an animal that the officer believes on reasonable grounds is in distress may do one or more of the following:

- (a) provide any care or take any other action the animal protection officer considers necessary to relieve the animal's distress;
- (b) seize the animal;

(c) notify the director for the purpose of making an order under subsection 10.1(1).

Notification re wildlife

9(2)

Where an animal to which subsection (1) applies is wildlife under The Wildlife Act, the animal protection officer shall notify an officer under The Wildlife Act of the animal in distress.

Destruction of animal

10(1)

If a seized animal is, in the opinion of

- (a) a veterinarian;
- (b) two other individuals, if a veterinarian is not readily available on a timely basis; or
- (c) an animal protection officer, if neither a veterinarian or two other individuals are readily available on a timely basis;

in such distress that it would be inhumane to allow the animal to continue to live, an animal protection officer may destroy the animal or cause the animal to be destroyed.

Notification of owner

10(2)

An animal protection officer who provides care to or seizes an animal under subsection 9(1) or destroys an animal under subsection (1) shall take reasonable steps to locate the owner of the animal as soon as reasonably practicable and to advise the owner that the animal was found to be in distress and of any action taken by the animal protection officer in respect to the animal.

DIRECTOR'S ORDER TO TAKE ACTION

Order to animal's owner

10.1(1)

If the director has reasonable grounds to believe that

- (a) an animal is in distress; or

(b) an animal's owner is not carrying out his or her duties toward the animal as set out in section 2;

the director may order the owner to take any action that the director believes is necessary, including having the animal examined and treated by a veterinarian at the expense of the owner, in order to

(c) relieve the animal of its distress; or

(d) ensure that the owner carries out his or her duties toward the animal.

Contents of order

10.1(2)

The order must state the reasons for making it and advise the owner of the right to appeal the order under subsection (6).

Giving order

10.1(3)

The order must be given to the owner in accordance with the regulations.

Revoking order

10.1(4)

If, in the director's opinion, the circumstances that gave rise to the order no longer exist, he or she shall revoke the order and give written notice of the revocation to the owner.

Duration of order

10.1(5)

An order expires one year after the date it is given, unless it is

(a) sooner revoked by the director under subsection (4) or varied or rescinded by the appeal board under subsection (8); or

(b) extended by the director for a further period that must not exceed one year.

Right of appeal

10.1(6)

The owner to whom an order is directed may appeal the order by filing a notice of appeal with the appeal board within seven days after receiving a copy of the order.

Order not stayed

10.1(7)

An appeal of an order does not stay the operation of the order.

Order

10.1(8)

After a hearing, the appeal board may make any of the following orders:

- (a) an order confirming, varying or rescinding the director's order;
- (b) if the director's order is varied or rescinded, an order that all or any part of the costs incurred by the owner in complying with the director's order be paid by the government to the owner;
- (c) any other order that the appeal board considers appropriate in the circumstances.

JUSTICE'S ORDER TO RESTRICT NUMBER OF ANIMALS

Application for order — restricting ownership of animals

10.2(1)

The director may apply to a justice for an order under subsection (2) in respect of an owner, if

- (a) animals have been seized from the owner under subsection 9(1) or the owner has voluntarily surrendered animals to the director; and
- (b) the director believes on reasonable grounds that
 - (i) at the time those animals were seized or surrendered, the owner was unable to carry out his or her duties under this Act because the number or type of animals owned, possessed or controlled by the owner exceeded the owner's ability to carry out his or her duties toward them, and

- (ii) the owner is not, or may not be, able to carry out his or her duties under this Act toward the animals that the owner presently owns, possesses or controls, or may own, possess or control, because the circumstances mentioned in subclause (i) continue to exist or may occur again.

Order

10.2(2)

On an application under subsection (1), a justice may make an order

- (a) prohibiting an owner from owning or having possession or control of more than a specified number or type of animals, for a period up to three years; and
- (b) directing that any animals owned, possessed or controlled by the owner at the time the order is made
 - (i) beyond the number of animals allowed under the order, or
 - (ii) other than the type of animal allowed under the order,

become the property of the Crown.

ENFORCING ORDERS

Entry and inspection to enforce orders

10.3(1)

An animal protection officer may, at any reasonable time and where reasonably required to determine compliance with an order made under subsection 10.1(1) or 10.2(2) or clause 35(1)(a),

- (a) enter and inspect any place in which the animal protection officer believes on reasonable grounds there is or should be an animal, structure, supply of food or water, shelter, enclosure, area, document, record or other thing to which the order applies;
- (b) inspect, test or examine the structure, supply of food or water, shelter, enclosure, area, document, record or thing; and
- (c) view or conduct an examination of any animal.

Warrant to enter and inspect

10.3(2)

A justice who is satisfied by information on oath that

- (a) a reasonable effort to exercise any of the powers referred to in subsection (1) has been made but was unsuccessful; or
- (b) there are reasonable grounds to believe that an attempt to exercise any of those powers would be denied without a warrant;

may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, with such police officers as are required to assist, to enter and inspect the place and exercise such other powers referred to in subsection (1) as may be specified in the warrant.

Seizing animals for non-compliance with order

10.4(1)

Where as a result of an inspection under section 10.3 an animal protection officer has reasonable grounds to believe that an owner has not complied with an order referred to in that section, the officer may

- (a) with respect to an order under subsection 10.1(1), seize the animal the order relates to; and
- (b) with respect to an order under subsection 10.2(2) or clause 35(1)(a), seize any or all of the owner's animals so that the number or type of animals owned, possessed or controlled by the owner is in compliance with the order.

Act applies if animal seized

10.4(2)

The provisions of this Act that apply to a seizure under subsection 9(1) also apply, with necessary changes, to a seizure under subsection (1). In the case of an appeal of a seizure, the appeal board may order that an animal be returned to its owner only if it is satisfied that the owner is in compliance with the order in relation to which the seizure was made.

TAKING ABANDONED ANIMALS INTO CUSTODY

Abandoned animals taken into custody

10.5

An animal protection officer who discovers an animal that he or she believes on reasonable grounds is abandoned may take the animal into custody and provide it with any care the officer considers necessary.

11 and 12

Renumbered as sections 8.1 and 8.2.

CAREGIVERS

Placement with caregiver

13(1)

An animal protection officer who seizes an animal or takes an abandoned animal into custody under this Act may act as a caregiver or may put the animal under the control of a caregiver.

Provision of care

13(2)

A caregiver may provide such care to an animal that has been seized or taken into custody under this Act as the caregiver considers reasonable in the circumstances or as may be directed by the director.

Changing caregiver

13(3)

The director or an animal protection officer may remove an animal from the control of a caregiver and put the animal under the control of a different caregiver or otherwise deal with the animal in accordance with this Act.

Duty to notify director

13(4)

When an animal protection officer

- (a) provides care to or seizes an animal under subsection 9(1);
- (a.1) takes an abandoned animal into custody under section 10.5;
- (b) destroys an animal under subsection 10(1); or
- (c) puts an animal under the control of a caregiver under this section;

the animal protection officer shall, within a period of time and in a form as may be required by the director, notify the director of such action.

PART 4

DISPOSING OF SEIZED AND ABANDONED ANIMALS

COMMERCIAL ANIMALS

Notice to owner of right to appeal

14(1)

Within seven days after a commercial animal is seized under subsection 9(1) or taken into custody under section 10.5, the director must give the owner notice that the animal will be sold, given away or destroyed if the owner does not file an appeal within the time required under subsection 15(2).

Commercial animal may be sold if no appeal

14(2)

If the time for filing an appeal under subsection 15(2) has elapsed and the owner of a commercial animal that has been seized or taken into custody has not filed an appeal, the director may sell, give away or destroy the animal.

If owner not located

14(3)

If seven days have elapsed after a commercial animal is seized or taken into custody and, despite reasonable inquiries by an animal protection officer, the animal's owner has not been located, the director may sell, give away or destroy the animal.

Appeal by owner of commercial animal

15(1)

The owner of a commercial animal that has been seized under subsection 9(1) or taken into custody under section 10.5 may request the appeal board to order the animal's return by filing a notice of appeal with the appeal board.

Time for filing appeal

15(2)

A notice of appeal must be filed with the appeal board within seven days after the day notice under subsection 14(1) is given to the owner.

Order by appeal board

15(3)

After a hearing, the appeal board may make any of the following orders:

- (a) an order that the commercial animal be returned to the owner;
- (b) an order that the director may sell, give away or destroy the animal;
- (c) any other order that the appeal board considers appropriate in the circumstances.

Director to deal with animal

15(4)

When the appeal board has made an order under subsection (3), the director must deal with the animal in the manner ordered.

COMPANION ANIMALS

Companion animal shall be returned

16

A companion animal that has been seized under subsection 9(1) shall be returned to the owner of the animal by an animal protection officer within seven days of the seizure of the animal unless

- (a) the owner has not been located despite due inquiry by an animal protection officer; or
- (b) the director has given the owner of the animal a notice under clause 17(1)(a) that the animal will be sold, given away or destroyed after seven days have elapsed since the date the notice was given.

Companion animal may be sold

17(1)

The director may sell, give away or destroy a companion animal that has been seized under subsection 9(1) or taken into custody under section 10.5 if

- (a) the director has given notice to the owner that the animal will be sold, given away or destroyed; and

(b) seven days have elapsed since the notice was given and the owner has not filed a notice of appeal under subsection 18(1).

Notice to owner

17(2)

The notice under clause (1)(a) must be given to the owner in accordance with the regulations.

Notice of appeal by owner

18(1)

The owner of a companion animal that has been seized under subsection 9(1) or taken into custody under section 10.5 may request the appeal board to order the animal's return by filing a notice of appeal with the appeal board.

Time for filing appeal

18(2)

A notice of appeal must be filed within seven days after the day notice under clause 17(1)(a) is given to the owner.

Animal to remain in the care of the caregiver

18(3)

When a notice of appeal has been filed with the appeal board, the companion animal that has been seized or taken into custody is to remain in the care of the caregiver until the appeal board has made an order.

Order by appeal board

18(4)

After a hearing, the appeal board may make any of the following orders:

- (a) an order that the director return the companion animal to the owner;
- (b) an order that the director may sell, give away or destroy the companion animal;
- (c) any other order that the appeal board considers appropriate in the circumstances.

Director to deal with animal

18(5)

When the appeal board has made an order under subsection (4), the director shall deal with the animal in the manner ordered.

Companion animal's owner not located

19

If seven days have elapsed after a companion animal has been seized or taken into custody under this Act and, despite reasonable inquiries by an animal protection officer, the animal's owner has not been located, the director may sell, give away or destroy the animal.

TRANSFER OF OWNERSHIP

Transfer of ownership

20

Where the director sells or gives away an animal under this Act, the animal becomes the property of the person to whom the animal was sold or given.

COSTS AND SALE PROCEEDS

Owner liable for costs

21(1)

The owner of an animal that has been seized or taken into custody is liable to pay to the director on demand an amount equal to the costs of care for the animal.

Statement of account

21(2)

The director may at any time, and shall upon the request of an owner of an animal that has been seized or taken into custody, provide to the owner a statement of account setting out the costs of care for the animal claimed by the director.

Waiving payment of costs

21(3)

The director may waive all or any part of the costs of an animal's care if the owner satisfies the director that payment of the waived amount would be an unreasonable hardship for the owner.

Objection to amount claimed

22(1)

On application by an owner who has been provided a statement of account under subsection 21(2), the court shall review and determine the amount to be paid to the director for the costs of care for the animal.

Time for application

22(2)

A notice of application under this section shall be filed with the court and served upon the director within seven days of receipt of the statement of account by the owner.

Disposition for failure to pay costs

22.1

If the owner of an animal that has been seized or taken into custody under this Act

(a) has failed to pay the costs of care set out in a statement of account provided under subsection 21(2) and the owner has not made an application under section 22; or

(b) has made an application under section 22, and has failed to pay the costs of care determined by the court to be payable within three days of the determination of the costs of care by the court;

the director may sell, give away or destroy the animal.

Proceeds of sale

23(1)

Subject to subsections (2) and (3), where an animal is sold by the director under this Act, proceeds of the sale shall be disbursed in the following order of priority

(a) the director shall retain an amount equal to the costs of care; and

(b) the balance of the sale proceeds shall be paid to the former owner of the animal.

Care costs in excess of proceeds of sale

23(2)

The former owner of an animal that is sold by the director under this Act shall pay to the director an amount equal to any portion of the costs of care that are not recovered from the proceeds of the sale of the animal.

Creditor rights

23(3)

In the event the director has reason to believe a creditor may have a security interest in an animal sold by the director under this Act, the director may apply to the court for an interpleader order in respect of the balance of the sale proceeds over and above an amount equal to the costs of care for the animal.

Sale proceeds where owner unknown

23(4)

Where, despite due inquiry by an animal protection officer, the owner of an animal that has been seized or taken into custody is unknown, the balance of the sale proceeds over and above an amount equal to the costs of care for the animal, if any, shall be retained by the director and forfeited to the Crown.

Costs recoverable as debt due

24(1)

Any amount for which a person is liable for costs of care under this Act is a debt due by that person to the government.

Lien on animal

24(2)

The government has a lien on an animal that has been seized or taken into custody for an amount equal to the costs of care for that animal.

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PART 6

APPEALS

APPEAL BOARD

Appeal board

33.1

The Animal Care Appeal Board is hereby established.

Members

33.2(1)

The appeal board is to consist of up to 10 members appointed by the Lieutenant Governor in Council.

Member continues to hold office

33.2(2)

A member continues to hold office until he or she is reappointed, the appointment is revoked or a successor is appointed.

Chair and vice-chair

33.2(3)

The Lieutenant Governor in Council must designate one of the members of the appeal board as the chair and another member as vice-chair.

Duties of vice-chair

33.2(4)

The vice-chair has the authority of the chair if the chair is absent or unable to act, or when authorized by the chair.

Responsibilities of the appeal board

33.3

The appeal board has these responsibilities:

- (a) to hear and decide appeals under this Act;
- (b) to perform any other duties assigned to it by the minister.

Procedural rules

33.4 The appeal board may establish its own rules of practice and procedure.

Board to sit in panels

33.5(1) The appeal board must sit in panels of three members when hearing appeals.

Assigning members to panels

33.5(2) The chair is to assign members to sit on panels.

Chair of panel

33.5(3) The chair or the vice-chair is to preside over a panel, or the chair may designate another member of the appeal board to preside.

Quorum

33.5(4) A quorum for a panel is the three members referred to in subsection (1).

Jurisdiction of panel

33.5(5) In considering and deciding an appeal,

(a) a panel has all the jurisdiction of the appeal board and may exercise the board's powers and perform its duties; and

(b) a decision of a majority of the members of a panel is the decision of the appeal board.

APPEALS

Reasons for appeal

33.6 A notice of appeal must be in writing and must state the reasons for the appeal.

Notice of appeal given to director

33.7 Upon receiving a notice of appeal, the appeal board must promptly give a copy of it to

the director.

Parties

33.8 The parties to an appeal are the person who has a right to appeal to the appeal board under this Act and the director.

Powers and duties of the board re hearing

33.9 The appeal board has the powers of a commissioner under Part V of The Manitoba Evidence Act.

Hearing process: rules of evidence do not apply

33.10 The appeal board is not bound by the rules of evidence that apply to judicial proceedings.

Order of the board

33.11(1) After a hearing, the appeal board may, by written order, make any order that this Act allows the appeal board to make and must give written reasons for its order.

Order given to the parties

33.11(2) The appeal board must give each of the parties a copy of the order in accordance with the regulations.

Order final and binding

33.11(3) An order of the appeal board is final and binding on the person appealing and the director, and is not subject to appeal.

PART 7

GENERAL PROVISIONS

Offences

34(1)

A person who contravenes any provision of this Act or an order made under this Act is guilty of an offence and is liable, on summary conviction,

(a) for a first offence, to a fine of not more than \$10,000, or to imprisonment for a term of not more than six months, or both; and

(b) for a subsequent offence, to a fine of not more than \$20,000, or to imprisonment for a term of not more than 12 months, or both.

Directors and officers of corporations

34(2)

Where a corporation is guilty of an offence, a director or officer of the corporation who authorized, permitted or acquiesced to the offence is also guilty of the offence and is liable on summary conviction to the penalty for the offence provided for in this section.

Prohibition of ownership

35(1)

Where a person is found guilty of an offence, the justice may

(a) prohibit the person from owning or having possession or control of animals or of a number or type of animals for any period that the justice considers appropriate, including a lifetime ban on an individual or any corporation controlled by the individual;

(b) direct that any other animals owned by the person become the property of the Crown.

35(2) Repealed, S.M. 2009, c. 4, s. 37.

Time limit for prosecution

35.1

A prosecution under this Act may not be commenced later than two years after the day the alleged offence was committed.

* * * * *

Authority of director to appoint agents

37(1)

Subject to the approval of the minister, the director may, by agreement in writing, appoint any qualified person or organization to act as the agent of the director to perform any responsibility or exercise any authorized action on behalf of the director under sections 13 to 24 with respect to a type of animal or to a geographic area as such agreement may specify on such terms and conditions as may be set out in the agreement including

- (a) placing an animal with a caregiver;
- (b) selling, giving away or destroying an animal;
- (c) providing a notice to an owner;
- (d) responding to an order of the minister; and
- (e) dealing with costs of care and matters relating to costs of care.

Retention of monies by agent

37(2)

Notwithstanding The Financial Administration Act, the director may authorize an agent appointed under subsection (1) to retain as a fee for service and as reimbursement for expenses, all or a portion of the amount recovered by the agent from an owner of an animal that has been seized or taken into custody, or received from the sale of such an animal.

Duty to provide information

37.1(1)

A requirement to report or provide information under this Act applies even if

- (a) it requires the disclosure of personal information;
- (b) it requires the disclosure of proprietary information or confidential information; or
- (c) disclosure of the information is restricted by legislation or otherwise.

Persons reporting protected from liability

37.1(2)

No action or proceeding may be brought against a person who in good faith complies with a request or requirement to report or provide information under this Act.

Immunity from action

38

No action or proceeding may be commenced against the minister, the director, an agent of the director, an animal protection officer, a caregiver, or a member of the appeal board or an advisory committee for any act done in good faith in the performance or intended performance of a responsibility or in the exercise or intended exercise of an authorized action under this Act, or for any neglect or default in the performance of a responsibility or the exercise of an authorized action in good faith.

Regulations

39

The minister may make regulations

- (a) designating an activity as an accepted activity;
- (b) specifying standards or codes of conduct, criteria, practices or procedures as acceptable;
- (c) specifying practices or procedures that are prohibited;
- (d) establishing costs of care or a method for determining costs of care that are payable by the owner of an animal that has been seized or taken into custody under this Act;
- (e) repealed, S.M. 2009, c. 4, s. 42;
- (f) for the purposes of the definition "commercial animals" in subsection 1(1), designating species or types of animals;
- (g) respecting standards and requirements for the operation of commercial animal markets and commercial animal assembling stations, including standards or requirements relating to
 - (i) hygiene,

- (ii) sanitation,
 - (iii) recordkeeping, and
 - (iv) the feeding, watering and handling of animals in those premises, and
- requiring operators of those premises to comply with the standards and requirements;
- (h) governing procedures for obtaining warrants under section 8 and subsection 10.3(2), including by telephone, fax or other methods of telecommunication;
 - (i) for the purpose of the definition "kennel" in subsection 25(2),
 - (i) for clause (a) of the definition, prescribing the number of companion animals, which may be different for different species or types of animals,
 - (ii) for subclause (a)(ii) of the definition, designating commercial enterprises that are exempt, and
 - (iii) for clause (b) of the definition, designating premises as kennels;
 - (j) for the purpose of the definition "companion animal breeding premises" in subsection 25.1(2), prescribing the number of female companion animals capable of reproduction, which may be different for different species or types of animals;
 - (k) respecting licensing under this Act, including
 - (i) the content of applications for licences,
 - (ii) the qualifications of, and requirements to be met by, applicants for and holders of licences,
 - (iii) information and records to be provided to the director by applicants for and holders of licences,
 - (iv) licence fees and exemptions from fees,
 - (v) bonds and other security, including the terms, conditions and amount of bonds or other security,
 - (vi) the records to be maintained by licence holders, including the length of time for which and the location at which records must be retained, and
 - (vii) licence suspensions and cancellations;

(l) respecting standards and requirements to be met by operators of companion animal breeding premises, companion animal retail stores and kennels, including

(i) the standards of design for the premises,

(ii) the standards of hygiene and sanitation required in the premises,

(iii) the standards or requirements for feeding and watering animals in the premises, and

(iv) health or disease prevention procedures that are required to be performed by the operators of the premises;

(m) respecting the register of persons who operate licensed premises referred to in section 29.1;

(n) respecting the conduct of appeals by the appeal board;

(o) exempting persons, premises or species or types of animals from this Act or certain provisions of it;

(p) respecting the manner of giving or providing any notice, order or other document under this Act;

(q) respecting transitional licensing provisions;

(r) defining any word or phrase used but not defined in this Act;

(s) respecting any matter that the minister considers necessary or advisable to carry out the purposes of this Act.

* * * * *

Highway Traffic Act, C.C.S.M. c. H60, s. 233 (2012)

233. Cruelty to livestock prohibited

No person, while transporting livestock or other animals in a motor vehicle, shall

(a) by negligence or ill-usage in the transportation thereof, cause or permit any damage or injury to be done to the livestock or other animals, or any of them; or

(b) transport the livestock or other animals in such a manner or position as to cause unnecessary suffering to them or any of them.

Animal Care Regulation, Man. Reg. 126/98, ss. 1, 1.1, 1.2, 5 (2012)

Definitions

1

The following definitions apply in this regulation.

"Act" means The Animal Care Act.

"Agriculture and Agri-Food Canada" means the department of the Government of Canada known by that name on the day this regulation comes into force and includes any successor to that department and any agency of the Government of Canada that after that day carries out any function of that department.

"Canadian Agri-Food Research Council" means the non-profit corporation known by that name on the day this regulation comes into force and includes any successor to that corporation that carries out any function of that corporation.

"humane", in relation to the custody and maintenance of an animal, means to provide the animal all the necessities of life and to maintain the animal in living conditions that do not cause it distress.

"non-domestic species" means a species of animal that is not one of the following:

- (a) horse (*Equus ferus caballus*), mule or donkey (*Equus africanus asinus*);
- (b) cattle (*Bos primigenius indicus*, *Bos primigenius taurus*);
- (c) swine (*Sus scrofa domestica*);
- (d) sheep (*Ovis aries*);

- (e) goat (*Capra aegagrus hircus*);
- (f) poultry (*Gallus gallus domesticus*, *Meleagris gallopavo*);
- (g) dog (*Canis lupus familiaris*);
- (h) cat (*Felis catus*).

"PMU operation" means an establishment where horses are kept for the purpose of collection of urine of pregnant mares.

Meaning of "suffering unduly"

1.1

For the purposes of 5.2 of the Act and sections 5.1 and 5.2 of this regulation, an animal is suffering unduly

- (a) if it has suffered serious injury or harm that has not received veterinary treatment or extreme anxiety or distress that has significantly impaired its health or well-being and has not received such treatment; and
- (b) if veterinary treatment to relieve the animal's suffering is not immediately available or it would be inhumane to leave the animal untreated for any length of time.

Additional accepted activities

1.2

For the purpose of clause 4(1)(o) of the Act, the following are accepted activities:

- (a) keeping, using, handling and displaying animals in the course of operating, working in or participating in a circus;
- (b) kennelling companion animals;
- (c) breeding companion animals;
- (d) keeping, handling, displaying and selling companion animals in a companion animal retail store or a part of the business operations of such a store.

Prohibited practices

5

For the purpose of section 5 of the Act, the following practices and procedures are prohibited:

- (a) contests involving fighting between two or more animals;
- (b) the outdoor tethering of untended horses by rope or chain where there is no direct supervision;
- (c) the keeping or confinement of an animal in a facility
 - (i) that contains items or debris that constitute, or
 - (ii) is in a state of disrepair that constitutes, a hazard likely to injure the animal;
- (d) the confinement of animals together where there is a high risk of injury to or distress on the part of any of the animals either
 - (i) by, or due to the presence of, any of the other animals,
 - (ii) by or due to the means of confinement, or
 - (iii) by or due to the physical characteristics of the place of confinement;
- (e) the transportation of a companion animal in the open back of a pickup truck
 - (i) in a manner or in circumstances where the animal is exposed to a high risk of injury, and
 - (ii) notwithstanding subclause (i), on a highway as defined in The Highway Traffic Act except with a proper restraining device or in a closed cage.

ANIMAL PROTECTION LAWS OF MARYLAND

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Maryland's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Maryland may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MARYLAND

1. GENERAL PROHIBITIONS*	(1) General cruelty to animals MD. CODE ANN., CRIMINAL LAW § 10-604 (2) Aggravated cruelty to animals MD. CODE ANN., CRIMINAL LAW § 10-606 (3) Abandoning domestic animal MD. CODE ANN., CRIMINAL LAW § 10-612 (4) Poisoning dog MD. CODE ANN., CRIMINAL LAW § 10-618
<i>Animals Covered in Definition</i>	“[A] living creature except a human being” MD. CODE ANN., CRIMINAL LAW § 10-601(b)
<i>Classification of Crimes</i>	(1), (3), (4) Misdemeanor (2) Felony

MARYLAND*continued*

2. MAXIMUM PENALTIES ^{**}	(1) 90 days imprisonment <i>and/or</i> \$1,000 fine MD. CODE ANN., CRIMINAL LAW § 10-604 (2) 3 years imprisonment <i>and/or</i> \$5,000 fine MD. CODE ANN., CRIMINAL LAW § 10-606 (3), (4) \$100 fine MD. CODE ANN., CRIMINAL LAW §§ 10-612, 10-618
3. EXEMPTIONS ^{***}	1, 2, 3, 4, 5, 6, 9 MD. CODE ANN., CRIMINAL LAW § 10-603
4. COUNSELING / EVALUATIONS ^H	The court may order psychological counseling paid by defendant. MD. CODE ANN., CRIMINAL LAW §§ 10-604, 10-606
5. PROTECTIVE ORDERS ^H	MD. CODE ANN., FAM. LAW §§ 4-501, 4-504.1, 4-505, 4-506
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS ^H	Expenses may be collected from owner; the animal is not exempt from levy and sale on execution of judgment for the expenses. MD. CODE ANN., CRIMINAL LAW § 10-617

MARYLAND*continued*

<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Police officers and authorized humane agents may seize animals to protect them from cruelty; any authorized humane agent or any police officer or other public officials charged with the protection of animals may enter onto property where animals are being cruelly treated or neglected and care for the animals. MD. CODE ANN., CRIMINAL LAW § 10-615</p> <p><i>NOTE: Statute contains special procedures for seizing research and farm animals.</i></p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>As a condition of probation, the court may prohibit an offender from owning, possessing, or residing with an animal. MD. CODE ANN., CRIMINAL LAW §§ 10-604, 10-606</p> <p>Upon conviction, the court may order removal of the victim animal or any other animal for its protection. The animal control unit may dispose of the animal if the owner or custodian is notified of an impoundment and fails to petition, or if the owner or custodian is unknown and cannot be reasonably identified within 20 days following the seizure, the judge may order forfeiture. MD. CODE ANN., CRIMINAL LAW §§ 10-615, 10-617</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>Veterinarians may report suspected animal cruelty and are immune from civil liability for their good faith actions. MD. AGRICULTURE CODE ANN. § 2-304</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Humane agents shall arrest certain offenders. MD. CODE ANN., CRIMINAL LAW § 10-609</p>

MARYLAND*continued*

12. SEXUAL ASSAULT	Sexual assault of an animal is a misdemeanor and punishable by up to 10 years imprisonment and a fine of \$1,000. MD. CODE ANN., CRIMINAL LAW § 3-322
13. FIGHTING	<p>Attending a dogfight or cockfight is a misdemeanor subject to a one year imprisonment, \$2,500 fine and psychological counseling. MD. CODE ANN., CRIMINAL LAW § 10-605</p> <p>Various dogfighting and cockfighting activities are felonies punishable by up to 3 years imprisonment and a fine of \$5,000. MD. CODE ANN., CRIMINAL LAW §§ 10-607, 10-608</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	Injury of a race horse is a felony. MD. CODE ANN., CRIMINAL LAW § 10-620
NOTES	Otherwise exempted activities may be considered criminal if there is a failure to use the most humane method reasonably available. MD. CODE ANN., CRIMINAL LAW § 10-603(3)

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1 This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

MD. CODE ANN., CRIMINAL LAW § 10-601 (2012). Definitions.

In general

(a) In this subtitle the following words have the meanings indicated.

Animal

(b) “Animal” means a living creature except a human being.

Cruelty

(c)

(1) “Cruelty” means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.

(2) “Cruelty” includes torture and torment.

Humane society

(d) “Humane society” means a society or association incorporated in Maryland for the prevention of cruelty to animals.

MD. CODE ANN., CRIMINAL LAW § 10-604 (2012). Abuse or neglect of animal.

Prohibited

(a) A person may not:

(1) overdrive or overload an animal;

(2) deprive an animal of necessary sustenance;

(3) inflict unnecessary suffering or pain on an animal;

(4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or

(5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

Penalty

(b)

(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

(3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

**MD. CODE ANN., CRIMINAL LAW § 10-606 (2012). Aggravated cruelty to animals—
In general.**

Prohibited

(a) A person may not:

(1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;

(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or

(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

Penalty

(b)

(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

(3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

MD. CODE ANN., CRIMINAL LAW § 10-612 (2012). Abandoning domestic animal.

Prohibited

(a) A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

MD. CODE ANN., CRIMINAL LAW § 10-618 (2012). Poisoning dog.

Prohibited

(a) A person may not willfully and maliciously give poison or ground glass to a dog, or expose poison or ground glass, with the intent that a dog ingest it.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

2. PENALTIES

MD. CODE ANN., CRIMINAL LAW § 10-604 (2012). Abuse or neglect of animal.

Prohibited

(a) A person may not:

- (1) overdrive or overload an animal;
- (2) deprive an animal of necessary sustenance;
- (3) inflict unnecessary suffering or pain on an animal;
- (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
- (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

Penalty

(b)

- (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.*
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.*
- (3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.*

MD. CODE ANN., CRIMINAL LAW § 10-606 (2012). Aggravated cruelty to animals— In general.

Prohibited

(a) A person may not:

- (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;

(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or

(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

Penalty

(b)

(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

(3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

MD. CODE ANN., CRIMINAL LAW § 10-612 (2012). Abandoning domestic animal.

Prohibited

(a) A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

MD. CODE ANN., CRIMINAL LAW § 10-618 (2012). Poisoning dog.

Prohibited

(a) A person may not willfully and maliciously give poison or ground glass to a dog, or expose poison or ground glass, with the intent that a dog ingest it.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

3. EXEMPTIONS

MD. CODE ANN., CRIMINAL LAW § 10-603 (2012). Application of §§ 10-601 through 10-608.

Sections 10-601 through 10-608 of this subtitle do not apply to:

(1) customary and normal veterinary and agricultural husbandry practices including dehorning, castration, tail docking, and limit feeding;

(2) research conducted in accordance with protocols approved by an animal care and use committee, as required under the federal Animal Welfare Act or the federal Health Research Extension Act;

(3) an activity that may cause unavoidable physical pain to an animal, including food processing, pest elimination, animal training, and hunting, if the person performing the activity uses the most humane method reasonably available; or

(4) normal human activities in which the infliction of pain to an animal is purely incidental and unavoidable.

4. COUNSELING / EVALUATIONS

MD. CODE ANN., CRIMINAL LAW § 10-604 (2012). Abuse or neglect of animal.

Prohibited

(a) A person may not:

- (1) overdrive or overload an animal;
- (2) deprive an animal of necessary sustenance;
- (3) inflict unnecessary suffering or pain on an animal;
- (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
- (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

Penalty

(b)

- (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.
- (2) *As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.*
- (3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

MD. CODE ANN., CRIMINAL LAW § 10-606 (2012). Aggravated cruelty to animals— In general.

Prohibited

(a) A person may not:

- (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;

(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or

(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

Penalty

(b)

(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

(3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

5. PROTECTIVE ORDERS

MD. CODE ANN., FAM. LAW § 4-501 (2012). Definitions.

(a) *In this subtitle the following words have the meanings indicated.*

(b)

(1) “Abuse” means any of the following acts:

(i) an act that causes serious bodily harm;

(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;

(iii) assault in any degree;

(iv) rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(v) false imprisonment; or

(vi) stalking under § 3-802 of the Criminal Law Article.

(2) If the person for whom relief is sought is a child, “abuse” may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.

(3) If the person for whom relief is sought is a vulnerable adult, “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.

(c) “Child care provider” means a person that provides supervision and care for a minor child.

(d) “Cohabitant” means a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within 1 year before the filing of the petition.

(e) “Commissioner” means a District Court Commissioner appointed in accordance with Article IV, § 41G of the Maryland Constitution.

(f) “Court” means the District Court or a circuit court in this State.

(g) “Emergency family maintenance” means a monetary award given to or for a person eligible for relief to whom the respondent has a duty of support under this article based on:

- (1) the financial needs of the person eligible for relief; and
- (2) the resources available to the person eligible for relief and the respondent.

(h) “Executive Director” means the Executive Director of the Governor’s Office of Crime Control and Prevention.

(i) “Final protective order” means a protective order issued under § 4-506 of this subtitle.

(j) “Home” means the property in this State that:

- (1) is the principal residence of a person eligible for relief; and
- (2) is owned, rented, or leased by the person eligible for relief or respondent or, in a petition alleging child abuse or abuse of a vulnerable adult, an adult living in the home at the time of a proceeding under this subtitle.

(k) “Interim protective order” means an order that a Commissioner issues under this subtitle pending a hearing by a judge on a petition.

(l) “Local department” means the local department that has jurisdiction in the county:

- (1) where the home is located; or
- (2) if different, where the abuse is alleged to have taken place.

(m) “Person eligible for relief” includes:

- (1) the current or former spouse of the respondent;
- (2) a cohabitant of the respondent;
- (3) a person related to the respondent by blood, marriage, or adoption;
- (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;
- (5) a vulnerable adult; or
- (6) an individual who has a child in common with the respondent.

(n)

(1) *“Pet” means a domesticated animal.*

(2) *“Pet” does not include livestock.*

(o)

(1) “Petitioner” means an individual who files a petition.

(2) “Petitioner” includes:

(i) a person eligible for relief; or

(ii) the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult:

1. the State’s Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

2. the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

3. a person related to the child or vulnerable adult by blood, marriage, or adoption; or

4. an adult who resides in the home.

(p) “Residence” includes the yard, grounds, outbuildings, and common areas surrounding the residence.

(q) “Respondent” means the person alleged in the petition to have committed the abuse.

(r) “Temporary protective order” means a protective order issued under § 4–505 of this subtitle.

(s) “Victim” includes a person eligible for relief.

(t) “Vulnerable adult” has the meaning provided in § 14–101(q) of this article.

MD. CODE ANN., FAM. LAW § 4-504.1 (2012). Interim protective orders.

(a) A petition under this subtitle may be filed with a commissioner when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open for business.

(b) If a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order to protect a person eligible for relief.

(c) An interim protective order may:

- (1) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;
- (2) order the respondent to refrain from contacting, attempting to contact, or harassing a person eligible for relief;
- (3) order the respondent to refrain from entering the residence of a person eligible for relief;
- (4) if a person eligible for relief and the respondent are residing together at the time of the alleged abuse:
 - (i) order the respondent to vacate the home immediately;
 - (ii) award to a person eligible for relief custody of any child of the person eligible for relief and respondent then residing in the home; and
 - (iii) subject to the limits as to a nonspouse specified in § 4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the person eligible for relief;
- (5) in a case alleging abuse of a child, award temporary custody of a minor child of the respondent and a person eligible for relief;
- (6) in a case alleging abuse of a vulnerable adult, subject to the limits as to a nonspouse specified in § 4-505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to an adult living in the home;
- (7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief;
- (8) order the respondent to remain away from the residence of any family member of a person eligible for relief; or

(9) award temporary possession of any pet of the person eligible for relief or the respondent.

(d) If the commissioner awards temporary custody of a minor child under subsection (c)(4)(ii) or (5) of this section, the commissioner may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent after service of the interim protective order.

(e)

(1)

(i) An interim protective order shall state the date, time, and location for the temporary protective order hearing and a tentative date, time, and location for a final protective order hearing.

(ii) A temporary protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim protective order, unless the judge continues the hearing for good cause.

(2) An interim protective order shall include in at least 10–point bold type:

(i) notice to the respondent that:

1. the respondent must give the court written notice of each change of address;

2. if the respondent fails to appear at the temporary protective order hearing or any later hearing, the respondent may be served with any orders or notices in the case by first–class mail at the respondent’s last known address;

3. the date, time, and location of the final protective order hearing is tentative only, and subject to change; and

4. if the respondent does not attend the temporary protective order hearing, the respondent may call the Office of the Clerk of the District Court at the number provided in the order to find out the actual date, time, and location of any final protective order hearing;

(ii) a statement of all possible forms and duration of relief that a temporary protective order or final protective order may contain;

(iii) notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary protective order that grants any or all of the relief requested in the petition or may deny the petition, whether or not the respondent is in court;

(iv) a warning to the respondent that violation of an interim protective order is a crime and that a law enforcement officer shall arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated any provision of the interim protective order; and

(v) the phone number of the Office of the District Court Clerk.

(f) Whenever a commissioner issues an interim protective order, the commissioner shall:

(1) immediately forward a copy of the petition and interim protective order to the appropriate law enforcement agency for service on the respondent; and

(2) before the hearing scheduled in the interim protective order, transfer the case file and the return of service, if any, to the Office of the District Court Clerk.

(g) A law enforcement officer shall:

(1) immediately on receipt of a petition and interim protective order, serve them on the respondent named in the order;

(2) immediately after service, make a return of service to the commissioner's office or, if the Office of the District Court Clerk is open for business, to the Clerk; and

(3) within two hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service.

(h) An interim protective order shall be effective until the earlier of:

(1) the temporary protective order hearing under § 4-505 of this subtitle; or

(2) the end of the second business day the Office of the Clerk of the District Court is open following the issuance of an interim protective order.

(i) A decision of a commissioner to grant or deny relief under this section is not binding on, and does not affect any power granted to or duty imposed on, a judge of a circuit court or the District Court under any law, including any power to grant or deny a petition for a temporary protective order or final protective order.

MD. CODE ANN., FAM. LAW § 4-505 (2012). Temporary protective orders.

(a)

(1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

(i) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(ii) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(vi) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent;

(viii) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the temporary protective order if the abuse consisted of:

1. the use of a firearm by the respondent against a person eligible for relief;
2. a threat by the respondent to use a firearm against a person eligible for relief;
3. serious bodily harm to a person eligible for relief caused by the respondent; or
4. a threat by the respondent to cause serious bodily harm to a person eligible for relief; and

(ix) award temporary possession of any pet of the person eligible for relief or the respondent.

(3) If the judge awards temporary custody of a minor child under paragraph (2)(vii) of this subsection, the judge may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent after service of the temporary protective order.

(b)

(1) Except as provided in paragraph (2) of this subsection, a law enforcement officer shall:

- (i) immediately serve the temporary protective order on the alleged abuser under this section; and
- (ii) within two hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.

(2) A respondent who has been served with an interim protective order under § 4-504.1 of this subtitle shall be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first-class mail at the respondent's last known address.

(3) There shall be no cost to the petitioner for service of the temporary protective order.

(c)

(1) The temporary protective order shall be effective for not more than 7 days after service of the order.

(2) The judge may extend the temporary protective order as needed, but not to exceed 6 months, to effectuate service of the order where necessary to provide protection or for other good cause.

(d) The judge may proceed with a final protective order hearing instead of a temporary protective order hearing, if:

(1)

(i) the respondent appears at the hearing;

(ii) the respondent has been served with an interim protective order; or

(iii) the court otherwise has personal jurisdiction over the respondent; and

(2) the petitioner and the respondent expressly consent to waive the temporary protective order hearing.

(e)

(1) Whenever a judge finds reasonable grounds to believe that abuse of a child, as defined in Title 5, Subtitle 7 of this article, or abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article, has occurred, the court shall forward to the local department a copy of the petition and temporary protective order.

(2) Whenever a local department receives a petition and temporary protective order from a court, the local department shall:

(i) investigate the alleged abuse as provided in:

1. Title 5, Subtitle 7 of this article; or

2. Title 14, Subtitle 3 of this article; and

(ii) by the date of the final protective order hearing, send to the court a copy of the report of the investigation.

MD. CODE ANN., FAM. LAW § 4-506 (2012). Final protective orders.

(a) A respondent under § 4-505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order.

(b)

(1)

(i) The temporary protective order shall state the date and time of the final protective order hearing.

(ii) Unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10-point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first-class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order;

(ii) specifying all the possible forms of relief under subsection (d) of this section that the final protective order may contain;

(iii) that the final protective order shall be effective for the period stated in the order, not to exceed 1 year or, under the circumstances described in subsection (i)(2) of this section, 2 years, unless the judge extends the term of the order under § 4-507(a)(2) of this subtitle or the court issues a permanent order under subsection (j) of this section; and

(iv) in at least 10-point bold type, that the respondent must notify the court in writing of any change of address.

(c)

(1) If the respondent appears before the court at a protective order hearing or has been served with an interim or temporary protective order, or the court otherwise has personal jurisdiction over the respondent, the judge:

(i) may proceed with the final protective order hearing; and

(ii) if the judge finds by clear and convincing evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

(2) A final protective order may be issued only to a person who has filed a petition under § 4–504 of this subtitle.

(3)

(i) Subject to the provisions of subparagraph (ii) of this paragraph, in cases where both parties file a petition under § 4–504 of this subtitle, the judge may issue mutual protective orders if the judge finds by clear and convincing evidence that mutual abuse has occurred.

(ii) The judge may issue mutual final protective orders only if the judge makes a detailed finding of fact that:

1. both parties acted primarily as aggressors; and
2. neither party acted primarily in self–defense.

(d) The final protective order may include any or all of the following relief:

(1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(3) order the respondent to refrain from entering the residence of any person eligible for relief;

(4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(7) award temporary custody of a minor child of the respondent and a person eligible for relief;

(8) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of any person eligible for relief;

(9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(12) order the respondent to pay filing fees and costs of a proceeding under this subtitle;
or

(13) award temporary possession of any pet of the person eligible for relief or the respondent.

(e)

(1) Before granting, denying, or modifying a final protective order under this section, the court shall review all open and shielded court records involving the person eligible for relief and the respondent, including records of proceedings under:

(i) the Criminal Law Article;

(ii) Title 3, Subtitle 15 of the Courts Article; and

(iii) this article.

(2) The court's failure to review records under this subsection does not affect the validity of an order issued under this section.

(f) The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the protective order.

(g) If the judge awards temporary custody of a minor child under subsection (d)(7) of this section, the judge may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent after service of the final protective order.

(h) In determining whether to order the respondent to vacate the home under § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

(1) the housing needs of any minor child living in the home;

(2) the duration of the relationship between the respondent and any person eligible for relief;

(3) title to the home;

(4) pendency and type of criminal charges against the respondent;

(5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;

(6) the existence of alternative housing for the respondent and any person eligible for relief; and

(7) the financial resources of the respondent and the person eligible for relief.

(i)

(1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first-class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

(j)

(1) Except as provided in paragraphs (2) and (3) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 1 year.

(2) All relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 2 years if:

(i) the court issues a final protective order under this section against a respondent on behalf of a person eligible for relief for an act of abuse committed within 1 year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expires; and

(ii) the prior final protective order was issued for a period of at least 6 months.

(3) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

(k)

(1) Notwithstanding any other provision of this section, the court shall issue a new final protective order against an individual if:

(i) the individual was previously a respondent under this subtitle against whom a final protective order was issued;

(ii) the individual was convicted and served a term of imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, § 3–305, § 3–306, § 3–309, § 3–310, § 3–311, or § 3–312 of the Criminal Law Article for the act of abuse that led to the issuance of the final protective order; and

(iii) the victim of the abuse who was the person eligible for relief in the original final protective order requests the issuance of a new final protective order.

(2) In a final protective order issued under this subsection, the court may grant only the relief that was granted in the original protective order under subsection (d)(1) or (2) of this section.

(3) Unless terminated at the request of the victim, a final protective order issued under this subsection shall be permanent.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MD. CODE ANN., CRIMINAL LAW § 10-617 (2012). Disposal of domestic animal.

“Animal control unit” defined

(a) In this section, “animal control unit” means the local organization or governmental unit that the appropriate local governmental body designates to house, care for, and control domestic animals of unknown ownership.

In general

(b) An animal control unit shall dispose of an unclaimed dog or cat only by:

- (1) placing the animal in a suitable home;
- (2) retaining the animal in the animal control unit; or
- (3) humanely destroying the animal.

Waiting period

(c) A domestic animal that is impounded by an animal control unit may not be sold, placed, or destroyed until the animal has been carefully inspected for a tag, tattoo, or other identification to ascertain the owner and:

- (1) 72 hours have elapsed after notice has been given to the owner;
- (2) if the owner cannot be notified, 72 hours have elapsed after the animal is impounded;
- (3) the animal is seriously diseased or severely injured; or
- (4) the animal is under 3 months of age.

Liability of owner and new owner

(d)

(1) An owner who retrieves an animal from an animal control unit shall pay all fees, costs, and expenses incurred by the animal control unit.

(2) The necessary expenses for food and attention given to an animal under this section may be collected from the owner, and the animal is not exempt from levy and sale on execution of a judgment for the expenses.

(3) A new owner with whom an animal is placed under subsection (b)(1) of this section may be charged an adoption fee.

Penalty

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

7. SEIZURE / ON-SITE SUPERVISION

MD. CODE ANN., CRIMINAL LAW § 10-615 (2012). Care of mistreated animal.

Court-ordered removal

(a) If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal.

Seizure

(b)

(1) An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty.

(2)

(i) An animal that a medical and scientific research facility possesses may be removed under this subsection only after review by and a recommendation from the Department of Health and Mental Hygiene, Center for Veterinary Public Health.

(ii) The Department of Health and Mental Hygiene shall:

*1. conduct an investigation within 24 hours after receiving a complaint;
and*

2. within 24 hours after completing the investigation, report to the State's Attorney for the county in which the facility is situated.

Impounded animal

(c)

(1) If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may:

(i) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or

(ii) remove the animal if removal is necessary for the health of the animal.

(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.

Notification to owner

(d)

(1) A person who removes an animal under subsection (c) of this section shall notify the animal's owner or custodian of:

(i) the removal; and

(ii) any administrative remedies that may be available to the owner or custodian.

(2) If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred within 10 days after the removal.

Stray

(e) An animal is considered a stray if:

(1) an owner or custodian of the animal was notified under subsection (d) of this section and failed to file a petition within 10 days after removal; or

(2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for 20 days to determine the owner or custodian.

Limitations

(f) *This section does not allow:*

(1) entry into a private dwelling; or

(2) removal of a farm animal without the prior recommendation of a veterinarian licensed in the State.

Local enforcement—Baltimore County

(g) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

8. FORFEITURE / POSSESSION

MD. CODE ANN., CRIMINAL LAW § 10-604 (2012). Abuse or neglect of animal.

Prohibited

(a) A person may not:

- (1) overdrive or overload an animal;
- (2) deprive an animal of necessary sustenance;
- (3) inflict unnecessary suffering or pain on an animal;
- (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
- (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

Penalty

(b)

- (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.
- (3) *As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.*

**MD. CODE ANN., CRIMINAL LAW § 10-606 (2012). Aggravated cruelty to animals—
In general.**

Prohibited

(a) A person may not:

- (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;

- (2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or
- (3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

Penalty

- (b)
 - (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.
 - (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.
 - (3) *As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.*

MD. CODE ANN., CRIMINAL LAW § 10-615 (2012). Care of mistreated animal.

Court-ordered removal

- (a) *If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal.*

Seizure

- (b)
 - (1) An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty.
 - (2)
 - (i) An animal that a medical and scientific research facility possesses may be removed under this subsection only after review by and a recommendation from the Department of Health and Mental Hygiene, Center for Veterinary Public Health.
 - (ii) The Department of Health and Mental Hygiene shall:
 - 1. conduct an investigation within 24 hours after receiving a complaint;
 - and

2. within 24 hours after completing the investigation, report to the State's Attorney for the county in which the facility is situated.

Impounded animal

(c)

(1) If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may:

(i) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or

(ii) remove the animal if removal is necessary for the health of the animal.

(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.

Notification to owner

(d)

(1) A person who removes an animal under subsection (c) of this section shall notify the animal's owner or custodian of:

(i) the removal; and

(ii) any administrative remedies that may be available to the owner or custodian.

(2) If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred within 10 days after the removal.

Stray

(e) *An animal is considered a stray if:*

(1) an owner or custodian of the animal was notified under subsection (d) of this section and failed to file a petition within 10 days after removal; or

(2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for 20 days to determine the owner or custodian.

Limitations

(f) This section does not allow:

- (1) entry into a private dwelling; or
- (2) removal of a farm animal without the prior recommendation of a veterinarian licensed in the State.

Local enforcement—Baltimore County

(g) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

MD. CODE ANN., CRIMINAL LAW § 10-617 (2012). Disposal of domestic animal.

“Animal control unit” defined

(a) In this section, “animal control unit” means the local organization or governmental unit that the appropriate local governmental body designates to house, care for, and control domestic animals of unknown ownership.

In general

(b) *An animal control unit shall dispose of an unclaimed dog or cat only by:*

- (1) placing the animal in a suitable home;*
- (2) retaining the animal in the animal control unit; or*
- (3) humanely destroying the animal.*

Waiting period

(c) *A domestic animal that is impounded by an animal control unit may not be sold, placed, or destroyed until the animal has been carefully inspected for a tag, tattoo, or other identification to ascertain the owner and:*

- (1) 72 hours have elapsed after notice has been given to the owner;*
- (2) if the owner cannot be notified, 72 hours have elapsed after the animal is impounded;*
- (3) the animal is seriously diseased or severely injured; or*

(4) the animal is under 3 months of age.

Liability of owner and new owner

(d)

(1) An owner who retrieves an animal from an animal control unit shall pay all fees, costs, and expenses incurred by the animal control unit.

(2) The necessary expenses for food and attention given to an animal under this section may be collected from the owner, and the animal is not exempt from levy and sale on execution of a judgment for the expenses.

(3) A new owner with whom an animal is placed under subsection (b)(1) of this section may be charged an adoption fee.

Penalty

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

MD. AGRICULTURE CODE ANN. § 2-304 (2012). Powers and duties of Board generally.

(a) The Board may:

- (1) Adopt rules and regulations to effectuate this subtitle;
- (2) Engage additional employees for professional, clerical, and special work as necessary and as provided in the State budget;
- (3) Subpoena any witness to take his testimony;
- (4) Require production of books, papers, records, and other documentary evidence, and examine them in relation to any matter which the Board may investigate or hear; and
- (5) Establish reasonable standards for the practice of veterinary medicine, including conduct and ethics.

(b) Members or their designated inspectors may enter veterinary facilities at any reasonable hour to enforce the Board rules and regulations.

(c) The Board shall maintain an office within the State and a telephone number listed for use by the general public.

(d) The Board shall inspect every veterinary hospital facility in the State at least once every 2 years.

(e)

(1) The Board may authorize the practice of a health occupation on an animal by a health care practitioner licensed, certified, or otherwise authorized under the Health Occupations Article.

(2) If the Board authorizes the practice of a health occupation on an animal under paragraph (1) of this subsection, the Board may:

(i) Impose requirements for education, training, and supervision by a veterinary practitioner; and

(ii) Require the registration of each health care practitioner authorized to practice a health occupation on an animal in accordance with this subsection.

(f)

(1) The Board shall adopt regulations encouraging a veterinary practitioner to report suspected instances of animal cruelty, including suspected animal fighting, to a local law enforcement or county animal control agency.

(2) A veterinary practitioner shall be immune from any civil liability that results from a report in good faith to a local law enforcement or county animal control agency under this subsection.

11. LAW ENFORCEMENT POLICIES

MD. CODE ANN., CRIMINAL LAW § 10-609 (2012). Arrest by humane society officer.

(a) In general. -- Except as provided in subsections (b) and (c) of this section, if an officer of a humane society sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.

(b) Local enforcement -- Calvert County. -- In Calvert County, if an officer of a humane society or an animal control officer appointed by the County Commissioners or the County Commissioners' designee sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.

(c) Local enforcement -- Baltimore County. -- In Baltimore County, the Baltimore County Department of Health, Division of Animal Control shall enforce this section.

12. SEXUAL ASSAULT

MD. CODE ANN., CRIMINAL LAW § 3-322 (2012). Unnatural or perverted sexual practice.

Prohibited

(a) A person may not:

- (1) take the sexual organ of another or of an animal in the person's mouth;
- (2) place the person's sexual organ in the mouth of another or of an animal; or
- (3) commit another unnatural or perverted sexual practice with another or with an animal.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

Statute of limitations and in banc review

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

Charging document

(d) An indictment for a violation of this section:

(1) is sufficient if it states that the defendant committed an unnatural and perverted sexual practice with a person or animal as applicable; but

(2) need not state the particular:

- (i) unnatural or perverted sexual practice with which the defendant is charged; or
- (ii) manner in which the defendant committed the unnatural or perverted sexual practice.

13. FIGHTING

MD. CODE ANN., CRIMINAL LAW § 10-605 (2012). Attending dogfight or cockfight.

(a) Dogfighting. -- A person may not knowingly attend a deliberately conducted dogfight as a spectator.

(b) Cockfighting. -- A person may not knowingly attend as a spectator a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.

(c) Penalty. --

(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 2,500 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

MD. CODE ANN., CRIMINAL LAW § 10-607 (2012). Aggravated cruelty to animals—Dogfight.

Prohibited

(a) A person may not:

(1) use or allow a dog to be used in a dogfight;

(2) arrange or conduct a dogfight;

(3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight; or

(4) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a dogfight.

Penalty

(b)

(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

**MD. CODE ANN., CRIMINAL LAW § 10-608 (2012). Aggravated cruelty to animals—
Cockfight.**

Definitions

(a)

(1) In this section, “implement of cockfighting” means any implement or device intended or designed:

(i) to enhance the fighting ability of a fowl, cock, or other bird; or

(ii) for use in a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.

(2) “Implement of cockfighting” includes:

(i) a gaff;

(ii) aslasher;

(iii) apostiza;

(iv) a sparring muff; and

(v) any other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.

Prohibited

(b) A person may not:

(1) use or allow the use of a fowl, cock, or other bird to fight with another animal;

(2) possess, with the intent to unlawfully use, an implement of cockfighting;

(3) arrange or conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird;

(4) possess, own, sell, transport, or train a fowl, cock, or other bird with the intent to use the fowl, cock, or other bird in a cockfight; or

(5) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird.

Penalty

(c)

(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

14. REFERENCED STATUTES

MD. AGRICULTURE CODE ANN. § 2-304 (2012). Powers and duties of Board generally.

(a) The Board may:

- (1) Adopt rules and regulations to effectuate this subtitle;
- (2) Engage additional employees for professional, clerical, and special work as necessary and as provided in the State budget;
- (3) Subpoena any witness to take his testimony;
- (4) Require production of books, papers, records, and other documentary evidence, and examine them in relation to any matter which the Board may investigate or hear; and
- (5) Establish reasonable standards for the practice of veterinary medicine, including conduct and ethics.

(b) Members or their designated inspectors may enter veterinary facilities at any reasonable hour to enforce the Board rules and regulations.

(c) The Board shall maintain an office within the State and a telephone number listed for use by the general public.

(d) The Board shall inspect every veterinary hospital facility in the State at least once every 2 years.

(e)

(1) The Board may authorize the practice of a health occupation on an animal by a health care practitioner licensed, certified, or otherwise authorized under the Health Occupations Article.

(2) If the Board authorizes the practice of a health occupation on an animal under paragraph (1) of this subsection, the Board may:

- (i) Impose requirements for education, training, and supervision by a veterinary practitioner; and
- (ii) Require the registration of each health care practitioner authorized to practice a health occupation on an animal in accordance with this subsection.

(f)

(1) The Board shall adopt regulations encouraging a veterinary practitioner to report suspected instances of animal cruelty, including suspected animal fighting, to a local law enforcement or county animal control agency.

(2) A veterinary practitioner shall be immune from any civil liability that results from a report in good faith to a local law enforcement or county animal control agency under this subsection.

MD. CODE ANN., CRIMINAL LAW § 3-322 (2012).Unnatural or perverted sexual practice.

Prohibited

(a) A person may not:

(1) take the sexual organ of another or of an animal in the person's mouth;

(2) place the person's sexual organ in the mouth of another or of an animal; or

(3) commit another unnatural or perverted sexual practice with another or with an animal.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

Statute of limitations and in banc review

(c) A person who violates this section is subject to § 5-106(b) of the Courts Article.

Charging document

(d) An indictment for a violation of this section:

(1) is sufficient if it states that the defendant committed an unnatural and perverted sexual practice with a person or animal as applicable; but

(2) need not state the particular:

(i) unnatural or perverted sexual practice with which the defendant is charged; or

(ii) manner in which the defendant committed the unnatural or perverted sexual practice.

MD. CODE ANN., CRIMINAL LAW § 10-601 (2012). Definitions.

In general

(a) In this subtitle the following words have the meanings indicated.

Animal

(b) “Animal” means a living creature except a human being.

Cruelty

(c)

(1) “Cruelty” means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.

(2) “Cruelty” includes torture and torment.

Humane society

(d) “Humane society” means a society or association incorporated in Maryland for the prevention of cruelty to animals.

MD. CODE ANN., CRIMINAL LAW § 10-603 (2012). Application of §§ 10-601 through 10-608.

Sections 10-601 through 10-608 of this subtitle do not apply to:

(1) customary and normal veterinary and agricultural husbandry practices including dehorning, castration, tail docking, and limit feeding;

(2) research conducted in accordance with protocols approved by an animal care and use committee, as required under the federal Animal Welfare Act or the federal Health Research Extension Act;

(3) an activity that may cause unavoidable physical pain to an animal, including food processing, pest elimination, animal training, and hunting, if the person performing the activity uses the most humane method reasonably available; or

(4) normal human activities in which the infliction of pain to an animal is purely incidental and unavoidable.

MD. CODE ANN., CRIMINAL LAW § 10-604 (2012). Abuse or neglect of animal.

Prohibited

(a) A person may not:

- (1) overdrive or overload an animal;
- (2) deprive an animal of necessary sustenance;
- (3) inflict unnecessary suffering or pain on an animal;
- (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
- (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

Penalty

(b)

- (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.
- (3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

MD. CODE ANN., CRIMINAL LAW § 10-605 (2012). Attending dogfight or cockfight.

(a) Dogfighting. -- A person may not knowingly attend a deliberately conducted dogfight as a spectator.

(b) Cockfighting. -- A person may not knowingly attend as a spectator a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.

(c) Penalty. --

- (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 2,500 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

**MD. CODE ANN., CRIMINAL LAW § 10-606 (2012). Aggravated cruelty to animals—
In general.**

Prohibited

(a) A person may not:

- (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;
- (2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or
- (3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

Penalty

(b)

- (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.
- (3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

**MD. CODE ANN., CRIMINAL LAW § 10-607 (2012). Aggravated cruelty to animals—
Dogfight.**

Prohibited

(a) A person may not:

- (1) use or allow a dog to be used in a dogfight;
- (2) arrange or conduct a dogfight;

(3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight;
or

(4) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a dogfight.

Penalty

(b)

(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

MD. CODE ANN., CRIMINAL LAW § 10-608 (2012). Aggravated cruelty to animals— Cockfight.

Definitions

(a)

(1) In this section, "implement of cockfighting" means any implement or device intended or designed:

(i) to enhance the fighting ability of a fowl, cock, or other bird; or

(ii) for use in a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.

(2) "Implement of cockfighting" includes:

(i) a gaff;

(ii) aslasher;

(iii) apostiza;

(iv) a sparring muff; and

(v) any other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.

Prohibited

(b) A person may not:

- (1) use or allow the use of a fowl, cock, or other bird to fight with another animal;
- (2) possess, with the intent to unlawfully use, an implement of cockfighting;
- (3) arrange or conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird;
- (4) possess, own, sell, transport, or train a fowl, cock, or other bird with the intent to use the fowl, cock, or other bird in a cockfight; or
- (5) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird.

Penalty

(c)

- (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

MD. CODE ANN., CRIMINAL LAW § 10-609 (2012). Arrest by humane society officer.

(a) In general. -- Except as provided in subsections (b) and (c) of this section, if an officer of a humane society sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.

(b) Local enforcement -- Calvert County. -- In Calvert County, if an officer of a humane society or an animal control officer appointed by the County Commissioners or the County Commissioners' designee sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.

(c) Local enforcement -- Baltimore County. -- In Baltimore County, the Baltimore County Department of Health, Division of Animal Control shall enforce this section.

MD. CODE ANN., CRIMINAL LAW § 10-612 (2012). Abandoning domestic animal.

Prohibited

(a) A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

MD. CODE ANN., CRIMINAL LAW § 10-615 (2012). Care of mistreated animal.

Court-ordered removal

(a) If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal.

Seizure

(b)

(1) An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty.

(2)

(i) An animal that a medical and scientific research facility possesses may be removed under this subsection only after review by and a recommendation from the Department of Health and Mental Hygiene, Center for Veterinary Public Health.

(ii) The Department of Health and Mental Hygiene shall:

1. conduct an investigation within 24 hours after receiving a complaint;
and

2. within 24 hours after completing the investigation, report to the State's Attorney for the county in which the facility is situated.

Impounded animal

(c)

(1) If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may:

(i) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or

(ii) remove the animal if removal is necessary for the health of the animal.

(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.

Notification to owner

(d)

(1) A person who removes an animal under subsection (c) of this section shall notify the animal's owner or custodian of:

(i) the removal; and

(ii) any administrative remedies that may be available to the owner or custodian.

(2) If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred within 10 days after the removal.

Stray

(e) An animal is considered a stray if:

(1) an owner or custodian of the animal was notified under subsection (d) of this section and failed to file a petition within 10 days after removal; or

(2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for 20 days to determine the owner or custodian.

Limitations

(f) This section does not allow:

- (1) entry into a private dwelling; or
- (2) removal of a farm animal without the prior recommendation of a veterinarian licensed in the State.

Local enforcement—Baltimore County

(g) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

MD. CODE ANN., CRIMINAL LAW § 10-617 (2012). Disposal of domestic animal.

“Animal control unit” defined

(a) In this section, “animal control unit” means the local organization or governmental unit that the appropriate local governmental body designates to house, care for, and control domestic animals of unknown ownership.

In general

(b) An animal control unit shall dispose of an unclaimed dog or cat only by:

- (1) placing the animal in a suitable home;
- (2) retaining the animal in the animal control unit; or
- (3) humanely destroying the animal.

Waiting period

(c) A domestic animal that is impounded by an animal control unit may not be sold, placed, or destroyed until the animal has been carefully inspected for a tag, tattoo, or other identification to ascertain the owner and:

- (1) 72 hours have elapsed after notice has been given to the owner;
- (2) if the owner cannot be notified, 72 hours have elapsed after the animal is impounded;
- (3) the animal is seriously diseased or severely injured; or

(4) the animal is under 3 months of age.

Liability of owner and new owner

(d)

(1) An owner who retrieves an animal from an animal control unit shall pay all fees, costs, and expenses incurred by the animal control unit.

(2) The necessary expenses for food and attention given to an animal under this section may be collected from the owner, and the animal is not exempt from levy and sale on execution of a judgment for the expenses.

(3) A new owner with whom an animal is placed under subsection (b)(1) of this section may be charged an adoption fee.

Penalty

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

MD. CODE ANN., CRIMINAL LAW § 10-618 (2012). Poisoning dog.

Prohibited

(a) A person may not willfully and maliciously give poison or ground glass to a dog, or expose poison or ground glass, with the intent that a dog ingest it.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

MD. CODE ANN., FAM. LAW § 4-501 (2012). Definitions.

(a) In this subtitle the following words have the meanings indicated.

(b)

(1) “Abuse” means any of the following acts:

(i) an act that causes serious bodily harm;

(ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;

(iii) assault in any degree;

(iv) rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;

(v) false imprisonment; or

(vi) stalking under § 3-802 of the Criminal Law Article.

(2) If the person for whom relief is sought is a child, “abuse” may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.

(3) If the person for whom relief is sought is a vulnerable adult, “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.

(c) “Child care provider” means a person that provides supervision and care for a minor child.

(d) “Cohabitant” means a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within 1 year before the filing of the petition.

(e) “Commissioner” means a District Court Commissioner appointed in accordance with Article IV, § 41G of the Maryland Constitution.

(f) “Court” means the District Court or a circuit court in this State.

(g) “Emergency family maintenance” means a monetary award given to or for a person eligible for relief to whom the respondent has a duty of support under this article based on:

(1) the financial needs of the person eligible for relief; and

(2) the resources available to the person eligible for relief and the respondent.

(h) “Executive Director” means the Executive Director of the Governor’s Office of Crime Control and Prevention.

(i) “Final protective order” means a protective order issued under § 4-506 of this subtitle.

(j) “Home” means the property in this State that:

(1) is the principal residence of a person eligible for relief; and

(2) is owned, rented, or leased by the person eligible for relief or respondent or, in a petition alleging child abuse or abuse of a vulnerable adult, an adult living in the home at the time of a proceeding under this subtitle.

(k) "Interim protective order" means an order that a Commissioner issues under this subtitle pending a hearing by a judge on a petition.

(l) "Local department" means the local department that has jurisdiction in the county:

(1) where the home is located; or

(2) if different, where the abuse is alleged to have taken place.

(m) "Person eligible for relief" includes:

(1) the current or former spouse of the respondent;

(2) a cohabitant of the respondent;

(3) a person related to the respondent by blood, marriage, or adoption;

(4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;

(5) a vulnerable adult; or

(6) an individual who has a child in common with the respondent.

(n)

(1) "Pet" means a domesticated animal.

(2) "Pet" does not include livestock.

(o)

(1) "Petitioner" means an individual who files a petition.

(2) "Petitioner" includes:

(i) a person eligible for relief; or

(ii) the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult:

1. the State's Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;
2. the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;
3. a person related to the child or vulnerable adult by blood, marriage, or adoption; or
4. an adult who resides in the home.

(p) "Residence" includes the yard, grounds, outbuildings, and common areas surrounding the residence.

(q) "Respondent" means the person alleged in the petition to have committed the abuse.

(r) "Temporary protective order" means a protective order issued under § 4-505 of this subtitle.

(s) "Victim" includes a person eligible for relief.

(t) "Vulnerable adult" has the meaning provided in § 14-101(q) of this article.

MD. CODE ANN., FAM. LAW § 4-504.1 (2012). Interim protective orders.

(a) A petition under this subtitle may be filed with a commissioner when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open for business.

(b) If a petition is filed with a commissioner and the commissioner finds that there are reasonable grounds to believe that the respondent has abused a person eligible for relief, the commissioner may issue an interim protective order to protect a person eligible for relief.

(c) An interim protective order may:

(1) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing a person eligible for relief;

(3) order the respondent to refrain from entering the residence of a person eligible for relief;

(4) if a person eligible for relief and the respondent are residing together at the time of the alleged abuse:

(i) order the respondent to vacate the home immediately;

(ii) award to a person eligible for relief custody of any child of the person eligible for relief and respondent then residing in the home; and

(iii) subject to the limits as to a nonspouse specified in § 4–505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to the person eligible for relief;

(5) in a case alleging abuse of a child, award temporary custody of a minor child of the respondent and a person eligible for relief;

(6) in a case alleging abuse of a vulnerable adult, subject to the limits as to a nonspouse specified in § 4–505(a)(2)(iv) of this subtitle, award temporary use and possession of the home to an adult living in the home;

(7) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief;

(8) order the respondent to remain away from the residence of any family member of a person eligible for relief; or

(9) award temporary possession of any pet of the person eligible for relief or the respondent.

(d) If the commissioner awards temporary custody of a minor child under subsection (c)(4)(ii) or (5) of this section, the commissioner may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent after service of the interim protective order.

(e)

(1)

(i) An interim protective order shall state the date, time, and location for the temporary protective order hearing and a tentative date, time, and location for a final protective order hearing.

(ii) A temporary protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim protective order, unless the judge continues the hearing for good cause.

(2) An interim protective order shall include in at least 10–point bold type:

(i) notice to the respondent that:

1. the respondent must give the court written notice of each change of address;
2. if the respondent fails to appear at the temporary protective order hearing or any later hearing, the respondent may be served with any orders or notices in the case by first–class mail at the respondent’s last known address;
3. the date, time, and location of the final protective order hearing is tentative only, and subject to change; and
4. if the respondent does not attend the temporary protective order hearing, the respondent may call the Office of the Clerk of the District Court at the number provided in the order to find out the actual date, time, and location of any final protective order hearing;

(ii) a statement of all possible forms and duration of relief that a temporary protective order or final protective order may contain;

(iii) notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary protective order that grants any or all of the relief requested in the petition or may deny the petition, whether or not the respondent is in court;

(iv) a warning to the respondent that violation of an interim protective order is a crime and that a law enforcement officer shall arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated any provision of the interim protective order; and

(v) the phone number of the Office of the District Court Clerk.

(f) Whenever a commissioner issues an interim protective order, the commissioner shall:

(1) immediately forward a copy of the petition and interim protective order to the appropriate law enforcement agency for service on the respondent; and

(2) before the hearing scheduled in the interim protective order, transfer the case file and the return of service, if any, to the Office of the District Court Clerk.

(g) A law enforcement officer shall:

(1) immediately on receipt of a petition and interim protective order, serve them on the respondent named in the order;

(2) immediately after service, make a return of service to the commissioner's office or, if the Office of the District Court Clerk is open for business, to the Clerk; and

(3) within two hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service.

(h) An interim protective order shall be effective until the earlier of:

(1) the temporary protective order hearing under § 4-505 of this subtitle; or

(2) the end of the second business day the Office of the Clerk of the District Court is open following the issuance of an interim protective order.

(i) A decision of a commissioner to grant or deny relief under this section is not binding on, and does not affect any power granted to or duty imposed on, a judge of a circuit court or the District Court under any law, including any power to grant or deny a petition for a temporary protective order or final protective order.

MD. CODE ANN., FAM. LAW § 4-505 (2012). Temporary protective orders.

(a)

(1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(2) The temporary protective order may order any or all of the following relief:

(i) order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;

(ii) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(iii) order the respondent to refrain from entering the residence of a person eligible for relief;

(iv) where the person eligible for relief and the respondent are residing together at the time of the alleged abuse, order the respondent to vacate the home

immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has resided in the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(v) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(vi) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(vii) award temporary custody of a minor child of the person eligible for relief and the respondent;

(viii) order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the temporary protective order if the abuse consisted of:

1. the use of a firearm by the respondent against a person eligible for relief;
2. a threat by the respondent to use a firearm against a person eligible for relief;
3. serious bodily harm to a person eligible for relief caused by the respondent; or
4. a threat by the respondent to cause serious bodily harm to a person eligible for relief; and

(ix) award temporary possession of any pet of the person eligible for relief or the respondent.

(3) If the judge awards temporary custody of a minor child under paragraph (2)(vii) of this subsection, the judge may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent after service of the temporary protective order.

(b)

(1) Except as provided in paragraph (2) of this subsection, a law enforcement officer shall:

(i) immediately serve the temporary protective order on the alleged abuser under this section; and

(ii) within two hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.

(2) A respondent who has been served with an interim protective order under § 4–504.1 of this subtitle shall be served with the temporary protective order in open court or, if the respondent is not present at the temporary protective order hearing, by first-class mail at the respondent's last known address.

(3) There shall be no cost to the petitioner for service of the temporary protective order.

(c)

(1) The temporary protective order shall be effective for not more than 7 days after service of the order.

(2) The judge may extend the temporary protective order as needed, but not to exceed 6 months, to effectuate service of the order where necessary to provide protection or for other good cause.

(d) The judge may proceed with a final protective order hearing instead of a temporary protective order hearing, if:

(1)

(i) the respondent appears at the hearing;

(ii) the respondent has been served with an interim protective order; or

(iii) the court otherwise has personal jurisdiction over the respondent; and

(2) the petitioner and the respondent expressly consent to waive the temporary protective order hearing.

(e)

(1) Whenever a judge finds reasonable grounds to believe that abuse of a child, as defined in Title 5, Subtitle 7 of this article, or abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article, has occurred, the court shall forward to the local department a copy of the petition and temporary protective order.

(2) Whenever a local department receives a petition and temporary protective order from a court, the local department shall:

(i) investigate the alleged abuse as provided in:

1. Title 5, Subtitle 7 of this article; or

2. Title 14, Subtitle 3 of this article; and

(ii) by the date of the final protective order hearing, send to the court a copy of the report of the investigation.

MD. CODE ANN., FAM. LAW § 4-506 (2012). Final protective orders.

(a) A respondent under § 4–505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order.

(b)

(1)

(i) The temporary protective order shall state the date and time of the final protective order hearing.

(ii) Unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10–point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first–class mail at the respondent’s last known address with the final protective order and all other notices concerning the final protective order;

(ii) specifying all the possible forms of relief under subsection (d) of this section

that the final protective order may contain;

(iii) that the final protective order shall be effective for the period stated in the order, not to exceed 1 year or, under the circumstances described in subsection (i)(2) of this section, 2 years, unless the judge extends the term of the order under § 4–507(a)(2) of this subtitle or the court issues a permanent order under subsection (j) of this section; and

(iv) in at least 10–point bold type, that the respondent must notify the court in writing of any change of address.

(c)

(1) If the respondent appears before the court at a protective order hearing or has been served with an interim or temporary protective order, or the court otherwise has personal jurisdiction over the respondent, the judge:

(i) may proceed with the final protective order hearing; and

(ii) if the judge finds by clear and convincing evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

(2) A final protective order may be issued only to a person who has filed a petition under § 4–504 of this subtitle.

(3)

(i) Subject to the provisions of subparagraph (ii) of this paragraph, in cases where both parties file a petition under § 4–504 of this subtitle, the judge may issue mutual protective orders if the judge finds by clear and convincing evidence that mutual abuse has occurred.

(ii) The judge may issue mutual final protective orders only if the judge makes a detailed finding of fact that:

1. both parties acted primarily as aggressors; and

2. neither party acted primarily in self–defense.

(d) The final protective order may include any or all of the following relief:

- (1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;
- (2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;
- (3) order the respondent to refrain from entering the residence of any person eligible for relief;
- (4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;
- (5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;
- (6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;
- (7) award temporary custody of a minor child of the respondent and a person eligible for relief;
- (8) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of any person eligible for relief;
- (9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(11) direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(12) order the respondent to pay filing fees and costs of a proceeding under this subtitle; or

(13) award temporary possession of any pet of the person eligible for relief or the respondent.

(e)

(1) Before granting, denying, or modifying a final protective order under this section, the court shall review all open and shielded court records involving the person eligible for relief and the respondent, including records of proceedings under:

(i) the Criminal Law Article;

(ii) Title 3, Subtitle 15 of the Courts Article; and

(iii) this article.

(2) The court's failure to review records under this subsection does not affect the validity of an order issued under this section.

(f) The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the protective order.

(g) If the judge awards temporary custody of a minor child under subsection (d)(7) of this section, the judge may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent after service of the final protective order.

(h) In determining whether to order the respondent to vacate the home under § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

(1) the housing needs of any minor child living in the home;

(2) the duration of the relationship between the respondent and any person eligible for relief;

- (3) title to the home;
- (4) pendency and type of criminal charges against the respondent;
- (5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;
- (6) the existence of alternative housing for the respondent and any person eligible for relief; and
- (7) the financial resources of the respondent and the person eligible for relief.

(i)

(1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first-class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph

(1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

(j)

(1) Except as provided in paragraphs (2) and (3) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 1 year.

(2) All relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 2 years if:

(i) the court issues a final protective order under this section against a respondent on behalf of a person eligible for relief for an act of abuse committed within 1 year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expires; and

(ii) the prior final protective order was issued for a period of at least 6 months.

(3) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

(k)

(1) Notwithstanding any other provision of this section, the court shall issue a new final protective order against an individual if:

(i) the individual was previously a respondent under this subtitle against whom a final protective order was issued;

(ii) the individual was convicted and served a term of imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, § 3–305, § 3–306, § 3–309, § 3–310, § 3–311, or § 3–312 of the Criminal Law Article for the act of abuse that led to the issuance of the final protective order; and

(iii) the victim of the abuse who was the person eligible for relief in the original final protective order requests the issuance of a new final protective order.

(2) In a final protective order issued under this subsection, the court may grant only the relief that was granted in the original protective order under subsection (d)(1) or (2) of this section.

(3) Unless terminated at the request of the victim, a final protective order issued under this subsection shall be permanent.

ANIMAL PROTECTION LAWS OF MASSACHUSETTS

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Massachusetts's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Massachusetts may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MASSACHUSETTS

1. GENERAL PROHIBITIONS*	<p>(1) Cruelty to animals MASS. GEN. LAWSch. 272, § 77</p> <p>(2) Willful and malicious injury to animals of another person MASS. GEN. LAWSch. 266, § 112</p>
<i>Animals Covered in Definition</i>	<p>-----</p>
<i>Classification of Crimes</i>	<p>(1), (2) Misdemeanor or Felony</p>
2. MAXIMUM PENALTIES**	<p>(1), (2) Misdemeanor: 2 ½ yearshouse of correction <i>and/or</i> \$2,500 fine MASS. GEN. LAWSch. 272, § 77 MASS. GEN. LAWSch. 266, § 112</p> <p>Felony: 5 years state prison <i>and/or</i> \$2,500 fine MASS. GEN. LAWSch. 272, § 77 MASS. GEN. LAWSch. 266, § 112</p>
3. EXEMPTIONS***	<p>9 MASS. GEN. LAWSch. 272, § 77</p>
4. COUNSELING / EVALUATIONS^H	<p>-----</p>

MASSACHUSETTS *continued*

5. PROTECTIVE ORDERS^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>Costs of care is a lien. MASS. GEN. LAWSch. 272, § 82</p> <p>Court may order the posting of a security for costs of care of an impounded animal. MASS. GEN. LAWSch. 272, § 104</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>Person making arrest shall care and provide for animals until owner takes charge of them. MASS. GEN. LAWSch. 272, § 82</p> <p>Search warrants shall be issued for reasonable cause to any sheriff, deputy sheriff, constable, or police officer. MASS. GEN. LAWSch. 272, § 83</p> <p>A show cause hearing shall be given to any person claiming an interest in a seized animal. MASS. GEN. LAWSch. 272, § 104</p>
8. FORFEITURE / POSSESSION^H	<p>Upon conviction, court shall order an abused animal forfeited. MASS. GEN. LAWSch. 272, § 77</p> <p>The court shall order the forfeiture of a seized animal if the security for costs of care is not posted as ordered; the animal may be humanely disposed of at the end of the period for which expenses are covered by the security if so ordered by the court. MASS. GEN. LAWSch. 272, § 104</p>

MASSACHUSETTS *continued*

9. CROSS ENFORCEMENT / REPORTING	Employees of the Department of Social Services may report animal abuse they reasonably suspect in the course of their professional capacity or within the scope of their employment. A person making such a report in good faith is immune from civil or criminal action. MASS. GEN. LAWSch. 119, § 85
10. VETERINARIAN REPORTING/ IMMUNITY	A registered veterinarian who reports, in good faith and in the normal course of business, a suspected act of cruelty to animals is not liable in a civil or criminal action for reporting such act. MASS. GEN. LAWSch. 112, § 58B
11. LAW ENFORCEMENT POLICIES	Humane agents may be appointed special state police officers and may make arrests for animal cruelty. MASS. GEN. LAWSch. 22C § 57 A person found violating cruelty statute may be arrested with or without a warrant. MASS. GEN. LAWSch. 272, § 82 Sheriffs, deputy sheriffs, constables and police officers shall prosecute all animal cruelty violations that come to their notice. MASS. GEN. LAWSch. 272, § 84
12. SEXUAL ASSAULT	The sexual assault of an animal is a felony punishable by up to 20 years in state prison. MASS. GEN. LAWSch. 272, § 34

MASSACHUSETTS *continued*

13. FIGHTING

Search warrants shall be issued for reasonable cause that an animal fight is being prepared or in progress.

MASS. GEN. LAWSch. 272, § 88

Various law enforcement officer and animal control officers may make entry without a warrant to any place in which an animal fight is occurring, or in which preparations are being made, and arrest all persons there and seize involved animals.

MASS. GEN. LAWSch. 272, § 89

A court may order seized animals used for animal fighting forfeited.

MASS. GEN. LAWSch. 272, § 91

A forfeiture order may be appealed within 24 hours of judgment entry.

MASS. GEN. LAWSch. 272, § 92

The costs of care and destruction of animals used for fighting may be allowed and paid in the same manner as expenses for other criminal prosecutions.

MASS. GEN. LAWSch. 272, § 93

Various animal fighting activities are crimes punishable as felonies or misdemeanors.

MASS. GEN. LAWSch. 272, § 94

Being a spectator at an animal fight is punishable as a misdemeanor or a felony.

MASS. GEN. LAWSch. 272, § 95

Any person claiming an interest in a seized animal shall be given a show cause hearing.

MASS. GEN. LAWSch. 272, § 104

MASSACHUSETTS *continued*

<i>Other Felony Provisions Affecting Animals</i> ¹	-----
NOTES	Devocalization of dogs and cats prohibited. MASS. GEN. LAWSch. 272, § 801/2 Renting and leasing of dogs prohibited. MASS. GEN. LAWSch. 272, § 80I

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 H This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

MASS. GEN. LAWSch. 266, § 112 (2012). Domestic animals; malicious killing or injury.

Whoever wilfully and maliciously kills, maims or disfigures any horse, cattle or other animal of another person, or wilfully and maliciously administers or exposes poison with intent that it shall be taken or swallowed by any such animal, shall be punished by imprisonment in the state prison for not more than five years or by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$ 2,500, or by both such fine and imprisonment.

MASS. GEN. LAWSch. 272, § 77 (2012). Cruelty to Animals.

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections seventy-seven A, seventy-eight, seventy-eight A, seventy-nine A, seventy-nine B, eighty A, eighty B, eighty C, eighty D, eighty F, eighty-six, eighty-six A, eighty-six B or ninety-four the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

2. PENALTIES

MASS. GEN. LAWSch. 266, § 112 (2012). Domestic animals; malicious killing or injury.

Whoever wilfully and maliciously kills, maims or disfigures any horse, cattle or other animal of another person, or wilfully and maliciously administers or exposes poison with intent that it shall be taken or swallowed by any such animal, *shall be punished by imprisonment in the state prison for not more than five years or by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.*

MASS. GEN. LAWSch. 272, § 77 (2012). Cruelty to Animals.

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind *shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.*

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections seventy-seven A, seventy-eight, seventy-eight A, seventy-nine A, seventy-nine B, eighty A, eighty B, eighty C, eighty D, eighty F, eighty-six, eighty-six A, eighty-six B or ninety-four the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

Editor's Note: "A crime punishable by death or imprisonment in the state prison is a felony. All other crimes are misdemeanors." MASS. GEN. LAWSch. 274, § 1 (2012).

3. EXEMPTIONS

MASS. GEN. LAWSch. 272, § 77 (2012). Cruelty to Animals.

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, *except an animal if used as lure or bait in fishing*; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections seventy-seven A, seventy-eight, seventy-eight A, seventy-nine A, seventy-nine B, eighty A, eighty B, eighty C, eighty D, eighty F, eighty-six, eighty-six A, eighty-six B or ninety-four the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

4. COUNSELING

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MASS. GEN. LAWSch. 272, § 82 (2012). Arrest without warrant for violation of section 77 or 81; notice; care of animals; lien.

A person found violating any provision of section seventy-seven or eighty-one may be arrested and held without a warrant as provided in section fifty-four; the person making an arrest with or without a warrant shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, shall properly care and provide for such animals until the owner thereof takes charge of them, not, however, exceeding sixty days from the date of said notice, and *shall have a lien on said animals for the expense of such care and provision.*

MASS. GEN. LAWSch. 272, § 104 (2012). Seizure of Animals; Posting Security.

(a) As used in this section the word “Authority” shall mean an organization or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.

(b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, the owner, custodian or person claiming an interest in the animal, shall be given a show cause hearing within 30 days after application for the complaint.

(c) If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order that person to post a security.

(d) The security shall be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.

(e) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board.

(f) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

(g) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

(h) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

(i) The owner or custodian of an animal humanely killed pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

(j) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

7. SEIZURE / ON-SITE SUPERVISION

MASS. GEN. LAWSch. 272, § 82 (2012). Arrest without warrant for violation of section 77 or 81; notice; care of animals; lien.

A person found violating any provision of section seventy-seven or eighty-one may be arrested and held without a warrant as provided in section fifty-four; the person making an arrest with or without a warrant shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, shall properly care and provide for such animals until the owner thereof takes charge of them, not, however, exceeding sixty days from the date of said notice, and shall have a lien on said animals for the expense of such care and provision.

MASS. GEN. LAWSch. 272, § 83 (2012). Complaint, Warrant, and Search Relative to Cruelty to Animals.

If a complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant has reasonable cause to believe that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

MASS. GEN. LAWSch. 272, § 104 (2012). Seizure of Animals; Posting Security.

(a) As used in this section the word "Authority" shall mean an organization or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.

(b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, the owner, custodian or person claiming an interest in the animal, shall be given a show cause hearing within 30 days after application for the complaint.

(c) If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order that person to post a security.

(d) The security shall be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.

(e) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board.

(f) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

(g) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

(h) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

(i) The owner or custodian of an animal humanely killed pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

(j) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

8. FORFEITURE / POSSESSION

MASS. GEN. LAWSch. 272, § 77 (2012). Cruelty to Animals.

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections seventy-seven A, seventy-eight, seventy-eight A, seventy-nine A, seventy-nine B, eighty A, eighty B, eighty C, eighty D, eighty F, eighty-six, eighty-six A, eighty-six B or ninety-four the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

MASS. GEN. LAWSch. 272, § 104 (2012). Seizure of Animals; Posting Security.

- (a) As used in this section the word “Authority” shall mean an organization or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.
- (b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, the owner, custodian or person claiming an interest in the animal, shall be given a show cause hearing within 30 days after application for the complaint.
- (c) If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order that person to post a security.

(d) The security shall be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.

(e) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board.

(f) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

(g) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

(h) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

(i) The owner or custodian of an animal humanely killed pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

(j) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

9. CROSS ENFORCEMENT / REPORTING

MASS. GEN. LAWSch. 119, § 85 (2012). Department employees reporting animal cruelty, abuse or neglect; immunity from liability.

(a) During any investigation or evaluation reported under section 51A, any employee of the department or person employed pursuant to a contract with the department, when acting in his professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, may report the known or suspected animal cruelty, abuse or neglect to the entities that investigate reports of animal cruelty, abuse or neglect, as described in section 57 of chapter 22C, or any local animal control authority.

(b) The report may be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made by telephone as soon as possible.

(c) When 2 or more employees of the department are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(e) Nothing in this section shall impose a duty on the department to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(f) Nothing in this section shall prevent the department, area office or subdivision from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

10. VETERINARIAN REPORTING / IMMUNITY

MASS. GEN. LAWSch. 112, § 58B (2012).Cruelty to Animals; Limited Liability.

A veterinarian duly registered under section 55 who reports, in good faith and in the normal course of business, a suspected act of cruelty to animals prohibited under section 77 or section 94 of chapter 272 to a police officer, or a special state police officer appointed under section 57 of chapter 22C, shall not be liable in a civil or criminal action for reporting such act.

11. LAW ENFORCEMENT POLICIES

MASS. GEN. LAWSch. 22C, § 57 (2012). Appointment of Agents for Certain Animal Humane Societies as Special State Police Officers.

The colonel may appoint, at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, the Berkshire Animal Protective Society, Inc., the Animal Rescue League of Boston, the Boston Work Horse Relief Association, the Lowell Humane Society, the Worcester Animal Rescue League or the Animal Rescue League of New Bedford, duly accredited agents of said corporations as special state police officers to serve for one year subject to removal by the colonel. Such special state police officers shall report to him relative to their official acts as such police officers at such times and in such manner as the colonel may require. They shall serve without pay, except their regular compensation as agents of said corporation. They shall receive no fees for services or return of any criminal process and shall have throughout the commonwealth the powers of constables and police officers to arrest and detain any person violating any law for the prevention of cruelty to animals.

MASS. GEN. LAWSch. 272, § 82 (2012). Arrest without warrant for violation of section 77 or 81; notice; care of animals; lien.

A person found violating any provision of section seventy-seven or eighty-one may be arrested and held without a warrant as provided in section fifty-four; the person making an arrest with or without a warrant shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, shall properly care and provide for such animals until the owner thereof takes charge of them, not, however, exceeding sixty days from the date of said notice, and shall have a lien on said animals for the expense of such care and provision.

MASS. GEN. LAWSch. 272, § 84 (2012). Officers to Prosecute.

Sheriffs, deputy sheriffs, constables and police officers shall prosecute all violations of sections seventy-seven to eighty-one, inclusive, which come to their notice.

12. SEXUAL ASSAULT

MASS. GEN. LAWSch. 272, § 34 (2012). Crime against nature.

Whoever commits the abominable and detestable crime against nature, either with mankind or with a beast, shall be punished by imprisonment in the state prison for not more than twenty years.

13. FIGHTING

MASS. GEN. LAWSch. 272, § 88 (2012). Search Warrant for Fighting Birds, etc.

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant has reasonable cause to believe that preparations are being made for an exhibition of the fighting of birds, dogs or other animals, or that such exhibition is in progress, or that birds, dogs or other animals are kept, owned, possessed, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94 at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer, or special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals or at the request of the Animal Rescue League of Boston, to search such place, building or tenement at any hour of the day or night and take possession of all such animals and all paraphernalia, implements, equipment or other property used or employed, or intended to be used or employed, in violation of section 94 there found, and arrest all persons there present.

MASS. GEN. LAWSch. 272, § 89 (2012). Entry without a Warrant, etc.

Any officer authorized to serve criminal process, or any special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, or any municipal officer involved with animal control may, without a warrant, enter any place or building in which there is an exhibition of any fighting birds, dogs or other animals, preparations are being made for such an exhibition, or birds, dogs or other animals are owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94. Any such officer may arrest all persons there present and take possession of and remove from the place of seizure such animals there found in violation of said section 94, and hold the same in custody subject to the order of court as hereinafter provided.

MASS. GEN. LAWSch. 272, § 91 (2012). Judgment of Forfeiture, etc.; Proceedings Thereon.

After seizure and removal of animals or property used or employed, or intended to be used or employed, in violation of section 94, application shall be made to a district court for a decree of forfeiture of the animals or property. If, after hearing on the application, notice thereof having been previously given as the court orders, it shall be found that the animals, at the time of seizure, were engaged, or were intended to be engaged, in fighting at an exhibition thereof or the animals were owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94, such animals shall be adjudged forfeited and the court shall thereupon, unless an appeal is taken as provided in the following section, issue an order for killing them. The order shall be directed to any officer authorized to serve criminal process and

the officer receiving such order shall cause the animals to be killed within 24 hours thereafter. Animals or property seized as hereinbefore provided, which are not adjudged forfeited, shall be delivered to the owner or person entitled to the possession thereof. Any person shall be allowed to appear as claimant in the proceeding upon the application for a decree of forfeiture.

MASS. GEN. LAWSch. 272, § 92 (2012). Appeal.

An owner or claimant aggrieved by such judgment may, within twenty-four hours after the entry thereof and before its execution, appeal therefrom to the superior court; and all proceedings upon and after such appeal, including the right of exception, shall conform, so far as may be, to those in criminal cases, except that before such appeal is allowed the appellant shall recognize to the commonwealth in the sum of two hundred dollars, with sufficient sureties, to prosecute his appeal and to pay such expenses of the prosecution as the court may order and such expenses as may be thereafter incurred in the care and keeping of the birds, dogs or other animals claimed by such appellant if final judgment is rendered against them, and to abide the judgment of the court thereon. Upon the final judgment, the birds, dogs or other animals held in custody to abide such judgment shall be disposed of, under the direction of the superior court, in like manner as the court or justice might have disposed of them if no appeal had been taken. During the pendency of the appeal, all birds, dogs or other animals adjudged forfeited shall be kept in custody in a place other than that from which they were taken.

MASS. GEN. LAWSch. 272, § 93 (2012). Expenses of Care, etc., of Birds, etc.

The necessary expenses incurred in the care and destruction of such birds, dogs and other animals may be allowed and paid in the same manner as expenses in criminal prosecutions.

MASS. GEN. LAWSch. 272, § 94 (2012). Owning, possessing or training fighting animals; establishing or promoting exhibition; loaning, selling or exporting fighting animals; owning or possessing animals for breeding fighting animals.

Whoever: (i) owns, possesses, keeps or trains any bird, dog or other animal, with the intent that it shall be engaged in an exhibition of fighting; (ii) establishes or promotes an exhibition of the fighting of any birds, dogs or other animals; (iii) loans, sells, exports or otherwise transfers any bird, dog or other animal for the purpose of animal fighting; or (iv) owns, possesses or keeps any bird, dog or other animal for the purpose of breeding such animal with the intent that its offspring be used for animal fighting shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 1 year, or by a fine of not more than \$1,000 or by both such fine and imprisonment.

MASS. GEN. LAWSch. 272, § 95 (2012). Penalty for Being Present at Exhibition, etc.

Whoever is present at any place, building or tenement where preparations are being made for an exhibition of the fighting of birds, dogs or other animals, with intent to be present at such exhibition, or is present at, aids in or contributes to such exhibition, shall be punished by a fine of not more than \$1,000 or by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 ½ years or by both such fine and imprisonment.

MASS. GEN. LAWSch. 272, § 104 (2012). Seizure of Animals; Posting Security.

(a) As used in this section the word “Authority” shall mean an organization or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.

(b) *If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, the owner, custodian or person claiming an interest in the animal, shall be given a show cause hearing within 30 days after application for the complaint.*

(c) If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order that person to post a security.

(d) The security shall be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.

(e) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board.

(f) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

(g) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

(h) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

(i) The owner or custodian of an animal humanely killed pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

(j) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

14. REFERENCED STATUTES

MASS. GEN. LAWSch. 112, § 58B (2012). Cruelty to Animals; Limited Liability.

A veterinarian duly registered under section 55 who reports, in good faith and in the normal course of business, a suspected act of cruelty to animals prohibited under section 77 or section 94 of chapter 272 to a police officer, or a special state police officer appointed under section 57 of chapter 22C, shall not be liable in a civil or criminal action for reporting such act.

MASS. GEN. LAWSch. 22C, § 57 (2012). Appointment of Agents for Certain Animal Humane Societies as Special State Police Officers.

The colonel may appoint, at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, the Berkshire Animal Protective Society, Inc., the Animal Rescue League of Boston, the Boston Work Horse Relief Association, the Lowell Humane Society, the Worcester Animal Rescue League or the Animal Rescue League of New Bedford, duly accredited agents of said corporations as special state police officers to serve for one year subject to removal by the colonel. Such special state police officers shall report to him relative to their official acts as such police officers at such times and in such manner as the colonel may require. They shall serve without pay, except their regular compensation as agents of said corporation. They shall receive no fees for services or return of any criminal process and shall have throughout the commonwealth the powers of constables and police officers to arrest and detain any person violating any law for the prevention of cruelty to animals.

MASS. GEN. LAWSch. 119, § 85 (2012). Department employees reporting animal cruelty, abuse or neglect; immunity from liability.

(a) During any investigation or evaluation reported under section 51A, any employee of the department or person employed pursuant to a contract with the department, when acting in his professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, may report the known or suspected animal cruelty, abuse or neglect to the entities that investigate reports of animal cruelty, abuse or neglect, as described in section 57 of chapter 22C, or any local animal control authority.

(b) The report may be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made by telephone as soon as possible.

(c) When 2 or more employees of the department are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(e) Nothing in this section shall impose a duty on the department to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(f) Nothing in this section shall prevent the department, area office or subdivision from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

MASS. GEN. LAWSch. 266, § 112 (2012). Domestic animals; malicious killing or injury.

Whoever wilfully and maliciously kills, maims or disfigures any horse, cattle or other animal of another person, or wilfully and maliciously administers or exposes poison with intent that it shall be taken or swallowed by any such animal, shall be punished by imprisonment in the state prison for not more than five years or by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$ 2,500, or by both such fine and imprisonment.

MASS. GEN. LAWSch. 272, § 34 (2012). Crime against nature.

Whoever commits the abominable and detestable crime against nature, either with mankind or with a beast, shall be punished by imprisonment in the state prison for not more than twenty years.

MASS. GEN. LAWSch. 272, § 77(2012). Cruelty to Animals.

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections seventy-seven A, seventy-eight, seventy-eight A, seventy-nine A, seventy-nine B, eighty A, eighty B, eighty C, eighty D, eighty F, eighty-six, eighty-six A, eighty-six B or ninety-four the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

MASS. GEN. LAWSch. 272, § 82 (2012). Arrest without warrant for violation of section 77 or 81; notice; care of animals; lien.

A person found violating any provision of section seventy-seven or eighty-one may be arrested and held without a warrant as provided in section fifty-four; the person making an arrest with or without a warrant shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, shall properly care and provide for such animals until the owner thereof takes charge of them, not, however, exceeding sixty days from the date of said notice, and shall have a lien on said animals for the expense of such care and provision.

MASS. GEN. LAWSch. 272, § 83 (2012). Complaint, Warrant, and Search Relative to Cruelty to Animals.

If a complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant has reasonable cause to believe that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

MASS. GEN. LAWSch. 272, § 84 (2012). Officers to Prosecute.

Sheriffs, deputy sheriffs, constables and police officers shall prosecute all violations of sections seventy-seven to eighty-one, inclusive, which come to their notice.

MASS. GEN. LAWSch. 272, § 88(2012). Search Warrant for Fighting Birds, etc.

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant has reasonable cause to believe that preparations are being made for an exhibition of the fighting of birds, dogs or other animals, or that such exhibition is in progress, or that birds, dogs or other animals are kept, owned, possessed, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94 at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer, or special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals or at the request of the Animal Rescue League of Boston, to search such place, building or tenement at any hour of the day or night and take possession of all such animals and all paraphernalia, implements, equipment or other property used or employed, or intended to be used or employed, in violation of section 94 there found, and arrest all persons there present.

MASS. GEN. LAWSch. 272, § 89(2012). Entry without a Warrant, etc.

Any officer authorized to serve criminal process, or any special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, or any municipal officer involved with animal control may, without a warrant, enter any place or building in which there is an exhibition of any fighting birds, dogs or other animals, preparations are being made for such an exhibition, or birds, dogs or other animals are owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94. Any such officer may arrest all persons there present and take possession of and remove from the place of seizure such animals there found in violation of said section 94, and hold the same in custody subject to the order of court as hereinafter provided.

MASS. GEN. LAWSch. 272, § 91(2012). Judgment of Forfeiture, etc.; Proceedings Thereon.

After seizure and removal of animals or property used or employed, or intended to be used or employed, in violation of section 94, application shall be made to a district court for a decree of forfeiture of the animals or property. If, after hearing on the application, notice thereof having been previously given as the court orders, it shall be found that the animals, at the time of seizure, were engaged, or were intended to be engaged, in fighting at an exhibition thereof or the animals were owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94, such animals shall be adjudged forfeited and the court shall thereupon, unless an appeal is taken as provided in the following section, issue an order for killing them. The order shall be directed to any officer authorized to serve criminal process and the officer receiving such order shall cause the animals to be killed within 24 hours thereafter. Animals or property seized as hereinbefore provided, which are not adjudged forfeited, shall be delivered to the owner or person entitled to the possession thereof. Any person shall be allowed to appear as claimant in the proceeding upon the application for a decree of forfeiture.

MASS. GEN. LAWSch. 272, § 92 (2012). Appeal.

An owner or claimant aggrieved by such judgment may, within twenty-four hours after the entry thereof and before its execution, appeal therefrom to the superior court; and all proceedings upon and after such appeal, including the right of exception, shall conform, so far as may be, to those in criminal cases, except that before such appeal is allowed the appellant shall recognize to the commonwealth in the sum of two hundred dollars, with sufficient sureties, to prosecute his appeal and to pay such expenses of the prosecution as the court may order and such expenses as may be thereafter incurred in the care and keeping of the birds, dogs or other animals claimed by such appellant if final judgment is rendered against them, and to abide the judgment of the court thereon. Upon the final judgment, the birds, dogs or other animals held in custody to abide such judgment shall be disposed of, under the direction of the superior court, in like manner as the court or justice might have disposed of them if no appeal had been taken. During the pendency of the appeal, all birds, dogs or other animals adjudged forfeited shall be kept in custody in a place other than that from which they were taken.

MASS. GEN. LAWSch. 272, § 93 (2012). Expenses of Care, etc., of Birds, etc.

The necessary expenses incurred in the care and destruction of such birds, dogs and other animals may be allowed and paid in the same manner as expenses in criminal prosecutions.

MASS. GEN. LAWSch. 272, § 94(2012). Owning, possessing or training fighting animals; establishing or promoting exhibition; loaning, selling or exporting fighting animals; owning or possessing animals for breeding fighting animals.

Whoever: (i) owns, possesses, keeps or trains any bird, dog or other animal, with the intent that it shall be engaged in an exhibition of fighting; (ii) establishes or promotes an exhibition of the fighting of any birds, dogs or other animals; (iii) loans, sells, exports or otherwise transfers any bird, dog or other animal for the purpose of animal fighting; or (iv) owns, possesses or keeps any bird, dog or other animal for the purpose of breeding such animal with the intent that its offspring be used for animal fighting shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 1 year, or by a fine of not more than \$1,000 or by both such fine and imprisonment.

MASS. GEN. LAWSch. 272, § 95 (2012). Penalty for Being Present at Exhibition, etc.

Whoever is present at any place, building or tenement where preparations are being made for an exhibition of the fighting of birds, dogs or other animals, with intent to be present at such exhibition, or is present at, aids in or contributes to such exhibition, shall be punished by a fine of not more than \$1,000 or by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 ½ years or by both such fine and imprisonment.

MASS. GEN. LAWSch. 272, § 104 (2012). Seizure of Animals; Posting Security.

(a) As used in this section the word “Authority” shall mean an organization or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.

(b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, the owner, custodian or person claiming an interest in the animal, shall be given a show cause hearing within 30 days after application for the complaint.

(c) If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order that person to post a security.

(d) The security shall be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.

(e) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board.

(f) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the show cause hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

(g) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

(h) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

(i) The owner or custodian of an animal humanely killed pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

(j) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

ANIMAL PROTECTION LAWS OF MICHIGAN

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Michigan's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Michigan may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MICHIGAN

1. GENERAL PROHIBITIONS*	(1) Animal cruelty MICH. COMP. LAWS§ 750.50 (2) Knowingly or recklessly killing, torturing, mutilating, maiming, or disfiguring; or knowingly poisoning an animal MICH. COMP. LAWS§ 750.50b(2)
<i>Animals Covered in Definition</i>	“[A]ny vertebrate other than a human being” MICH. COMP. LAWS§ 750.50(1)(b); MICH. COMP. LAWS§ 750.50b(1) “[A]ll brute creatures” MICH. COMP. LAWS § 750.56
<i>Classification of Crimes</i>	(1) [1 st offense and 1 victim] OR [2-3 victims or death of an animal victim]: Misdemeanor [4-9 victims OR one prior offense]: Class G felony [10 or more victims OR 2+ prior offenses]: Class F felony ----- (2) Class F felony

MICHIGAN*continued*

2. MAXIMUM PENALTIES**

(1)
[1st offense and 1 victim]:
93 days imprisonment
and/or
\$1,000 fine
and/or
200 hours community service
and
Costs of prosecution
MICH. COMP. LAWS§ 750.50(4)(a)

[2-3 victims or death of an animal victim]:
1 years imprisonment
and/or
\$2,000 fine
and/or
300 hours community service
and
Costs of prosecution
MICH. COMP. LAWS§ 750.50(4)(b)

[4-9 victims OR one prior offense]:
2 years imprisonment
and/or
\$2,000 fine
and/or
300 hours community service
and
Costs of prosecution
MICH. COMP. LAWS§ 750.50(4)(c)

[10 or more victims OR 2+ prior offenses]:
4 years imprisonment
and/or
\$5,000 fine
and/or
500 hours community service
and
Costs of prosecution
MICH. COMP. LAWS § 750.50(4)(d)

MICHIGAN*continued*

<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(2) 4 years imprisonment <i>and/or</i> \$5,000 fine <i>and/or</i> 500 hours community service <i>and</i> Costs of prosecution and costs of care for the abused animal MICH. COMP. LAWS§750.50b(3)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>1, 2, 3, 4, 5, 6, 8, 9 MICH. COMP. LAWS§ 750.50(11),(12) 1, 2, 3, 4, 5, 6, 9 MICH. COMP. LAWS§§ 750.50b(8)-(11)</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>Court may order offender to have a mental health evaluation and treatment if warranted, at offender's expense. MICH. COMP. LAWS § 750.50(5) Court may order counseling as a condition of probation MICH. COMP. LAWS§ 750.50b(5)</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Defendant must post bond to cover costs of care to avoid pre-trial forfeiture. MICH. COMP. LAWS§ 750.50(3) Court may order reimbursement for costs of care upon conviction. MICH. COMP. LAWS§§ 750.50(8), 750.50b(4) Court may order payment of costs of prosecution. MICH. COMP. LAWS§§ 750.50(4), 750.50b(4)</p>

MICHIGAN*continued*

7. SEIZURE / ON-SITE SUPERVISION	<p>It is the duty of the person making an arrest for animal cruelty to seize all animals found in the custody of the person arrested. MICH. COMP. LAWS§ 750.53</p> <p>Search warrants shall be issued for reasonable cause. MICH. COMP. LAWS§ 750.54</p>
8. FORFEITURE / POSSESSION^H	<p>Prosecuting attorney may file petition with the court requesting forfeiture. MICH. COMP. LAWS§ 750.50(3)</p> <p>Court may order defendant not to own or possess an animal as a condition of probation.MICH. COMP. LAWS§ 750.50(9)</p> <p>Court may order permanent relinquishment of animal possession for second and subsequent violations. MICH. COMP. LAWS§ 750.50(9)</p> <p>Court may revoke probation of anyone who violates a forfeiture order and charge them with contempt. MICH. COMP. LAWS§§ 750.50(10), 750.50b(7)</p> <p>Court may order forfeiture for any period of time, including permanent relinquishment. MICH. COMP. LAWS§ 750.50b(6)</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>A veterinarian or veterinary technician is immune from civil or criminal liability for reporting an animal they suspect is abandoned, neglected, or abused. MICH. COMP. LAWS §333.18827</p>

MICHIGAN*continued*

<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Law enforcement officers have a duty to arrest and prosecute all persons who violate animal cruelty laws when there is knowledge or reasonable notice of such violations. MICH. COMP. LAWS§ 750.52</p> <p>Law enforcement officers may be issued search warrants to investigate animal abuse. MICH. COMP. LAWS§ 750.54</p> <p>Each humane society may have persons appointed deputy sheriffs with power to enforce animal cruelty laws. MICH. COMP. LAWS§ 750.55</p>
<p>12. SEXUAL ASSAULT</p>	<p>The sexual assault of an animal is a felony punishable by up to 15 years in prison, or up to life in prison for an offender who was “sexually delinquent person” at the time of the assault. MICH. COMP. LAWS §750.158</p>
<p>13. FIGHTING</p>	<p>Various animal fighting activities are felonies. MICH. COMP. LAWS §750.49</p>
<p><i>Other Felony Provisions Affecting Animals^l</i></p>	<p>Killing or seriously harming a police animal MICH. COMP. LAWS§ 750.50c</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 H This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

MICH. COMP. LAWS § 750.50(2012).Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care, etc.; penalties; multiple prosecutions; payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) “Adequate care” means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) “Animal” means any vertebrate other than a human being.

(c) “Animal protection shelter” means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

(d) “Animal control shelter” means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) “Licensed veterinarian” means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) “Livestock” means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) “Person” means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) “Neglect” means to fail to sufficiently and properly care for an animal to the extent that the animal’s health is jeopardized.

(i) “Sanitary conditions” means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) "Shelter" means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog's owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) "State of good health" means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) "Tethering" means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) "Water" means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, "stand" means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the

action is continued at a later date, any order of continuance shall require the defendant to submit additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 1 animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 93 days.*
- (ii) A fine of not more than \$1,000.00.*
- (iii) Community service for not more than 200 hours.*

(b) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 2 or 3 animals or the death of any animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 1 year.*
- (ii) A fine of not more than \$2,000.00.*
- (iii) Community service for not more than 300 hours.*

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person had 1 prior conviction under subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 2 years.*
- (ii) A fine of not more than \$2,000.00.*

(iii) Community service for not more than 300 hours.

(d) If the violation involved 10 or more animals or the person had 2 or more prior convictions for violating subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 4 years.

(ii) A fine of not more than \$5,000.00.

(iii) Community service for not more than 500 hours.

(5) The court may order a person convicted of violating subsection (2) to be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling. The evaluation and counseling shall be at the defendant's own expense.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(7) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(8) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(9) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time, including permanent relinquishment of animal ownership.

(10) A person who owns or possesses an animal in violation of an order issued under subsection (9) *is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (9) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.*

(11) This section does not prohibit the lawful killing or other use of an animal, including the following:

- (a) Fishing.
- (b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (c) Horse racing.
- (d) The operation of a zoological park or aquarium.
- (e) Pest or rodent control regulated under part 83 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324. 8336.
- (f) Farming or a generally accepted animal husbandry or farming practice involving livestock.
- (g) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.
- (h) Scientific research under 1969 PA 224, MCL 287.381 to 287.395.
- (i) Scientific research under sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

(12) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

MICH. COMP. LAWS § 750.50b(2012).Animal defined; prohibited acts; violation; penalty; exceptions.

(1) As used in this section, “animal” means any vertebrate other than a human being.

(2) *Except as otherwise provided in this section, a person shall not do any of the following without just cause:*

- (a) *Knowingly kill, torture, mutilate, maim, or disfigure an animal.*
- (b) *Commit a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.*
- (c) *Knowingly administer poison to an animal, or knowingly expose an animal to any*

poisonous substance, with the intent that the substance be taken or swallowed by the animal.

(3) A person who violates subsection (2) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not more than \$5,000.00 for a single animal and \$2,500.00 for each additional animal involved in the violation, but not to exceed a total of \$20,000.00.

(c) Community service for not more than 500 hours.

(4) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(5) If a term of probation is ordered for a violation of subsection (2), the court may include as a condition of that probation that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(6) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsections, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and

environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and orders issued under that act.

(c) Pest or rodent control regulated under part 83 or the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(e) Section 19 of the dog law of 1919, 1919 PA 339, MCL 287.279.

(10) This section does not prohibit the lawful killing or use of an animal for scientific research under any of the following or a rule promulgated under any of the following:

(a) 1969 PA 224, MCL 287.381 to 287.395.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333.

(11) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.1883.

MICH. COMP. LAWS § 750.56 (2012). Definitions.

Sec. 56. In the preceding sections of this chapter the word “animal” or “animals” shall be held to include all brute creatures, and the words “owner”, “person”, and “whoever” shall be held to include corporations as well as individuals, and the knowledge and acts of agents of any persons employed by corporations in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the acts and knowledge of such corporations.

2. PENALTIES

MICH. COMP. LAWS § 750.50(2012).Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care, etc.; penalties; multiple prosecutions; payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) “Adequate care” means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) “Animal” means any vertebrate other than a human being.

(c) “Animal protection shelter” means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

(d) “Animal control shelter” means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) “Licensed veterinarian” means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) “Livestock” means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) “Person” means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) “Neglect” means to fail to sufficiently and properly care for an animal to the extent that the animal’s health is jeopardized.

(i) “Sanitary conditions” means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) “Shelter” means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog’s owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) “State of good health” means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) “Tethering” means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) “Water” means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, “stand” means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal’s adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to submit

additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 1 animal, the person *is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:*

(i) Imprisonment for not more than 93 days.

(ii) A fine of not more than \$1,000.00.

(iii) Community service for not more than 200 hours.

(b) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 2 or 3 animals or the death of any animal, the *person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:*

(i) Imprisonment for not more than 1 year.

(ii) A fine of not more than \$2,000.00.

(iii) Community service for not more than 300 hours.

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person had 1 prior conviction under subsection (2), the person *is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:*

(i) Imprisonment for not more than 2 years.

(ii) A fine of not more than \$2,000.00.

(iii) Community service for not more than 300 hours.

(d) If the violation involved 10 or more animals or the person had 2 or more prior convictions for violating subsection (2), the person *is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:*

(i) Imprisonment for not more than 4 years.

(ii) A fine of not more than \$5,000.00.

(iii) Community service for not more than 500 hours.

(5) The court may order a person convicted of violating subsection (2) to be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling. The evaluation and counseling shall be at the defendant's own expense.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(7) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(8) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(9) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time, including permanent relinquishment of animal ownership.

(10) A person who owns or possesses an animal in violation of an order issued under subsection (9) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (9) is also subject to the civil and criminal contempt power of the court, *and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.*

(11) This section does not prohibit the lawful killing or other use of an animal, including the following:

- (a) Fishing.
- (b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (c) Horse racing.
- (d) The operation of a zoological park or aquarium.
- (e) Pest or rodent control regulated under part 83 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324. 8336.
- (f) Farming or a generally accepted animal husbandry or farming practice involving livestock.
- (g) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.
- (h) Scientific research under 1969 PA 224, MCL 287.381 to 287.395.
- (i) Scientific research under sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

(12) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

MICH. COMP. LAWS § 750.50b(2012).Animal defined; prohibited acts; violation; penalty; exceptions.

- (1) As used in this section, “animal” means any vertebrate other than a human being.
- (2) Except as otherwise provided in this section, a person shall not do any of the following without just cause:
 - (a) Knowingly kill, torture, mutilate, maim, or disfigure an animal.
 - (b) Commit a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.
 - (c) Knowingly administer poison to an animal, or knowingly expose an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal.

(3) A person who violates subsection (2) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not more than \$5,000.00 for a single animal and \$2,500.00 for each additional animal involved in the violation, but not to exceed a total of \$20,000.00.

(c) Community service for not more than 500 hours.

(4) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(5) If a term of probation is ordered for a violation of subsection (2), the court may include as a condition of that probation that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(6) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsections, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and orders issued under that act.

(c) Pest or rodent control regulated under part 83 or the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(e) Section 19 of the dog law of 1919, 1919 PA 339, MCL 287.279.

(10) This section does not prohibit the lawful killing or use of an animal for scientific research under any of the following or a rule promulgated under any of the following:

(a) 1969 PA 224, MCL 287.381 to 287.395.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333.

(11) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.1883.

MICH. COMP. LAWS § 777.16b (2012). Application of chapter to Michigan Compiled Laws chapter 750, sections 750.49 to 750.68; enumerated felonies.

Sec. 16b. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
750.49(2)(f)	Pub ord	H	Attending animal fight	4
750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
750.49(9)	Person	F	Inciting fighting animal to attack	4
750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
750.50(4)(c)	<i>Pub ord</i>	<i>G</i>	<i>Animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with 1 prior conviction</i>	2
750.50(4)(d)	<i>Pub ord</i>	<i>F</i>	<i>Animal neglect or cruelty involving 10 or more animals or with 2 or more</i>	4

750.50b(3)	Property	F	<i>prior convictions</i> Killing or torturing animals	4
750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
750.68	Property	G	Changing brands with intent to steal	4

3. EXEMPTIONS

MICH. COMP. LAWS § 750.50(2012).Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care, etc.; penalties; multiple prosecutions; payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) “Adequate care” means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) “Animal” means any vertebrate other than a human being.

(c) “Animal protection shelter” means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

(d) “Animal control shelter” means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) “Licensed veterinarian” means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) “Livestock” means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) “Person” means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) “Neglect” means to fail to sufficiently and properly care for an animal to the extent that the animal’s health is jeopardized.

(i) “Sanitary conditions” means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) “Shelter” means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog’s owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) “State of good health” means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) “Tethering” means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) “Water” means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, "stand" means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to submit

additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 1 animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 93 days.

(ii) A fine of not more than \$1,000.00.

(iii) Community service for not more than 200 hours.

(b) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 2 or 3 animals or the death of any animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 1 year.

(ii) A fine of not more than \$2,000.00.

(iii) Community service for not more than 300 hours.

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person had 1 prior conviction under subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 2 years.

(ii) A fine of not more than \$2,000.00.

(iii) Community service for not more than 300 hours.

(d) If the violation involved 10 or more animals or the person had 2 or more prior convictions for violating subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 4 years.

(ii) A fine of not more than \$5,000.00.

(iii) Community service for not more than 500 hours.

(5) The court may order a person convicted of violating subsection (2) to be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling. The evaluation and counseling shall be at the defendant's own expense.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(7) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(8) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(9) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time, including permanent relinquishment of animal ownership.

(10) A person who owns or possesses an animal in violation of an order issued under subsection (9) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (9) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.

(11) This section does not prohibit the lawful killing or other use of an animal, including the following:

(a) *Fishing.*

(b) *Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.*

(c) *Horse racing.*

(d) *The operation of a zoological park or aquarium.*

(e) *Pest or rodent control regulated under part 83 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.*

(f) *Farming or a generally accepted animal husbandry or farming practice involving livestock.*

(g) *Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.*

(h) *Scientific research under 1969 PA 224, MCL 287.381 to 287.395.*

(i) *Scientific research under sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.*

(12) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

MICH. COMP. LAWS § 750.50b(2012).Animal defined; prohibited acts; violation; penalty; exceptions.

(1) As used in this section, “animal” means any vertebrate other than a human being.

(2) Except as otherwise provided in this section, a person shall not do any of the following without just cause:

(a) Knowingly kill, torture, mutilate, maim, or disfigure an animal.

(b) Commit a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.

(c) Knowingly administer poison to an animal, or knowingly expose an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal.

(3) A person who violates subsection (2) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not more than \$5,000.00 for a single animal and \$2,500.00 for each additional animal involved in the violation, but not to exceed a total of \$20,000.00.

(c) Community service for not more than 500 hours.

(4) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(5) If a term of probation is ordered for a violation of subsection (2), the court may include as a condition of that probation that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(6) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsections, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and orders issued under that act.

(c) Pest or rodent control regulated under part 83 or the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(e) Section 19 of the dog law of 1919, 1919 PA 339, MCL 287.279.

(10) This section does not prohibit the lawful killing or use of an animal for scientific research under any of the following or a rule promulgated under any of the following:

(a) 1969 PA 224, MCL 287.381 to 287.395.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333.

(11) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.1883.

4. COUNSELING / EVALUATIONS

MICH. COMP. LAWS § 750.50(2012).Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care, etc.; penalties; multiple prosecutions; payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) “Adequate care” means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) “Animal” means any vertebrate other than a human being.

(c) “Animal protection shelter” means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

(d) “Animal control shelter” means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) “Licensed veterinarian” means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) “Livestock” means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) “Person” means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) “Neglect” means to fail to sufficiently and properly care for an animal to the extent that the animal’s health is jeopardized.

(i) “Sanitary conditions” means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) “Shelter” means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog’s owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) “State of good health” means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) “Tethering” means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) “Water” means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, “stand” means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal’s adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to submit

additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 1 animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 93 days.
- (ii) A fine of not more than \$1,000.00.
- (iii) Community service for not more than 200 hours.

(b) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 2 or 3 animals or the death of any animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 1 year.
- (ii) A fine of not more than \$2,000.00.
- (iii) Community service for not more than 300 hours.

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person had 1 prior conviction under subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 2 years.
- (ii) A fine of not more than \$2,000.00.
- (iii) Community service for not more than 300 hours.

(d) If the violation involved 10 or more animals or the person had 2 or more prior convictions for violating subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 4 years.

(ii) A fine of not more than \$5,000.00.

(iii) Community service for not more than 500 hours.

(5) The court may order a person convicted of violating subsection (2) to be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling. The evaluation and counseling shall be at the defendant's own expense.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(7) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(8) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(9) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time, including permanent relinquishment of animal ownership.

(10) A person who owns or possesses an animal in violation of an order issued under subsection (9) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (9) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.

(11) This section does not prohibit the lawful killing or other use of an animal, including the following:

- (a) Fishing.
- (b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (c) Horse racing.
- (d) The operation of a zoological park or aquarium.
- (e) Pest or rodent control regulated under part 83 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.
- (f) Farming or a generally accepted animal husbandry or farming practice involving livestock.
- (g) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.
- (h) Scientific research under 1969 PA 224, MCL 287.381 to 287.395.
- (i) Scientific research under sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

(12) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

MICH. COMP. LAWS § 750.50b(2012).Animal defined; prohibited acts; violation; penalty; exceptions.

- (1) As used in this section, “animal” means any vertebrate other than a human being.
- (2) Except as otherwise provided in this section, a person shall not do any of the following without just cause:
 - (a) Knowingly kill, torture, mutilate, maim, or disfigure an animal.
 - (b) Commit a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.
 - (c) Knowingly administer poison to an animal, or knowingly expose an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal.

(3) A person who violates subsection (2) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not more than \$5,000.00 for a single animal and \$2,500.00 for each additional animal involved in the violation, but not to exceed a total of \$20,000.00.

(c) Community service for not more than 500 hours.

(4) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(5) If a term of probation is ordered for a violation of subsection (2), the court may include as a condition of that probation that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(6) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsections, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and orders issued under that act.

(c) Pest or rodent control regulated under part 83 or the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(e) Section 19 of the dog law of 1919, 1919 PA 339, MCL 287.279.

(10) This section does not prohibit the lawful killing or use of an animal for scientific research under any of the following or a rule promulgated under any of the following:

(a) 1969 PA 224, MCL 287.381 to 287.395.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333.

(11) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.1883.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MICH. COMP. LAWS § 750.50(2012).Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care, etc.; penalties; multiple prosecutions; payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) “Adequate care” means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) “Animal” means any vertebrate other than a human being.

(c) “Animal protection shelter” means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

(d) “Animal control shelter” means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) “Licensed veterinarian” means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) “Livestock” means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) “Person” means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) “Neglect” means to fail to sufficiently and properly care for an animal to the extent that the animal’s health is jeopardized.

(i) “Sanitary conditions” means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) “Shelter” means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog’s owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) “State of good health” means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) “Tethering” means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) “Water” means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, “stand” means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal’s adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the

defendant to submit additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 1 animal, the person is guilty of a misdemeanor punishable by 1 or more of the following *and may be ordered to pay the costs of prosecution:*

- (i) Imprisonment for not more than 93 days.
- (ii) A fine of not more than \$1,000.00.
- (iii) Community service for not more than 200 hours.

(b) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 2 or 3 animals or the death of any animal, the person is guilty of a misdemeanor punishable by 1 or more of the following *and may be ordered to pay the costs of prosecution:*

- (i) Imprisonment for not more than 1 year.
- (ii) A fine of not more than \$2,000.00.
- (iii) Community service for not more than 300 hours.

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person had 1 prior conviction under subsection (2), the person is guilty of a felony punishable by 1 or more of the following *and may be ordered to pay the costs of prosecution:*

- (i) Imprisonment for not more than 2 years.
- (ii) A fine of not more than \$2,000.00.
- (iii) Community service for not more than 300 hours.

(d) If the violation involved 10 or more animals or the person had 2 or more prior convictions for violating subsection (2), the person is guilty of a felony punishable by 1 or more of the following *and may be ordered to pay the costs of prosecution*:

(i) Imprisonment for not more than 4 years.

(ii) A fine of not more than \$5,000.00.

(iii) Community service for not more than 500 hours.

(5) The court may order a person convicted of violating subsection (2) to be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling. *The evaluation and counseling shall be at the defendant's own expense.*

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(7) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(8) *As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.*

(9) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time, including permanent relinquishment of animal ownership.

(10) A person who owns or possesses an animal in violation of an order issued under subsection (9) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (9) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.

(11) This section does not prohibit the lawful killing or other use of an animal, including the following:

- (a) Fishing.
- (b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (c) Horse racing.
- (d) The operation of a zoological park or aquarium.
- (e) Pest or rodent control regulated under part 83 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.
- (f) Farming or a generally accepted animal husbandry or farming practice involving livestock.
- (g) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.
- (h) Scientific research under 1969 PA 224, MCL 287.381 to 287.395.
- (i) Scientific research under sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

(12) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

MICH. COMP. LAWS § 750.50b(2012).Animal defined; prohibited acts; violation; penalty; exceptions.

- (1) As used in this section, “animal” means any vertebrate other than a human being.
- (2) Except as otherwise provided in this section, a person shall not do any of the following without just cause:
 - (a) Knowingly kill, torture, mutilate, maim, or disfigure an animal.
 - (b) Commit a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.
 - (c) Knowingly administer poison to an animal, or knowingly expose an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal.

(3) A person who violates subsection (2) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not more than \$5,000.00 for a single animal and \$2,500.00 for each additional animal involved in the violation, but not to exceed a total of \$20,000.00.

(c) Community service for not more than 500 hours.

(4) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(5) If a term of probation is ordered for a violation of subsection (2), the court may include as a condition of that probation that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(6) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsections, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and orders issued under that act.

(c) Pest or rodent control regulated under part 83 or the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(e) Section 19 of the dog law of 1919, 1919 PA 339, MCL 287.279.

(10) This section does not prohibit the lawful killing or use of an animal for scientific research under any of the following or a rule promulgated under any of the following:

(a) 1969 PA 224, MCL 287.381 to 287.395.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333.

(11) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.1883.

7. SEIZURE / ON-SITE SUPERVISION

MICH. COMP. LAWS §750.53 (2012). Arrest of persons; seizure of animals.

Sec. 53. Arrest of persons and seizure of animals-Persons found violating any of the provisions of the preceding sections of this chapter may be arrested and held without warrant, in like manner as in the case of persons found breaking the peace, and it shall be the duty of the person making the arrest to seize all animals and fowls found in the keeping or custody of the person arrested, and which are then being used, or held for use in violation of any of the provisions of the preceding sections of this chapter, and the person making such seizure shall cause such animals or fowls to be at once delivered to a poundmaster of the city, village or township in which the same may be, and it shall be the duty of such poundmaster to receive such animals or fowls, and to hold the same and proceed in regard to them in all respects as provided by law in other cases of animals impounded.

MICH. COMP. LAWS §750.54(2012). Search warrants.

Sec. 54. When complaint is made, on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of the preceding sections of this chapter are being, or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or public officer, authorizing him to search such building or place and to arrest any person or persons engaged in violating any of the provisions of the preceding sections of this chapter, as well as any person or persons there present, and aiding or abetting therein, and to bring such person or persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to said magistrate every article or instrument found in said building or place especially designed or adapted to torture or inflict wounds upon any animal or to aid in the fighting or baiting of any animal; and unless within 10 days after the trial of the person or persons so arrested, the owner of said article or instrument shall show, to the satisfaction of said magistrate, that the same is not designed or adapted to the wounding or torture of animals, or if so designed or adapted, is not intended to be used or employed for such purpose, the magistrate shall destroy such article or instrument.

8. FORFEITURE / POSSESSION

MICH. COMP. LAWS § 750.50(2012).Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care, etc.; penalties; multiple prosecutions; payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) “Adequate care” means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) “Animal” means any vertebrate other than a human being.

(c) “Animal protection shelter” means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

(d) “Animal control shelter” means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) “Licensed veterinarian” means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) “Livestock” means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) “Person” means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) “Neglect” means to fail to sufficiently and properly care for an animal to the extent that the animal’s health is jeopardized.

(i) “Sanitary conditions” means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) “Shelter” means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog’s owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) “State of good health” means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) “Tethering” means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) “Water” means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, “stand” means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal’s adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the

defendant to submit additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 1 animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 93 days.
- (ii) A fine of not more than \$1,000.00.
- (iii) Community service for not more than 200 hours.

(b) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 2 or 3 animals or the death of any animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 1 year.
- (ii) A fine of not more than \$2,000.00.
- (iii) Community service for not more than 300 hours.

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person had 1 prior conviction under subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

- (i) Imprisonment for not more than 2 years.
- (ii) A fine of not more than \$2,000.00.
- (iii) Community service for not more than 300 hours.

(d) If the violation involved 10 or more animals or the person had 2 or more prior convictions for violating subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 4 years.

(ii) A fine of not more than \$5,000.00.

(iii) Community service for not more than 500 hours.

(5) The court may order a person convicted of violating subsection (2) to be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling. The evaluation and counseling shall be at the defendant's own expense.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(7) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(8) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(9) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time, including permanent relinquishment of animal ownership.

(10) A person who owns or possesses an animal in violation of an order issued under subsection (9) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (9) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.

(11) This section does not prohibit the lawful killing or other use of an animal, including the following:

- (a) Fishing.
- (b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
- (c) Horse racing.
- (d) The operation of a zoological park or aquarium.
- (e) Pest or rodent control regulated under part 83 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324. 8336.
- (f) Farming or a generally accepted animal husbandry or farming practice involving livestock.
- (g) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.
- (h) Scientific research under 1969 PA 224, MCL 287.381 to 287.395.
- (i) Scientific research under sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

(12) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

MICH. COMP. LAWS § 750.50b(2012).Animal defined; prohibited acts; violation; penalty; exceptions.

- (1) As used in this section, “animal” means any vertebrate other than a human being.
- (2) Except as otherwise provided in this section, a person shall not do any of the following without just cause:
 - (a) Knowingly kill, torture, mutilate, maim, or disfigure an animal.
 - (b) Commit a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.
 - (c) Knowingly administer poison to an animal, or knowingly expose an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal.

(3) A person who violates subsection (2) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not more than \$5,000.00 for a single animal and \$2,500.00 for each additional animal involved in the violation, but not to exceed a total of \$20,000.00.

(c) Community service for not more than 500 hours.

(4) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(5) If a term of probation is ordered for a violation of subsection (2), the court may include as a condition of that probation that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(6) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsections, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and orders issued under that act.

(c) Pest or rodent control regulated under part 83 or the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(e) Section 19 of the dog law of 1919, 1919 PA 339, MCL 287.279.

(10) This section does not prohibit the lawful killing or use of an animal for scientific research under any of the following or a rule promulgated under any of the following:

(a) 1969 PA 224, MCL 287.381 to 287.395.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333.

(11) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.1883.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

MICH. COMP. LAWS §333.18827 (2012).Veterinarian or veterinary technician; reporting animal to be abandoned, neglected, or abused; immunity.

Sec. 18827.A veterinarian or veterinary technician who in good faith reports to a peace officer, an animal control officer, or an officer of a private organization devoted to the humane treatment of animals an animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected, or abused is immune from civil or criminal liability for making the report.

11. LAW ENFORCEMENT POLICIES

MICH. COMP. LAWS §750.52(2012).Duty of public officers.

Sec. 52. It shall also be the duty of all sheriffs, deputy sheriffs, constables, policemen and public officers, to arrest and prosecute all persons of whose violation of the provisions of the preceding sections of this chapter they may have knowledge or reasonable notice, and for each neglect of such duty, the officer so offending shall be deemed guilty of a misdemeanor.

MICH. COMP. LAWS §750.54(2012). Search warrants.

Sec. 54. When complaint is made, on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of the preceding sections of this chapter are being, or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or public officer, authorizing him to search such building or place and to arrest any person or persons engaged in violating any of the provisions of the preceding sections of this chapter, as well as any person or persons there present, and aiding or abetting therein, and to bring such person or persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to said magistrate every article or instrument found in said building or place especially designed or adapted to torture or inflict wounds upon any animal or to aid in the fighting or baiting of any animal; and unless within 10 days after the trial of the person or persons so arrested, the owner of said article or instrument shall show, to the satisfaction of said magistrate, that the same is not designed or adapted to the wounding or torture of animals, or if so designed or adapted, is not intended to be used or employed for such purpose, the magistrate shall destroy such article or instrument.

MICH. COMP. LAWS §750.55(2012).Incorporated society, representative deputy sheriff.

Sec. 55. Any society incorporated in this state for the purpose of preventing cruelty to animals may designate 1 or more persons in each county of the state to discover and prosecute all cases of the violation of the provisions of this chapter; and the sheriff of such county may appoint each person so designated a deputy sheriff, provided such person shall be of good moral character, and each person so appointed by the sheriff shall possess all the powers of a sheriff of the county in enforcement of the provisions of this chapter. The sheriff shall not be responsible for any of the acts of such person or persons, but the society, if incorporated, and if not, then the officers and members of the society, on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent.

12. SEXUAL ASSAULT

MICH. COMP. LAWS §750.158 (2012).Crime against nature or sodomy; penalty.

Sec. 158. Any person who shall commit the abominable and detestable crime against nature either with mankind or with any animal shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

13. FIGHTING

MICH. COMP. LAWS § 750.49 (2012). Animal; definition; fighting, baiting, or shooting; prohibited conduct; violation as felony; costs; dog trained or used for fighting or offspring of dog trained or used for fighting; prohibited conduct; exceptions; confiscation of dog; award of dog to animal welfare agency; euthanasia; expenses; forfeiture of animals, equipment, devices, and money; disposition of money seized; additional exceptions.

Sec. 49.

(1) As used in this section, “animal” means a vertebrate other than a human.

(2) A person shall not knowingly do any of the following:

(a) Own, possess, use, buy, sell, offer to buy or sell, import, or export an animal for fighting or baiting, or as a target to be shot at as a test of skill in marksmanship.

(b) Be a party to or cause the fighting, baiting, or shooting of an animal as described in subdivision (a).

(c) Rent or otherwise obtain the use of a building, shed, room, yard, ground, or premises for fighting, baiting, or shooting an animal as described in subdivision (a).

(d) Permit the use of a building, shed, room, yard, ground, or premises belonging to him or her or under his or her control for any of the purposes described in this section.

(e) Organize, promote, or collect money for the fighting, baiting, or shooting of an animal as described in subdivisions (a) to (d).

(f) Be present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition described in subdivisions (a) to (d), or be present at the exhibition, knowing that an exhibition is taking place or about to take place.

(g) Breed, buy, sell, offer to buy or sell, exchange, import, or export an animal the person knows has been trained or used for fighting as described in subdivisions (a) to (d), or breed, buy, sell, offer to buy or sell, exchange, import, or export the offspring of an animal the person knows has been trained or used for fighting as described in subdivisions (a) to (d). This subdivision does not prohibit owning, breeding, buying, selling, offering to buy or sell, exchanging, importing, or exporting an animal for agricultural or agricultural exposition purposes.

(h) Own, possess, use, buy, sell, offer to buy or sell, transport, or deliver any device or equipment intended for use in the fighting, baiting, or shooting of an animal as described in subdivisions (a) to (d).

(3) A person who violates subsection (2)(a) to (e) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not less than \$5,000.00 or more than \$50,000.00.

(c) Not less than 500 or more than 1,000 hours of community service.

(4) A person who violates subsection (2)(f) to (h) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not less than \$1,000.00 or more than \$5,000.00.

(c) Not less than 250 or more than 500 hours of community service.

(5) The court may order a person convicted of violating this section to pay the costs of prosecution.

(6) The court may order a person convicted of violating this section to pay the costs for housing and caring for the animal, including, but not limited to, providing veterinary medical treatment.

(7) As part of the sentence for a violation of subsection (2), the court shall order the person convicted not to own or possess an animal of the same species involved in the violation of this section for 5 years after the date of sentencing. Failure to comply with the order of the court pursuant to this subsection is punishable as contempt of court.

(8) If a person incites an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting to attack a person and thereby causes the death of that person, the owner is guilty of a felony punishable by imprisonment for life or for a term of years greater than 15 years.

(9) If a person incites an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting to attack a person, but the attack does not result in the death of the person, the owner is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(10) If an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting attacks a person without provocation and causes the death of that person, the owner of the animal is guilty of a felony punishable by imprisonment for not more than 15 years.

(11) If an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting attacks a person without provocation, but the attack does not cause the death of the person, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(12) Subsections (8) to (11) do not apply if the person attacked was committing or attempting to commit an unlawful act on the property of the owner of the animal.

(13) If an animal trained or used for fighting or an animal that is the first or second generation offspring of a dog trained or used for fighting goes beyond the property limits of its owner without being securely restrained, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 nor more than \$500.00, or both.

(14) If an animal trained or used for fighting or an animal that is the first or second generation offspring of a dog trained or used for fighting is not securely enclosed or restrained on the owner's property, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(15) Subsections (8) to (14) do not apply to any of the following:

(a) A dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, that is used by a law enforcement agency of the state or a county, city, village, or township.

(b) A certified leader dog recognized and trained by a national guide dog association for the blind or for persons with disabilities.

(c) A corporation licensed under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083, when a dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, is used in accordance with the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083.

(16) An animal that has been used to fight in violation of this section or that is involved in a violation of subsections (8) to (14) shall be confiscated as contraband by a law enforcement officer and shall not be returned to the owner, trainer, or possessor of the animal. The animal shall be taken to a local humane society or other animal welfare agency. If an animal owner, trainer, or possessor is convicted of violating subsection (2) or subsections (8) to (14), the court shall award the animal involved in the violation to the local humane society or other animal welfare agency.

(17) Upon receiving an animal confiscated under this section, or at any time thereafter, an appointed veterinarian, the humane society, or other animal welfare agency may humanely euthanize the animal if, in the opinion of that veterinarian, humane society, or other animal welfare agency, the animal is injured or diseased past recovery or the animal's continued existence is inhumane so that euthanasia is necessary to relieve pain and suffering.

(18) A humane society or other animal welfare agency that receives an animal under this section shall apply to the district court or municipal court for a hearing to determine whether the animal shall be humanely euthanized because of its lack of any useful purpose and the public safety threat it poses. The court shall hold a hearing not more than 30 days after the filing of the application and shall give notice of the hearing to the owner of the animal. Upon a finding by the court that the animal lacks any useful purpose and poses a threat to public safety, the humane society or other animal welfare agency shall humanely euthanize the animal. Expenses incurred in connection with the housing, care, upkeep, or euthanasia of the animal by a humane society or other animal welfare agency, or by a person, firm, partnership, corporation, or other entity, shall be assessed against the owner of the animal.

(19) Subject to subsections (16) to (18), all animals being used or to be used in fighting, equipment, devices and money involved in a violation of subsection (2) shall be forfeited to the state. All other instrumentalities, proceeds, and substituted proceeds of a violation of subsection (2) are subject to forfeiture under chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

(20) The seizing agency may deposit money seized under subsection (19) into an interest-bearing account in a financial institution. As used in this subsection, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(21) An attorney for a person who is charged with a violation of subsection (2) involving or related to money seized under subsection (19) shall be afforded a period of 60 days within which to examine that money. This 60-day period shall begin to run after notice of forfeiture is given but before the money is deposited into a financial institution under subsection (20). If the attorney general, prosecuting attorney, or city or township attorney fails to sustain his or her burden of proof in forfeiture proceedings under subsection (19), the court shall order the return of the money, including any interest earned on money deposited into a financial institution under subsection (20).

(22) This section does not apply to conduct that is permitted by and is in compliance with any of the following:

(a) Part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.

(b) Part 435 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

(c) Part 427 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

(d) Part 417 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

(23) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.

MICH. COMP. LAWS § 777.16b (2012). Application of chapter to Michigan Compiled Laws chapter 750, sections 750.49 to 750.68; enumerated felonies.

Sec. 16b. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
750.49(2)(f)	Pub ord	H	Attending animal fight	4
750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
750.49(9)	Person	F	Inciting fighting animal to attack	4
750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
750.50(4)(c)	Pub ord	G	Animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with 1 prior conviction	2
750.50(4)(d)	Pub ord	F	Animal neglect or cruelty involving 10 or more animals or with 2 or more prior convictions	4
750.50b(2)	Property	F	Killing or torturing animals	4
750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
750.68	Property	G	Changing brands with intent to steal	4

14. REFERENCED STATUTES

MICH. COMP. LAWS §333.18827 (2012).Veterinarian or veterinary technician; reporting animal to be abandoned, neglected, or abused; immunity.

Sec. 18827. A veterinarian or veterinary technician who in good faith reports to a peace officer, an animal control officer, or an officer of a private organization devoted to the humane treatment of animals an animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected, or abused is immune from civil or criminal liability for making the report.

MICH. COMP. LAWS §750.49(2012).Animal; definition; fighting, baiting, or shooting; prohibited conduct; violation as felony; costs; dog trained or used for fighting or offspring of dog trained or used for fighting; prohibited conduct; exceptions; confiscation of dog; award of dog to animal welfare agency; euthanasia; expenses; forfeiture of animals, equipment, devices, and money; disposition of money seized; additional exceptions.

Sec. 49.

(1) As used in this section, “animal” means a vertebrate other than a human.

(2) A person shall not knowingly do any of the following:

(a) Own, possess, use, buy, sell, offer to buy or sell, import, or export an animal for fighting or baiting, or as a target to be shot at as a test of skill in marksmanship.

(b) Be a party to or cause the fighting, baiting, or shooting of an animal as described in subdivision (a).

(c) Rent or otherwise obtain the use of a building, shed, room, yard, ground, or premises for fighting, baiting, or shooting an animal as described in subdivision (a).

(d) Permit the use of a building, shed, room, yard, ground, or premises belonging to him or her or under his or her control for any of the purposes described in this section.

(e) Organize, promote, or collect money for the fighting, baiting, or shooting of an animal as described in subdivisions (a) to (d).

(f) Be present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition described in subdivisions (a) to (d), or be present at the exhibition, knowing that an exhibition is taking place or about to take place.

(g) Breed, buy, sell, offer to buy or sell, exchange, import, or export an animal the person knows has been trained or used for fighting as described in subdivisions (a) to (d), or breed, buy, sell, offer to buy or sell, exchange, import, or export the offspring of an animal the person knows has been trained or used for fighting as described in subdivisions (a) to (d). This subdivision does not prohibit owning, breeding, buying, selling, offering to buy or sell, exchanging, importing, or exporting an animal for agricultural or agricultural exposition purposes.

(h) Own, possess, use, buy, sell, offer to buy or sell, transport, or deliver any device or equipment intended for use in the fighting, baiting, or shooting of an animal as described in subdivisions (a) to (d).

(3) A person who violates subsection (2)(a) to (e) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not less than \$5,000.00 or more than \$50,000.00.

(c) Not less than 500 or more than 1,000 hours of community service.

(4) A person who violates subsection (2)(f) to (h) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not less than \$1,000.00 or more than \$5,000.00.

(c) Not less than 250 or more than 500 hours of community service.

(5) The court may order a person convicted of violating this section to pay the costs of prosecution.

(6) The court may order a person convicted of violating this section to pay the costs for housing and caring for the animal, including, but not limited to, providing veterinary medical treatment.

(7) As part of the sentence for a violation of subsection (2), the court shall order the person convicted not to own or possess an animal of the same species involved in the violation of this section for 5 years after the date of sentencing. Failure to comply with the order of the court pursuant to this subsection is punishable as contempt of court.

(8) If a person incites an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting to attack a person and thereby causes the death of that person, the owner is guilty of a felony punishable by imprisonment for life or for a term of years greater than 15 years.

(9) If a person incites an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting to attack a person, but the attack does not result in the death of the person, the owner is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(10) If an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting attacks a person without provocation and causes the death of that person, the owner of the animal is guilty of a felony punishable by imprisonment for not more than 15 years.

(11) If an animal trained or used for fighting or an animal that is the first or second generation offspring of an animal trained or used for fighting attacks a person without provocation, but the attack does not cause the death of the person, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(12) Subsections (8) to (11) do not apply if the person attacked was committing or attempting to commit an unlawful act on the property of the owner of the animal.

(13) If an animal trained or used for fighting or an animal that is the first or second generation offspring of a dog trained or used for fighting goes beyond the property limits of its owner without being securely restrained, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 nor more than \$500.00, or both.

(14) If an animal trained or used for fighting or an animal that is the first or second generation offspring of a dog trained or used for fighting is not securely enclosed or restrained on the owner's property, the owner is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(15) Subsections (8) to (14) do not apply to any of the following:

(a) A dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, that is used by a law enforcement agency of the state or a county, city, village, or township.

(b) A certified leader dog recognized and trained by a national guide dog association for the blind or for persons with disabilities.

(c) A corporation licensed under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083, when a dog trained or used for fighting, or the first or second generation offspring of a dog trained or used for fighting, is used in accordance with the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083.

(16) An animal that has been used to fight in violation of this section or that is involved in a violation of subsections (8) to (14) shall be confiscated as contraband by a law enforcement officer and shall not be returned to the owner, trainer, or possessor of the animal. The animal shall be taken to a local humane society or other animal welfare agency. If an animal owner, trainer, or possessor is convicted of violating subsection (2) or subsections (8) to (14), the court shall award the animal involved in the violation to the local humane society or other animal welfare agency.

(17) Upon receiving an animal confiscated under this section, or at any time thereafter, an appointed veterinarian, the humane society, or other animal welfare agency may humanely euthanize the animal if, in the opinion of that veterinarian, humane society, or other animal welfare agency, the animal is injured or diseased past recovery or the animal's continued existence is inhumane so that euthanasia is necessary to relieve pain and suffering.

(18) A humane society or other animal welfare agency that receives an animal under this section shall apply to the district court or municipal court for a hearing to determine whether the animal shall be humanely euthanized because of its lack of any useful purpose and the public safety threat it poses. The court shall hold a hearing not more than 30 days after the filing of the application and shall give notice of the hearing to the owner of the animal. Upon a finding by the court that the animal lacks any useful purpose and poses a threat to public safety, the humane society or other animal welfare agency shall humanely euthanize the animal. Expenses incurred in connection with the housing, care, upkeep, or euthanasia of the animal by a humane society or other animal welfare agency, or by a person, firm, partnership, corporation, or other entity, shall be assessed against the owner of the animal.

(19) Subject to subsections (16) to (18), all animals being used or to be used in fighting, equipment, devices and money involved in a violation of subsection (2) shall be forfeited to the state. All other instrumentalities, proceeds, and substituted proceeds of a violation of subsection (2) are subject to forfeiture under chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

(20) The seizing agency may deposit money seized under subsection (19) into an interest-bearing account in a financial institution. As used in this subsection, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(21) An attorney for a person who is charged with a violation of subsection (2) involving or related to money seized under subsection (19) shall be afforded a period of 60 days within which to examine that money. This 60-day period shall begin to run after notice of forfeiture is given but before the money is deposited into a financial institution under subsection (20). If the attorney general, prosecuting attorney, or city or township attorney fails to sustain his or her burden of proof in forfeiture proceedings under subsection (19), the court shall order the return of the money, including any interest earned on money deposited into a financial institution under subsection (20).

(22) This section does not apply to conduct that is permitted by and is in compliance with any of the following:

(a) Part 401 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119.

(b) Part 435 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43501 to 324.43561 .

(c) Part 427 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

(d) Part 417 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

(23) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.

MICH. COMP. LAWS §750.50(2012).Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care, etc.; penalties; multiple prosecutions; payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) “Adequate care” means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) “Animal” means any vertebrate other than a human being.

(c) “Animal protection shelter” means a facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization, for the care of homeless animals.

(d) “Animal control shelter” means a facility operated by a county, city, village, or township to impound and care for animals found in streets or otherwise at large contrary to any ordinance of the county, city, village, or township or state law.

(e) “Licensed veterinarian” means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) “Livestock” means that term as defined in the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

(g) “Person” means an individual, partnership, limited liability company, corporation, association, governmental entity, or other legal entity.

(h) “Neglect” means to fail to sufficiently and properly care for an animal to the extent that the animal’s health is jeopardized.

(i) “Sanitary conditions” means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include any condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) “Shelter” means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog’s owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) “State of good health” means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) “Tethering” means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) "Water" means potable water that is suitable for the age and species of animal that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, "stand" means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

(3) If an animal is impounded and is being held by an animal control shelter or its designee or an animal protection shelter or its designee or a licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter or animal protection shelter or to a licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the secretary of state in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the prosecuting attorney has the burden of establishing by a preponderance of the evidence that a violation of this section or section 50b occurred. If the court finds that the prosecuting attorney has met this burden, the court shall order immediate forfeiture of the animal to the animal control shelter or animal protection shelter or the licensed veterinarian unless the defendant, within 72 hours of the hearing, submits to the court clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to submit additional cash or security in an amount determined by the court to be sufficient to repay all additional reasonable costs anticipated to be incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal until the new date of trial. If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the animal control shelter or animal protection shelter or the licensed veterinarian in caring for the animal from the date of impoundment to the date of final disposition of the criminal charges. The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 1 animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 93 days.

(ii) A fine of not more than \$1,000.00.

(iii) Community service for not more than 200 hours.

(b) Except as otherwise provided in subdivisions (c) and (d), if the violation involved 2 or 3 animals or the death of any animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 1 year.

(ii) A fine of not more than \$2,000.00.

(iii) Community service for not more than 300 hours.

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person had 1 prior conviction under subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 2 years.

(ii) A fine of not more than \$2,000.00.

(iii) Community service for not more than 300 hours.

(d) If the violation involved 10 or more animals or the person had 2 or more prior convictions for violating subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 4 years.

(ii) A fine of not more than \$5,000.00.

(iii) Community service for not more than 500 hours.

(5) The court may order a person convicted of violating subsection (2) to be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling. The evaluation and counseling shall be at the defendant's own expense.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.

(7) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime including any other violation of law arising out of the same transaction as the violation of this section.

(8) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the care, housing, and veterinary medical care for the animal, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reason for that action.

(9) As a part of the sentence for a violation of subsection (2), the court may, as a condition of probation, order the defendant not to own or possess an animal for a period of time not to exceed the period of probation. If a person is convicted of a second or subsequent violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time, including permanent relinquishment of animal ownership.

(10) A person who owns or possesses an animal in violation of an order issued under subsection (9) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (9) is also subject to the civil and criminal contempt power of the court, and if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days, or by a fine of not more than \$500.00, or both.

(11) This section does not prohibit the lawful killing or other use of an animal, including the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(c) Horse racing.

(d) The operation of a zoological park or aquarium.

(e) Pest or rodent control regulated under part 83 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324. 8336.

(f) Farming or a generally accepted animal husbandry or farming practice involving livestock.

(g) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(h) Scientific research under 1969 PA 224, MCL 287.381 to 287.395.

(i) Scientific research under sections 2226, 2671, 2676, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

(12) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

MICH. COMP. LAWS §750.50b(2012).Animal defined; prohibited acts; violation; penalty; exceptions.

(1) As used in this section, “animal” means any vertebrate other than a human being.

(2) Except as otherwise provided in this section, a person shall not do any of the following without just cause:

(a) Knowingly kill, torture, mutilate, maim, or disfigure an animal.

(b) Commit a reckless act knowing or having reason to know that the act will cause an animal to be killed, tortured, mutilated, maimed, or disfigured.

(c) Knowingly administer poison to an animal, or knowingly expose an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal.

(3) A person who violates subsection (2) is guilty of a felony punishable by 1 or more of the following:

(a) Imprisonment for not more than 4 years.

(b) A fine of not more than \$5,000.00 for a single animal and \$2,500.00 for each additional animal involved in the violation, but not to exceed a total of \$20,000.00.

(c) Community service for not more than 500 hours.

(4) As a part of the sentence for a violation of subsection (2), the court may order the defendant to pay the costs of the prosecution and the costs of the care, housing, and veterinary medical care for the impacted animal victim, as applicable. If the court does not order a defendant to pay all of the applicable costs listed in this subsection, or orders only partial payment of these costs, the court shall state on the record the reasons for that action.

(5) If a term of probation is ordered for a violation of subsection (2), the court may include as a condition of that probation that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

(6) As a part of the sentence for a violation of subsection (2), the court may order the defendant not to own or possess an animal for any period of time determined by the court, which may include permanent relinquishment.

(7) A person who owns or possesses an animal in violation of an order issued under subsection (6) is subject to revocation of probation if the order is issued as a condition of probation. A person who owns or possesses an animal in violation of an order issued under subsection (6) is also subject to the civil and criminal contempt power of the court and, if found guilty of criminal contempt, may be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(8) This section does not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock. As used in this subsections, "livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(9) This section does not prohibit the lawful killing of an animal pursuant to any of the following:

(a) Fishing.

(b) Hunting, trapping, or wildlife control regulated under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and orders issued under that act.

(c) Pest or rodent control regulated under part 83 or the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336.

(d) Activities authorized under rules promulgated under section 9 of the executive organization act of 1965, 1965 PA 380, MCL 16.109.

(e) Section 19 of the dog law of 1919, 1919 PA 339, MCL 287.279.

(10) This section does not prohibit the lawful killing or use of an animal for scientific research under any of the following or a rule promulgated under any of the following:

(a) 1969 PA 224, MCL 287.381 to 287.395.

(b) Sections 2226, 2671, 2676, 7109, and 7333 of the public health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, 333.7109, and 333.7333.

(11) This section does not apply to a veterinarian or a veterinary technician lawfully engaging in the practice of veterinary medicine under part 188 of the public health code, 1978 PA 368, MCL 333.18801 to 333.1883.

MICH. COMP. LAWS §750.52(2012).Duty of public officers.

Sec. 52. It shall also be the duty of all sheriffs, deputy sheriffs, constables, policemen and public officers, to arrest and prosecute all persons of whose violation of the provisions of the preceding sections of this chapter they may have knowledge or reasonable notice, and for each neglect of such duty, the officer so offending shall be deemed guilty of a misdemeanor.

MICH. COMP. LAWS §750.53 (2012).Arrest of persons; seizure of animals.

Sec. 53. Arrest of persons and seizure of animals-Persons found violating any of the provisions of the preceding sections of this chapter may be arrested and held without warrant, in like manner as in the case of persons found breaking the peace, and it shall be the duty of the person making the arrest to seize all animals and fowls found in the keeping or custody of the person arrested, and which are then being used, or held for use in violation of any of the provisions of the preceding sections of this chapter, and the person making such seizure shall cause such animals or fowls to be at once delivered to a poundmaster of the city, village or township in which the same may be, and it shall be the duty of such poundmaster to receive such animals or fowls, and to hold the same and proceed in regard to them in all respects as provided by law in other cases of animals impounded.

MICH. COMP. LAWS §750.54(2012). Search warrants.

Sec. 54. When complaint is made, on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of the preceding sections of this chapter are being, or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or public officer, authorizing him to search such building or place and to arrest any person or persons engaged in violating any of the provisions of the preceding sections of this chapter, as well as any person or persons there present, and aiding or abetting therein, and to bring such person or persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to said magistrate every article or instrument found in said building or place especially designed or adapted to torture or inflict wounds upon any animal or to aid in the fighting or baiting of any animal; and unless within 10 days after the trial of the person or persons so arrested, the owner of said article or instrument shall show, to the satisfaction of said magistrate, that the same is not designed or adapted to the wounding or torture of animals, or if so designed or adapted, is not intended to be used or employed for such purpose, the magistrate shall destroy such article or instrument.

MICH. COMP. LAWS §750.55(2012).Incorporated society, representative deputy sheriff.

Sec. 55. Any society incorporated in this state for the purpose of preventing cruelty to animals may designate 1 or more persons in each county of the state to discover and prosecute all cases of the violation of the provisions of this chapter; and the sheriff of such county may appoint each person so designated a deputy sheriff, provided such person shall be of good moral character, and each person so appointed by the sheriff shall possess all the powers of a sheriff of the county in enforcement of the provisions of this chapter. The sheriff shall not be responsible for any of the acts of such person or persons, but the society, if incorporated, and if not, then the officers and members of the society, on the request of which such person was appointed, shall be liable in the degree of a principal for the acts of an agent.

MICH. COMP. LAWS § 750.56 (2012). Definitions.

Sec. 56. In the preceding sections of this chapter the word “animal” or “animals” shall be held to include all brute creatures, and the words “owner”, “person”, and “whoever” shall be held to include corporations as well as individuals, and the knowledge and acts of agents of any persons employed by corporations in regard to animals transported, owned, or employed by, or in the custody of such corporations, shall be held to be the acts and knowledge of such corporations.

MICH. COMP. LAWS §750.158 (2012).Crime against nature or sodomy; penalty.

Sec. 158. Any person who shall commit the abominable and detestable crime against nature either with mankind or with any animal shall be guilty of a felony, punishable by imprisonment in the state prison not more than 15 years, or if such person was at the time of the said offense a sexually delinquent person, may be punishable by imprisonment in the state prison for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life.

MICH. COMP. LAWS § 777.16b (2012). Application of chapter to Michigan Compiled Laws chapter 750, sections 750.49 to 750.68; enumerated felonies.

Sec. 16b. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.49(2)(a) to (d)	Pub ord	F	Fighting animals or providing facilities for animal fights	4
750.49(2)(e)	Pub ord	F	Organizing or promoting animal fights	4
750.49(2)(f)	Pub ord	H	Attending animal fight	4
750.49(2)(g)	Pub ord	F	Breeding or selling fighting animals	4
750.49(2)(h)	Pub ord	F	Selling or possessing equipment for animal fights	4
750.49(8)	Person	A	Inciting fighting animal resulting in death	Life
750.49(9)	Person	F	Inciting fighting animal to attack	4
750.49(10)	Person	D	Fighting animal attacking without provocation and death resulting	15
750.50(4)(c)	Pub ord	G	Animal neglect or cruelty involving 4 or more animals but fewer than 10 animals or with 1 prior conviction	2
750.50(4)(d)	Pub ord	F	Animal neglect or cruelty involving 10 or more animals or with 2 or more prior convictions	4
750.50b(3)	Property	F	Killing or torturing animals	4
750.50c(5)	Pub ord	E	Killing or causing serious physical harm to law enforcement animal or search and rescue dog	5
750.50c(7)	Pub saf	H	Harassing or causing harm to law enforcement animal or search and rescue dog while committing crime	2
750.68	Property	G	Changing brands with intent to steal	4

ANIMAL PROTECTION LAWS OF MINNESOTA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Minnesota's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Minnesota may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MINNESOTA

1. GENERAL PROHIBITIONS*	(1) General cruelty MINN. STAT.§ 343.21 (2) Poisoning animals MINN. STAT.§ 343.27 (3) Injury to birds MINN. STAT.§ 343.30
<i>Animals Covered in Definition</i>	“[E]very living creature except members of the human race” MINN. STAT.§ 343.20, subd. 2
<i>Classification of Crimes</i>	<u>(1)(a)</u> 1 st offense: <i>Misdemeanor</i> <u>(1)(b)</u> 2 nd or subsequent offense involving torture [Subd. 1] or cruelty [Subd. 7] within five years of a previous violation of Subd. 1 or 7: <i>Gross misdemeanor</i> <u>(1)(c)</u> 1 st offense involving torture [Subd. 1] or cruelty [Subd. 7] when done intentionally, resulting in substantial bodily harm to a pet or companion animal: <i>Gross misdemeanor</i>

MINNESOTA*continued*

Classification of Crimes continued

(1)(d)

An offense involving torture [Subd. 1] or cruelty [Subd. 7] when done intentionally, resulting in substantial bodily harm to a pet or companion animal within five years of a previous gross misdemeanor or felony violation of this section:

Felony

(1)(e)

An offense involving torture [Subd. 1] or cruelty [Subd. 7] when done intentionally, resulting in death or great bodily harm to a pet or companion animal:

Felony

(1)(f)

An offense involving torture [Subd. 1] or cruelty [Subd. 7] when done intentionally, resulting in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person:

Felony

(1)(g)

An offense involving torture [Subd. 1] or cruelty [Subd. 7] when done intentionally, resulting in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person:

Felony

(2)

Gross misdemeanor

(3)

Petty misdemeanor

MINNESOTA*continued*

2. MAXIMUM PENALTIES**

(1)(a):
90 days imprisonment
and/or
\$1,000 fine
MINN. STAT. § 609.03(3)

(1)(b):
1 year imprisonment
and/or
\$3,000 fine
MINN. STAT. § 609.03(2)

(1)(c):
1 year imprisonment
and/or
\$3,000 fine
MINN. STAT. § 343.21, subd. 9(b)

(1)(d):
2 years imprisonment
and/or
\$5,000 fine
MINN. STAT. § 343.21, subd. 9(c)

(1)(e):
2 years imprisonment
and/or
\$5,000 fine
MINN. STAT. § 343.21, subd. 9(d)

(1)(f):
2 years imprisonment
and/or
\$5,000 fine
MINN. STAT. § 343.21, subd. 9(g)

MINNESOTA*continued*

2. MAXIMUM PENALTIES <i>continued</i> **	(1)(g): 4 years imprisonment <i>and/or</i> \$10,000 fine MINN. STAT. § 343.21, subd. 9(i) ----- (2) 1 year imprisonment <i>and/or</i> \$3,000 fine MINN. STAT. § 609.03(2) ----- (3) \$300 fine MINN. STAT. § 609.02, subd. 4a
3. EXEMPTIONS ***	9 MINN. STAT. § 343.21, subd. 9
4. COUNSELING / EVALUATIONS ^H	Court may order counseling upon conviction. MINN. STAT. § 343.21, subd. 10(4)
5. PROTECTIVE ORDERS ^H	MINN. STAT. §§518B.01, subd. 6(a)(14),(15); subd. 7(a)(6),(7)

MINNESOTA*continued*

**6. RESTITUTION / REIMBURSEMENT
OF COSTS / BONDING & LIENS^H**

Authority taking custody of animals may recover all costs.

MINN. STAT. § 343.22, subd. 3

County may recover all expenses upon conviction.

MINN. STAT. § 343.23

Security may be posted to prevent disposition of the animal.

MINN. STAT. § 343.235, subd. 2

Person claiming interest in animal is liable for costs of care.

MINN. STAT. § 343.235, subd. 3(d)

Person possessing seized animal shall have a lien for costs of care.

MINN. STAT. § 343.29

MINNESOTA*continued*

7. SEIZURE / ON-SITE SUPERVISION

Peace officers must take possession of animals that have been cruelly treated.
MINN. STAT.§ 343.12

Any person with probable cause can apply for a warrant for investigation, which shall be issued to a peace officer; court may order vet to accompany officer.
MINN. STAT.§ 343.22, subd. 1

Peace officer may seize animals designated in search warrant.
MINN. STAT.§ 343.22, subd. 2

Animals raised for food or fiber cannot be seized without a veterinary exam.
MINN. STAT.§ 343.235, subd. 1

Peace officers, animal control officers, or humane agents may seize animals not properly sheltered or fed.
MINN. STAT.§ 343.29, subd. 1

MINNESOTA*continued*

<p>8. FORFEITURE / POSSESSION^H</p>	<p>Pets and companion animals that were not seized shall be forfeited upon conviction unless the court determines that the person is fit to provide care; court may impose other conditions, including period of probation during which the person may not possess animals. MINN. STAT.§ 343.21, subd. 10</p> <p>Seized animals that are suffering and beyond cure through reasonable care and treatment may be immediately euthanized. MINN. STAT.§§ 343.22, subd. 3; 343.29, subd.2</p> <p>Seized animals may be forfeited if owner fails to post security, or if court finds following a hearing that the person claiming an interest in animal is unfit to provide adequate care. MINN. STAT.§ 343.235</p> <p>If owner is not known and not easily ascertainable or fails to post a bond, animals may be forfeited. MINN. STAT.§ 343.29, subd.1</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>If animal is abandoned with a veterinarian, after ten days veterinarian may be relieved of any liability for disposal of animal. MINN. STAT.§ 346.37, subd. 1(c),(d),(e)</p> <p>Veterinarians must report known or suspected cases of abuse, cruelty, or neglect. MINN. STAT.§ 346.37, subd. 6</p>

MINNESOTA*continued*

<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Humane agents may be appointed to investigate cruelty. MINN. STAT.§ 343.01</p> <p>Peace officers have a duty to investigate suspected violations, arrest any person found violating the law, and seize cruelly treated animals. MINN. STAT.§ 343.12</p> <p>Any person with probable cause can apply for a warrant for investigation, which shall be issued to a peace officer; court may order vet to accompany officer. MINN. STAT.§ 343.22, subd. 1</p> <p>Peace officer may seize animals designated in search warrant. MINN. STAT.§ 343.22, subd. 2</p>
<p>12. SEXUAL ASSAULT</p>	<p>The sexual assault of an animal is a misdemeanor; if committed in the presence of another person, the offense is a gross misdemeanor. MINN. STAT.§ 609.294</p>
<p>13. FIGHTING</p>	<p>Various animal fighting activities are felonies; being a spectator at an animal fight is a gross misdemeanor. MINN. STAT.§ 343.31</p>
<p><i>Other Felony Provisions Affecting Animals¹</i></p>	<p>Killing or harming a public safety dog MINN. STAT.§ 609.596</p>
<p>NOTES</p>	<p><i>See also</i>“Pet and Companion Animal Welfare Act” MINN. STAT.§ 346.35 et. seq.</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

MINN. STAT. §343.20 (2012). Definitions.

Subdivision 1. *Application.* Except as otherwise indicated by the context, for purposes of sections 343.20 to 343.36, the terms defined in this section have the meanings given them.

Subd. 2. *Animal.* “Animal” means every living creature except members of the human race.

Subd. 3. *Torture; cruelty.* “Torture” or “cruelty” means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.

Subd. 4. *Impure milk.* “Impure and unwholesome milk” means all milk obtained from diseased or unhealthy animals, or from animals fed on any substance which is putrefied or fermented.

Subd. 5. *Animal control officer.* “Animal control officer” means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

Subd. 6. *Pet or companion animal.* “Pet or companion animal” includes any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal.

Subd. 7. *Service animal.* “Service animal” means an animal trained to assist a person with a disability.

Subd. 8. *Substantial bodily harm.* “Substantial bodily harm” means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet or companion animal.

Subd. 9. *Great bodily harm.* “Great bodily harm” means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet or companion animal.

MINN. STAT. §343.21 (2012). Overworking or mistreating animals; penalty.

Subdivision 1. *Torture.* No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. *Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.*

Subd. 3. *Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.*

Subd. 4. *Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.*

Subd. 5. *Abandonment. No person shall abandon any animal.*

Subd. 6. *Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.*

Subd. 7. *Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.*

Subd. 8. *Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.*

Subd. 8a. *Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves:*

- (1) cause bodily harm to the animal; or
- (2) otherwise render the animal unable to perform its duties.

Subd. 9. *Penalty.*

(a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies.

(a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

Subd. 10. Restrictions. If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;
- (2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;
- (3) requiring performance by the person of community service; and
- (4) requiring the person to receive psychological, behavioral, or other counseling.

MINN. STAT. § 343.27 (2012). Poisoning animals.

Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits it to be done, or unjustifiably exposes that drug or substance with intent that the drug be taken by any animal, whether the animal is the property of the person or another, is guilty of a gross misdemeanor.

MINN. STAT. § 343.30 (2012). Injury to birds.

A person who in any manner maliciously maims, kills, or destroys any bird designated as unprotected by section 97A.015, subdivision 52, or who maliciously destroys the nests or eggs of any such bird shall be guilty of a petty misdemeanor.

2. PENALTIES

MINN. STAT. §343.21 (2012). Overworking or mistreating animals; penalty.

Subdivision 1. Torture. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

Subd. 7. Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

Subd. 8a. Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves:

- (1) cause bodily harm to the animal; or
- (2) otherwise render the animal unable to perform its duties.

Subd. 9. Penalty.

(a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies.

(a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or

retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

Subd. 10. Restrictions. If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;
- (2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;
- (3) requiring performance by the person of community service; and
- (4) requiring the person to receive psychological, behavioral, or other counseling.

MINN. STAT. § 609.02 (2012). Definitions.

Subdivision 1. Crime.

“Crime” means conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Subd. 2. Felony.

“Felony” means a crime for which a sentence of imprisonment for more than one year may be imposed.

Subd. 2a.

[Repealed, 1999 c 194 s 11]

Subd. 3. Misdemeanor.

“Misdemeanor” means a crime for which a sentence of not more than 90 days or a fine of not more than \$1,000, or both, may be imposed.

Subd. 4. Gross misdemeanor.

“Gross misdemeanor” means any crime which is not a felony or misdemeanor. The maximum fine which may be imposed for a gross misdemeanor is \$3,000.

Subd. 4a. Petty misdemeanor.

“Petty misdemeanor” means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than \$300 may be imposed.

Subd. 5. Conviction.

“Conviction” means any of the following accepted and recorded by the court:

(1) A plea of guilty; or

(2) A verdict of guilty by a jury or a finding of guilty by the court.

Subd. 6. Dangerous weapon.

“Dangerous weapon” means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm.

As used in this subdivision, “flammable liquid” means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit but does not include intoxicating liquor as defined in section 340A.101. As used in this subdivision, “combustible liquid” is a liquid having a flash point at or above 100 degrees Fahrenheit.

Subd. 7. Bodily harm.

“Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

Subd. 7a. Substantial bodily harm.

“Substantial bodily harm” means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Subd. 8. Great bodily harm.

“Great bodily harm” means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Subd. 9. Mental state.

(1) When criminal intent is an element of a crime in this chapter, such intent is indicated by the term “intentionally,” the phrase “with intent to,” the phrase “with intent that,” or some form of the verbs “know” or “believe.”

(2) “Know” requires only that the actor believes that the specified fact exists.

(3) “Intentionally” means that the actor either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result. In addition, except as provided in clause (6), the actor must have knowledge of those facts which are necessary to make the actor’s conduct criminal and which are set forth after the word “intentionally.”

(4) “With intent to” or “with intent that” means that the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.

(5) Criminal intent does not require proof of knowledge of the existence or constitutionality of the statute under which the actor is prosecuted or the scope or meaning of the terms used in that statute.

(6) Criminal intent does not require proof of knowledge of the age of a minor even though age is a material element in the crime in question.

Subd. 10. Assault.

“Assault” is:

(1) an act done with intent to cause fear in another of immediate bodily harm or death; or

(2) the intentional infliction of or attempt to inflict bodily harm upon another.

Subd. 11. Second or subsequent violation or offense.

“Second or subsequent violation” or “second or subsequent offense” means that prior to the commission of the violation or offense, the actor has been adjudicated guilty of a specified similar violation or offense.

Subd. 12.

[Repealed, 1993 c 326 art 2 s 34]

Subd. 13.

[Repealed, 1993 c 326 art 2 s 34]

Subd. 14. Electronic monitoring device.

As used in sections 609.135, subdivision 5a, 611A.07, and 629.72, subdivision 2a, “electronic monitoring device” means a radio frequency transmitter unit that is worn at all times on the person of a defendant in conjunction with a receiver unit that is located in the victim’s residence or on the victim’s person. The receiver unit emits an audible and visible signal whenever the defendant with a transmitter unit comes within a designated distance from the receiver unit.

Subd. 15. Probation.

“Probation” means a court-ordered sanction imposed upon an offender for a period of supervision no greater than that set by statute. It is imposed as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation.

Subd. 16. Qualified domestic violence-related offense.

“Qualified domestic violence-related offense” includes a violation of or an attempt to violate sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.185 (first-degree murder); 609.19 (second-degree murder); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); 609.749 (stalking); 609.78, subdivision 2 (interference with an emergency call); and 629.75 (violation of domestic abuse no contact order); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

MINN. STAT. §609.03 (2012). Punishment when not otherwise fixed.

If a person is convicted of a crime for which no punishment is otherwise provided the person may be sentenced as follows:

(1) If the crime is a felony, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both; or

(2) *If the crime is a gross misdemeanor, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or*

(3) *If the crime is a misdemeanor, to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both; or*

(4) If the crime is other than a misdemeanor and a fine is imposed but the amount is not specified, to payment of a fine of not more than \$1,000, or to imprisonment for a specified term of not more than six months if the fine is not paid.

3. EXEMPTIONS

MINN. STAT. §343.21 (2012). Overworking or mistreating animals; penalty.

Subdivision 1. Torture. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

Subd. 7. Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. *The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.*

Subd. 8a. Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves:

- (1) cause bodily harm to the animal; or
- (2) otherwise render the animal unable to perform its duties.

Subd. 9. Penalty.

(a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies.

(a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or

retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

Subd. 10. Restrictions. If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;
- (2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;
- (3) requiring performance by the person of community service; and
- (4) requiring the person to receive psychological, behavioral, or other counseling.

4. COUNSELING / EVALUATIONS

MINN. STAT. §343.21 (2012). Overworking or mistreating animals; penalty.

Subdivision 1. Torture. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

Subd. 7. Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

Subd. 8a. Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves:

- (1) cause bodily harm to the animal; or
- (2) otherwise render the animal unable to perform its duties.

Subd. 9. Penalty.

(a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies.

(a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or

retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

Subd. 10. Restrictions. If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. *The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:*

(1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;

(2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;

(3) requiring performance by the person of community service; and

(4) *requiring the person to receive psychological, behavioral, or other counseling.*

5. PROTECTIVE ORDERS

MINN. STAT. § 518B.01 (2012).Domestic Abuse Act.

Subdivision 1.Short title.

This section may be cited as the “Domestic Abuse Act.”

Subd. 2.Definitions.

As used in this section, the following terms shall have the meanings given them:

(a) “Domestic abuse” means the following, if committed against a family or household member by a family or household member:

- (1) physical harm, bodily injury, or assault;
- (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
- (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

(b) “Family or household members” means:

- (1) spouses and former spouses;
- (2) parents and children;
- (3) persons related by blood;
- (4) persons who are presently residing together or who have resided together in the past;
- (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
- (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
- (7) persons involved in a significant romantic or sexual relationship.

Issuance of an order for protection on the ground in clause (6) does not affect a determination of paternity under sections 257.51 to 257.74. In determining whether persons are or have been

involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.

(c) “Qualified domestic violence-related offense” has the meaning given in section 609.02, subdivision 16.

Subd. 3. Court jurisdiction.

An application for relief under this section may be filed in the court having jurisdiction over dissolution actions, in the county of residence of either party, in the county in which a pending or completed family court proceeding involving the parties or their minor children was brought, or in the county in which the alleged domestic abuse occurred. There are no residency requirements that apply to a petition for an order for protection. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence in the action in the same manner and subject to the same limitations provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Subd. 3a. Filing fee.

The filing fees for an order for protection under this section are waived for the petitioner. The court administrator, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff or other law enforcement or corrections officer is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01. The court may direct a respondent to pay to the court administrator the petitioner’s filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner’s fees and costs.

Subd. 3b. Information on petitioner’s location or residence.

Upon the petitioner’s request, information maintained by the court regarding the petitioner’s location or residence is not accessible to the public and may be disclosed only to court personnel or law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

Subd. 4. Order for protection.

There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

- (a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (20), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.
- (b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.
- (c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.
- (d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.
- (e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.
- (f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.
- (g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.
- (h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.
- (i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised parenting time, as provided in section 518.175, subdivision 1a.

Subd. 5. Hearing on application; notice.

(a) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order for hearing unless an ex parte order is issued.

(b) If an ex parte order has been issued under subdivision 7 and the petitioner seeks only the relief under subdivision 7, paragraph (a), a hearing is not required unless:

(1) the court declines to order the requested relief; or

(2) one of the parties requests a hearing.

(c) If an ex parte order has been issued under subdivision 7 and the petitioner seeks relief beyond that specified in subdivision 7, paragraph (a), or if the court declines to order relief requested by the petitioner, a hearing must be held within seven days. Personal service of the ex parte order may be made upon the respondent at any time up to 12 hours prior to the time set for the hearing, provided that the respondent at the hearing may request a continuance of up to five days if served fewer than five days prior to the hearing which continuance shall be granted unless there are compelling reasons not to.

(d) If an ex parte order has been issued only granting relief under subdivision 7, paragraph (a), and the respondent requests a hearing, the hearing shall be held within ten days of the court's receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date no more than five days later.

(e) If for good cause shown either party is unable to proceed at the initial hearing and requests a continuance and the court finds that a continuance is appropriate, the hearing may be continued. Unless otherwise agreed by the parties and approved by the court, the continuance shall be for no more than five days. If the court grants the requested continuance, the court shall also issue a written order continuing all provisions of the ex parte order pending the issuance of an order after the hearing.

(f) Notwithstanding the preceding provisions of this subdivision, service on the respondent may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff or other law enforcement or corrections officer was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of

hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (d).

Subd. 6. Relief by court.

(a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;
- (4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;
- (5) on the same basis as is provided in chapter 518 or 518A, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518A;
- (6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;
- (7) order the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational program under section 518B.02;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to have no contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other means;

(11) order the abusing party to pay restitution to the petitioner;

(12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation;

(13) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or other law enforcement or corrections officer as provided by this section;

(14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and

(15) direct the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) Any relief granted by the order for protection shall be for a period not to exceed two years, except when the court determines a longer period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Subd. 6a. Subsequent orders and extensions.

(a) Upon application, notice to all parties, and hearing, the court may extend the relief granted in an existing order for protection or, if a petitioner's order for protection is no longer in effect when an application for subsequent relief is made, grant a new order. The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

(1) the respondent has violated a prior or existing order for protection;

(2) the petitioner is reasonably in fear of physical harm from the respondent;

(3) the respondent has engaged in the act of stalking within the meaning of section 609.749, subdivision 2; or

(4) the respondent is incarcerated and about to be released, or has recently been released from incarceration.

A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.

(b) Relief granted by the order for protection may be for a period of up to 50 years, if the court finds:

(1) the respondent has violated a prior or existing order for protection on two or more occasions; or

(2) the petitioner has had two or more orders for protection in effect against the same respondent.

An order issued under this paragraph may restrain the abusing party from committing acts of domestic abuse; or prohibit the abusing party from having any contact with the petitioner, whether in person, by telephone, mail or electronic mail or messaging, through electronic devices, through a third party, or by any other means.

Subd. 7. Ex parte order.

(a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:

- (1) restraining the abusing party from committing acts of domestic abuse;*
- (2) excluding any party from the dwelling they share or from the residence of the other, including a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order, except by further order of the court;*
- (3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;*
- (4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party;*
- (5) continuing all currently available insurance coverage without change in coverage or beneficiary designation;*
- (6) directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by a party or a child of a party; and*
- (7) directing the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.*

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11.

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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MINN. STAT. § 343.22 (2012). Investigation of cruelty complaints.

Subdivision 1. Reporting. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

Subd. 2. Police investigation. The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

Subd. 3. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. *The authority taking custody of the animals may recover all costs incurred under this section.*

MINN. STAT. § 343.23 (2012). Expenses of investigation.

The expenses of the investigation authorized by section 343.22, including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid by the county treasurer from the general fund of the county. If the person alleged to have violated section 343.21 is found guilty of the violation, the county shall have judgment against the guilty person for the amount of the expenses.

MINN. STAT. §343.235 (2012). Disposition of seized animals.

Subdivision 1. General rule. An animal taken into custody under section 343.12, 343.22, 343.29, or 343.31 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, provided that the procedures in subdivision 3 are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.

Subd. 2. *Security. A person claiming an interest in an animal in custody under subdivision 1 may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.*

Subd. 3. Notice; right to hearing.

(a) The authority taking custody of an animal under section 343.12, 343.22, 343.29, or 343.31 shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

(2) a statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(3) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing under this subdivision.

(b) Upon request of a person claiming an interest in the animal, which request must be made within ten days of the date of seizure, a hearing must be held within five business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under section 343.12, 343.29, or 343.31, the municipality taking custody of the animal or, in the case of a humane society, the municipality from which the animal was seized, may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of a hearing officer under this subdivision may seek a court order governing the seizure or impoundment within five days of notice of the order.

(c) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(1) the animal is physically fit; and

(2) the person claiming an interest in the animal can and will provide the care required by law for the animal.

(d) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before return of the animal to the person.

MINN. STAT. § 343.29 (2012). Exposure of animals; duty of officers.

Subdivision 1. Delivery to shelter. Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. *In all cases, the owner, if known, shall be immediately notified as provided in section 343.235, subdivision 3, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in section 343.235.*

Subd. 2. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of section 343.23.

7. SEIZURE / ON-SITE SUPERVISION

MINN. STAT. § 343.12 (2012). Duties of peace officers.

Upon application of any agent appointed by the federation or a county or district society, it shall be the duty of, any sheriff or the agent's deputy or any police officer to investigate any alleged violation of the law relative to cruelty to animals, and to arrest any person found violating those laws. It shall also be the duty of those officers to take possession of any animals in their respective jurisdictions which have been cruelly treated, and deliver the same to the proper officers of the county or district for custody and care.

MINN. STAT. § 343.22 (2012). Investigation of cruelty complaints.

Subdivision 1. Reporting. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

Subd. 2. Police investigation. The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

Subd. 3. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. The authority taking custody of the animals may recover all costs incurred under this section.

MINN. STAT. §343.235 (2012). Disposition of seized animals.

Subdivision 1. *General rule. An animal taken into custody under section 343.12, 343.22, 343.29, or 343.31 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, provided that the procedures in subdivision 3 are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.*

Subd. 2. Security. A person claiming an interest in an animal in custody under subdivision 1 may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.

Subd. 3. *Notice; right to hearing.*

(a) The authority taking custody of an animal under section 343.12, 343.22, 343.29, or 343.31 shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

(2) a statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(3) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing under this subdivision.

(b) Upon request of a person claiming an interest in the animal, which request must be made within ten days of the date of seizure, a hearing must be held within five business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under section 343.12, 343.29, or 343.31, the municipality taking custody of the animal or, in the case of a humane society, the municipality from which the animal was seized, may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of a hearing officer under this subdivision may seek a court order governing the seizure or impoundment within five days of notice of the order.

(c) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(1) the animal is physically fit; and

(2) the person claiming an interest in the animal can and will provide the care required by law for the animal.

(d) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before return of the animal to the person.

MINN. STAT. § 343.29 (2012). Exposure of animals; duty of officers.

Subdivision 1. Delivery to shelter. Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in section 343.235, subdivision 3, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in section 343.235.

Subd. 2. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of section 343.23.

8. FORFEITURE / POSSESSION

MINN. STAT. §343.21 (2012). Overworking or mistreating animals; penalty.

Subdivision 1. Torture. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

Subd. 7. Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

Subd. 8a. Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves:

- (1) cause bodily harm to the animal; or
- (2) otherwise render the animal unable to perform its duties.

Subd. 9. Penalty.

(a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies.

(a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or

retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

Subd. 10. Restrictions. If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

(1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;

(2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;

(3) requiring performance by the person of community service; and

(4) requiring the person to receive psychological, behavioral, or other counseling.

MINN. STAT. § 343.22 (2012). Investigation of cruelty complaints.

Subdivision 1. Reporting. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

Subd. 2. Police investigation. The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

Subd.3. *Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. The authority taking custody of the animals may recover all costs incurred under this section.*

MINN. STAT. §343.235 (2012). Disposition of seized animals.

Subdivision 1. General rule. An animal taken into custody under section 343.12, 343.22, 343.29, or 343.31 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, provided that the procedures in subdivision 3 are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.

Subd. 2. Security. A person claiming an interest in an animal in custody under subdivision 1 may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.

Subd. 3. Notice; right to hearing.

(a) The authority taking custody of an animal under section 343.12, 343.22, 343.29, or 343.31 shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

(2) a statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(3) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing under this subdivision.

(b) Upon request of a person claiming an interest in the animal, which request must be made within ten days of the date of seizure, a hearing must be held within five business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under section 343.12, 343.29, or 343.31, the municipality taking custody of the animal or, in the case of a humane society, the municipality from which the animal was seized, may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of a hearing officer under this subdivision may seek a court order governing the seizure or impoundment within five days of notice of the order.

(c) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(1) the animal is physically fit; and

(2) the person claiming an interest in the animal can and will provide the care required by law for the animal.

(d) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before return of the animal to the person.

MINN. STAT. § 343.29 (2012). Exposure of animals; duty of officers.

Subdivision 1. Delivery to shelter. Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in section 343.235, subdivision 3, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. *If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in section 343.235.*

Subd.2. *Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of section 343.23.*

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

MINN. STAT. § 346.37 (2012). General provisions.

Subdivision 1. Abandoned animals.

(a) If an animal is left with a veterinarian, boarding facility, or commercial facility pursuant to a written agreement with the owner or person in possession of the animal and the owner or lawful possessor of the animal has not claimed the animal within ten days after notice in accordance with paragraph (b) or (d), the animal is abandoned and the owner has no further rights or claim to the animal.

(b) The notice required under paragraph (a), must be given by the veterinarian, boarding facility, or commercial facility to the owner or the owner's agent at the person's last known address by certified mail, return receipt requested, or may be served upon the owner or owner's agent in the manner that a summons is served in a civil court action in the district courts. The notice must notify the owner or owner's agent that the animal may be redeemed by paying all prior expenses incurred within ten days or the animal is abandoned and will be disposed of in accordance with this subdivision.

(c) If the animal is not claimed within ten days, the veterinarian, boarding facility, or commercial facility becomes the owner of the animal and the animal may be disposed of by the veterinarian, boarding facility, or commercial facility as they consider proper. Upon the veterinarian, boarding facility, or commercial facility becoming the owner of the animal, the veterinarian, boarding facility, or commercial facility is relieved of any liability for disposal of the animal.

(d) If the notice under paragraph (c) is not given to the owner or owner's agent, or if the address of the owner or owner's agent is not known, notice must be given by the veterinarian, boarding facility, or commercial facility by publishing one notice in a legal newspaper circulated in the county where the animal was delivered to the veterinarian, boarding facility, or commercial facility not less than ten days before the animal is to become the property of the veterinarian, boarding facility, or commercial facility under paragraph (c). The published notice must contain the information required in paragraph (b).

(e) Each veterinarian, boarding facility, or commercial facility shall warn its patrons of the provisions of this subdivision by a conspicuously posted notice or by conspicuous type in a written document delivered to the owner or the owner's agent.

Subd. 2. Good samaritans. A person is not liable for rendering humane assistance to an injured pet or companion animal.

Subd. 3. Cruel training or handling. A person may not inflict cruelty on a pet or companion animal by the use of a cruel training or handling device or method.

Subd. 4. Health care. Adequate health care, including parasite and pest control, must be provided to each pet or companion animal.

Subd. 5. Interpretation of terms. A dispute as to the meaning of “abuse,” “cruelty,” or “neglect” shall be resolved by an expert opinion.

Subd. 6. *Reports of abuse, cruelty, or neglect. A veterinarian must report known or suspected cases of abuse, cruelty, or neglect to peace officers and humane agents as provided in 343.12 and 343.29.*

11. LAW ENFORCEMENT POLICIES

MINN. STAT. § 343.01 (2012). Purposes; powers; county organization.

Subdivision 1. *Formation authorized. A state federation of county and district societies for the prevention of cruelty to animals may be created as a corporation under chapter 317A for the purpose provided in section 343.06. The federation may appoint representatives in any county where no active county or district society exists for the purpose of receiving and accounting for funds from any source, and may also appoint agents at large to carry out the work of the federation throughout the state. The federation and all county and district societies may appoint agents for the purpose of investigating or otherwise assisting lawfully empowered officials in the prosecution of persons charged with cruelty to animals. Appointed agents must have training and experience in activities relating to prevention of cruelty to animals or enforcement of laws relating to cruelty to animals. The federation may make bylaws as are necessary to implement its authority under this chapter and under chapter 317A.*

Subd. 1a. *Minnesota humane society; continuation confirmed. The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, is confirmed and continued as a nonprofit organization under chapter 317A.*

Subd. 1b. *Independent organizations; powers of the federated humane societies.*

(a) *The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, and the Minnesota federated humane societies are not affiliated with each other or with the state of Minnesota.*

(b) *The Minnesota federated humane societies have the powers given to it under this chapter.*

Subd. 2. *Unauthorized use of names prohibited. It is unlawful for any organization, association, firm or corporation not named in this chapter to refer to itself as or in any way to use the names Minnesota federated humane societies, Minnesota society for the prevention of cruelty, the Minnesota humane society, or any combination of words or phrases using the above names which would imply that it represents, acts in behalf or is a branch of the society or the federation.*

Subd. 3. *Powers and duties. The federation and the society must each be governed by a board of directors designated in accordance with chapter 317A. The powers, duties, and organization of the federation and the society and other matters for the conduct of the business of the federation and the society are as provided in chapter 317A and in the articles of incorporation and bylaws of each organization.*

MINN. STAT. § 343.12 (2012). Duties of peace officers.

Upon application of any agent appointed by the federation or a county or district society, it shall be the duty of any sheriff or the agent's deputy or any police officer to investigate any alleged violation of the law relative to cruelty to animals, and to arrest any person found violating those laws. It shall also be the duty of those officers to take possession of any animals in their respective jurisdictions which have been cruelly treated, and deliver the same to the proper officers of the county or district for custody and care.

MINN. STAT. § 343.22 (2012). Investigation of cruelty complaints.

Subdivision 1. Reporting. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

Subd. 2. Police investigation. The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

Subd. 3. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. The authority taking custody of the animals may recover all costs incurred under this section.

12. SEXUAL ASSAULT

MINN. STAT. §609.294 (2012). Bestiality.

Whoever carnally knows a dead body or an animal or bird is guilty of bestiality, which is a misdemeanor. If knowingly done in the presence of another the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.

13. FIGHTING

MINN. STAT. § 343.31 (2012). Animal fights and possession of fighting animals.

Subdivision 1. Penalty for animal fighting; attending animal fight.

(a) Whoever does any of the following is guilty of a felony:

(1) promotes, engages in, or is employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind;

(2) receives money for the admission of a person to a place used, or about to be used, for that activity;

(3) willfully permits a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.

(b) Whoever purchases a ticket of admission or otherwise gains admission to that the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind is guilty of a gross misdemeanor.

(c) Whoever possesses any device or substance with intent to use or permit the use of the device or substance to enhance an animal's ability to fight is guilty of a gross misdemeanor.

(d) This subdivision shall not apply to the taking of a wild animal by hunting.

Subd. 2. Presumption of training a fighting dog. There is a rebuttable presumption that a dog has been trained or is being trained to fight if:

(1) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 3. Presumption of training fighting birds. There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

(1) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. Peace officer duties. Animals described in subdivisions 2 and 3 are dangerous weapons and constitute an immediate danger to the safety of humans. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances described in subdivision 2 or 3. If necessary, a peace officer or animal control authority may deliver the animal to another person to be sheltered and cared for. In all cases, the peace officer or animal control authority must immediately notify the owner, if known, as provided in subdivision 5. The peace officer, animal control authority, or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in subdivision 5.

Subd. 5. Disposition.

(a) An animal taken into custody under subdivision 4 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the procedures in paragraph (c) are followed.

(b) The owner of an animal taken into custody under subdivision 4 may prevent disposition of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure. If, however, a hearing is scheduled within ten days of the seizure, the security amount must be posted prior to the hearing.

(c)

(1) The authority taking custody of an animal under subdivision 4 must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property and telephoning, if possible. The notice must include:

(i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;

(ii) a statement that the owner of the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the owner of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.

(2) The owner may request a hearing within ten days of the date of the seizure. If requested, a hearing must be held within five business days of the request to determine the validity of the impoundment. The municipality taking custody of the animal or the municipality from which the animal was seized may either (i) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party, or (ii) use the services of a hearing officer to conduct the hearing. An owner may appeal the hearing officer's decision to the district court within five days of the notice of the decision.

(3) The judge or hearing officer may authorize the return of the animal if the judge or hearing officer finds that (i) the animal is physically fit, (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal, and (iii) the animal has not been used for violent pitting or fighting.

(4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before the return of the animal to the person.

Subd. 6. Photographs.

(a) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(b) A photograph must be accompanied by a written description of the animals seized, the name of the owner of the animals seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

Subd. 7. Veterinary investigative report.

(a) A report completed by a Minnesota licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(b) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

14. REFERENCED STATUTES

MINN. STAT. § 343.01 (2012). Purposes; powers; county organization.

Subdivision 1. Formation authorized. A state federation of county and district societies for the prevention of cruelty to animals may be created as a corporation under chapter 317A for the purpose provided in section 343.06. The federation may appoint representatives in any county where no active county or district society exists for the purpose of receiving and accounting for funds from any source, and may also appoint agents at large to carry out the work of the federation throughout the state. The federation and all county and district societies may appoint agents for the purpose of investigating or otherwise assisting lawfully empowered officials in the prosecution of persons charged with cruelty to animals. Appointed agents must have training and experience in activities relating to prevention of cruelty to animals or enforcement of laws relating to cruelty to animals. The federation may make bylaws as are necessary to implement its authority under this chapter and under chapter 317A.

Subd. 1a. Minnesota humane society; continuation confirmed. The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, is confirmed and continued as a nonprofit organization under chapter 317A.

Subd. 1b. Independent organizations; powers of the federated humane societies.

(a) The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, and the Minnesota federated humane societies are not affiliated with each other or with the state of Minnesota.

(b) The Minnesota federated humane societies have the powers given to it under this chapter.

Subd. 2. Unauthorized use of names prohibited. It is unlawful for any organization, association, firm or corporation not named in this chapter to refer to itself as or in any way to use the names Minnesota federated humane societies, Minnesota society for the prevention of cruelty, the Minnesota humane society, or any combination of words or phrases using the above names which would imply that it represents, acts in behalf or is a branch of the society or the federation.

Subd. 3. Powers and duties. The federation and the society must each be governed by a board of directors designated in accordance with chapter 317A. The powers, duties, and organization of the federation and the society and other matters for the conduct of the business of the federation and the society are as provided in chapter 317A and in the articles of incorporation and bylaws of each organization.

MINN. STAT. § 343.12 (2012). Duties of peace officers.

Upon application of any agent appointed by the federation or a county or district society, it shall be the duty of any sheriff or the agent's deputy or any police officer to investigate any alleged violation of the law relative to cruelty to animals, and to arrest any person found violating those laws. It shall also be the duty of those officers to take possession of any animals in their respective jurisdictions which have been cruelly treated, and deliver the same to the proper officers of the county or district for custody and care.

MINN. STAT. § 343.20 (2012). Definitions.

Subdivision 1. Application. Except as otherwise indicated by the context, for purposes of sections 343.20 to 343.36, the terms defined in this section have the meanings given them.

Subd. 2. Animal. "Animal" means every living creature except members of the human race.

Subd. 3. Torture; cruelty. "Torture" or "cruelty" means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.

Subd. 4. Impure milk. "Impure and unwholesome milk" means all milk obtained from diseased or unhealthy animals, or from animals fed on any substance which is putrefied or fermented.

Subd. 5. Animal control officer. "Animal control officer" means an officer employed by or under contract with an agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

Subd. 6. Pet or companion animal. "Pet or companion animal" includes any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal.

Subd. 7. Service animal. "Service animal" means an animal trained to assist a person with a disability.

Subd. 8. Substantial bodily harm. "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet or companion animal.

Subd. 9. Great bodily harm. "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet or companion animal.

MINN. STAT. §343.21 (2012). Overworking or mistreating animals; penalty.

Subdivision 1. Torture. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal's condition.

Subd. 7. Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

Subd. 8a. Harming a service animal. No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves:

- (1) cause bodily harm to the animal; or
- (2) otherwise render the animal unable to perform its duties.

Subd. 9. Penalty.

(a) Except as otherwise provided in this subdivision, a person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of subdivision 1 or 7 within five years of a previous violation of subdivision 1 or 7 is guilty of a gross misdemeanor.

(b) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A person convicted of violating paragraph (b) within five years of a previous gross misdemeanor or felony conviction for violating this section may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(d) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(e) A person who violates subdivision 8a where the violation renders the service animal unable to perform its duties is guilty of a gross misdemeanor.

(f) A person who violates subdivision 8a where the violation results in substantial bodily harm to a service animal may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(g) A person who intentionally violates subdivision 1 or 7 where the violation results in substantial bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

(h) A person who violates subdivision 8a where the violation results in death or great bodily harm to a service animal may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

(i) A person who intentionally violates subdivision 1 or 7 where the violation results in death or great bodily harm to a pet or companion animal, and the act is done to threaten, intimidate, or terrorize another person, may be sentenced to imprisonment for not more than four years or to payment of a fine of not more than \$10,000, or both.

Subd. 9a. Harm to service animals; mandatory restitution and civil remedies.

(a) The court shall order a person convicted of violating subdivision 8a to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other

expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(b) This section does not preclude a person from seeking any available civil remedies for an act that violates subdivision 8a.

Subd. 10. Restrictions. If a person is convicted of violating this section, the court shall require that pet or companion animals that have not been seized by a peace officer or agent and are in the custody or control of the person must be turned over to a peace officer or other appropriate officer or agent unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of pet or companion animals, and may impose other conditions the court considers appropriate, including, but not limited to:

- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet or companion animal;
- (2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;
- (3) requiring performance by the person of community service; and
- (4) requiring the person to receive psychological, behavioral, or other counseling.

MINN. STAT. § 343.22 (2012). Investigation of cruelty complaints.

Subdivision 1. Reporting. Any person who has reason to believe that a violation of this chapter has taken place or is taking place may apply to any court having jurisdiction over actions alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person so applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this chapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a peace officer in the county. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a doctor of veterinary medicine accompany the officer.

Subd. 2. Police investigation. The peace officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The peace officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with the provisions of sections 626.13, 626.14, and 626.16. The warrant must be executed and returned to the court which issued the warrant within ten days after its date; after the expiration of that time the warrant, unless executed, is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer. The warrant and order for investigation issued pursuant to this section and section 343.23 shall have the same force as a warrant issued pursuant to chapter 626.

Subd. 3. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of as provided in section 343.235. The authority taking custody of the animals may recover all costs incurred under this section.

MINN. STAT. § 343.23 (2012). Expenses of investigation.

The expenses of the investigation authorized by section 343.22, including the fee of the doctor of veterinary medicine, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid by the county treasurer from the general fund of the county. If the person alleged to have violated section 343.21 is found guilty of the violation, the county shall have judgment against the guilty person for the amount of the expenses.

MINN. STAT. § 343.235 (2012). Disposition of seized animals.

Subdivision 1. General rule. An animal taken into custody under section 343.12, 343.22, 343.29, or 343.31 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, provided that the procedures in subdivision 3 are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.

Subd. 2. Security. A person claiming an interest in an animal in custody under subdivision 1 may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten days of the seizure inclusive of the date of the seizure.

Subd. 3. Notice; right to hearing.

(a) The authority taking custody of an animal under section 343.12, 343.22, 343.29, or 343.31 shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal or by posting a copy of it at the place where the animal is taken into custody or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

(1) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;

(2) a statement that a person claiming an interest in the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(3) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing under this subdivision.

(b) Upon request of a person claiming an interest in the animal, which request must be made within ten days of the date of seizure, a hearing must be held within five business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under section 343.22, the hearing must be conducted by the judge who issued the warrant. If the seizure was done under section 343.12, 343.29, or 343.31, the municipality taking custody of the animal or, in the case of a humane society, the municipality from which the animal was seized, may either (1) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party or (2) use the services of a hearing officer to conduct the hearing. A person claiming an interest in the animal who is aggrieved by a decision of a hearing officer under this subdivision may seek a court order governing the seizure or impoundment within five days of notice of the order.

(c) The judge or hearing officer may authorize the return of the animal, if the judge or hearing officer finds that:

(1) the animal is physically fit; and

(2) the person claiming an interest in the animal can and will provide the care required by law for the animal.

(d) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before return of the animal to the person.

MINN. STAT. § 343.27 (2012). Poisoning animals.

Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits it to be done, or unjustifiably exposes that drug or substance with intent that the drug be taken by any animal, whether the animal is the property of the person or another, is guilty of a gross misdemeanor.

MINN. STAT. § 343.29 (2012). Exposure of animals; duty of officers.

Subdivision 1. Delivery to shelter. Any peace officer, animal control officer, or agent of the federation or county or district societies for the prevention of cruelty, may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a peace officer, animal control officer, or agent may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in section 343.235, subdivision 3, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in section 343.235.

Subd. 2. Disposal of animals. Upon a proper determination by a licensed doctor of veterinary medicine, any animal taken into custody pursuant to subdivision 1 may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of section 343.23.

MINN. STAT. § 343.30 (2012). Injury to birds.

A person who in any manner maliciously maims, kills, or destroys any bird designated as unprotected by section 97A.015, subdivision 52, or who maliciously destroys the nests or eggs of any such bird shall be guilty of a petty misdemeanor.

MINN. STAT. §343.31 (2012). Animal fights and possession of fighting animals.

Subdivision 1. Penalty for animal fighting; attending animal fight.

(a) Whoever does any of the following is guilty of a felony:

(1) promotes, engages in, or is employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind;

(2) receives money for the admission of a person to a place used, or about to be used, for that activity;

(3) willfully permits a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.

(b) Whoever purchases a ticket of admission or otherwise gains admission to that the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in section 346.36, subdivision 6, against another of the same or a different kind is guilty of a gross misdemeanor.

(c) Whoever possesses any device or substance with intent to use or permit the use of the device or substance to enhance an animal's ability to fight is guilty of a gross misdemeanor.

(d) This subdivision shall not apply to the taking of a wild animal by hunting.

Subd. 2. Presumption of training a fighting dog. There is a rebuttable presumption that a dog has been trained or is being trained to fight if:

(1) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 3. Presumption of training fighting birds. There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

(1) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

(2) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

This presumption may be rebutted by a preponderance of the evidence.

Subd. 4. Peace officer duties. Animals described in subdivisions 2 and 3 are dangerous weapons and constitute an immediate danger to the safety of humans. A peace officer or animal control authority may remove, shelter, and care for an animal found in the circumstances described in subdivision 2 or 3. If necessary, a peace officer or animal control authority may deliver the animal to another person to be sheltered and cared for. In all cases, the peace officer or animal control authority must immediately notify the owner, if known, as provided in subdivision 5. The peace officer, animal control authority, or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten days after notice, redeem the animal by paying the expenses authorized by this subdivision, the animal may be disposed of as provided in subdivision 5.

Subd. 5. Disposition.

(a) An animal taken into custody under subdivision 4 may be humanely disposed of at the discretion of the jurisdiction having custody of the animal ten days after the animal is taken into custody, if the procedures in paragraph (c) are followed.

(b) The owner of an animal taken into custody under subdivision 4 may prevent disposition of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten days of the seizure inclusive of the date of the seizure. If, however, a hearing is scheduled within ten days of the seizure, the security amount must be posted prior to the hearing.

(c)

(1) The authority taking custody of an animal under subdivision 4 must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property and telephoning, if possible. The notice must include:

(i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;

(ii) a statement that the owner of the animal may post security to prevent disposition of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten days of the date of the notice will result in disposition of the animal; and

(iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the owner of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.

(2) The owner may request a hearing within ten days of the date of the seizure. If requested, a hearing must be held within five business days of the request to determine the validity of the impoundment. The municipality taking custody of the animal or the municipality from which the animal was seized may either (i) authorize a licensed veterinarian with no financial interest in the matter or professional association with either party, or (ii) use the services of a hearing officer to conduct the hearing. An owner may appeal the hearing officer's decision to the district court within five days of the notice of the decision.

(3) The judge or hearing officer may authorize the return of the animal if the judge or hearing officer finds that (i) the animal is physically fit, (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal, and (iii) the animal has not been used for violent pitting or fighting.

(4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the municipality and the person claiming an interest in the animal before the return of the animal to the person.

Subd. 6. Photographs.

(a) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(b) A photograph must be accompanied by a written description of the animals seized, the name of the owner of the animals seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

Subd. 7. Veterinary investigative report.

(a) A report completed by a Minnesota licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(b) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

MINN. STAT. § 346.37 (2012). General provisions.

Subdivision 1. Abandoned animals.

(a) If an animal is left with a veterinarian, boarding facility, or commercial facility pursuant to a written agreement with the owner or person in possession of the animal and the owner or lawful possessor of the animal has not claimed the animal within ten days after notice in accordance with paragraph (b) or (d), the animal is abandoned and the owner has no further rights or claim to the animal.

(b) The notice required under paragraph (a), must be given by the veterinarian, boarding facility, or commercial facility to the owner or the owner's agent at the person's last known address by certified mail, return receipt requested, or may be served upon the owner or owner's agent in the manner that a summons is served in a civil court action in the district courts. The notice must notify the owner or owner's agent that the animal may be redeemed by paying all prior expenses incurred within ten days or the animal is abandoned and will be disposed of in accordance with this subdivision.

(c) If the animal is not claimed within ten days, the veterinarian, boarding facility, or commercial facility becomes the owner of the animal and the animal may be disposed of by the veterinarian, boarding facility, or commercial facility as they consider proper. Upon the veterinarian, boarding facility, or commercial facility becoming the owner of the animal, the veterinarian, boarding facility, or commercial facility is relieved of any liability for disposal of the animal.

(d) If the notice under paragraph (c) is not given to the owner or owner's agent, or if the address of the owner or owner's agent is not known, notice must be given by the veterinarian, boarding facility, or commercial facility by publishing one notice in a legal newspaper circulated in the county where the animal was delivered to the veterinarian, boarding facility, or commercial facility not less than ten days before the animal is to become the property of the veterinarian, boarding facility, or commercial facility under paragraph (c). The published notice must contain the information required in paragraph (b).

(e) Each veterinarian, boarding facility, or commercial facility shall warn its patrons of the provisions of this subdivision by a conspicuously posted notice or by conspicuous type in a written document delivered to the owner or the owner's agent.

Subd. 2. Good samaritans. A person is not liable for rendering humane assistance to an injured pet or companion animal.

Subd. 3. Cruel training or handling. A person may not inflict cruelty on a pet or companion animal by the use of a cruel training or handling device or method.

Subd. 4. Health care. Adequate health care, including parasite and pest control, must be provided to each pet or companion animal.

Subd. 5. Interpretation of terms. A dispute as to the meaning of “abuse,” “cruelty,” or “neglect” shall be resolved by an expert opinion.

Subd. 6. Reports of abuse, cruelty, or neglect. A veterinarian must report known or suspected cases of abuse, cruelty, or neglect to peace officers and humane agents as provided in 343.12 and 343.29.

MINN. STAT. § 518B.01 (2012). Domestic Abuse Act.

Subdivision 1. Short title.

This section may be cited as the “Domestic Abuse Act.”

Subd. 2. Definitions.

As used in this section, the following terms shall have the meanings given them:

(a) “Domestic abuse” means the following, if committed against a family or household member by a family or household member:

- (1) physical harm, bodily injury, or assault;
- (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
- (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

(b) “Family or household members” means:

- (1) spouses and former spouses;
- (2) parents and children;
- (3) persons related by blood;
- (4) persons who are presently residing together or who have resided together in the past;

(5) persons who have a child in common regardless of whether they have been married or have lived together at any time;

(6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(7) persons involved in a significant romantic or sexual relationship.

Issuance of an order for protection on the ground in clause (6) does not affect a determination of paternity under sections 257.51 to 257.74. In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.

(c) “Qualified domestic violence-related offense” has the meaning given in section 609.02, subdivision 16.

Subd. 3. Court jurisdiction.

An application for relief under this section may be filed in the court having jurisdiction over dissolution actions, in the county of residence of either party, in the county in which a pending or completed family court proceeding involving the parties or their minor children was brought, or in the county in which the alleged domestic abuse occurred. There are no residency requirements that apply to a petition for an order for protection. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence in the action in the same manner and subject to the same limitations provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Subd. 3a. Filing fee.

The filing fees for an order for protection under this section are waived for the petitioner. The court administrator, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff or other law enforcement or corrections officer is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01. The court may direct a respondent to pay to the court administrator the petitioner’s filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner’s fees and costs.

Subd. 3b. Information on petitioner's location or residence.

Upon the petitioner's request, information maintained by the court regarding the petitioner's location or residence is not accessible to the public and may be disclosed only to court personnel or law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

Subd. 4. Order for protection.

There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (20), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

(i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised parenting time, as provided in section 518.175, subdivision 1a.

Subd. 5. Hearing on application; notice.

(a) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order for hearing unless an ex parte order is issued.

(b) If an ex parte order has been issued under subdivision 7 and the petitioner seeks only the relief under subdivision 7, paragraph (a), a hearing is not required unless:

(1) the court declines to order the requested relief; or

(2) one of the parties requests a hearing.

(c) If an ex parte order has been issued under subdivision 7 and the petitioner seeks relief beyond that specified in subdivision 7, paragraph (a), or if the court declines to order relief requested by the petitioner, a hearing must be held within seven days. Personal service of the ex parte order may be made upon the respondent at any time up to 12 hours prior to the time set for the hearing, provided that the respondent at the hearing may request a continuance of up to five days if served fewer than five days prior to the hearing which continuance shall be granted unless there are compelling reasons not to.

(d) If an ex parte order has been issued only granting relief under subdivision 7, paragraph (a), and the respondent requests a hearing, the hearing shall be held within ten days of the court's receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date no more than five days later.

(e) If for good cause shown either party is unable to proceed at the initial hearing and requests a continuance and the court finds that a continuance is appropriate, the hearing may be continued. Unless otherwise agreed by the parties and approved by the court, the continuance shall be for no more than five days. If the court grants the requested continuance, the court shall also issue a written order continuing all provisions of the ex parte order pending the issuance of an order after the hearing.

(f) Notwithstanding the preceding provisions of this subdivision, service on the respondent may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff or other law enforcement or corrections officer was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (d).

Subd. 6. Relief by court.

(a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;

(4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;

(5) on the same basis as is provided in chapter 518 or 518A, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518A;

(6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(7) order the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational program under section 518B.02;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to have no contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other means;

(11) order the abusing party to pay restitution to the petitioner;

(12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation;

(13) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or other law enforcement or corrections officer as provided by this section;

(14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and

(15) direct the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) Any relief granted by the order for protection shall be for a period not to exceed two years, except when the court determines a longer period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Subd. 6a. Subsequent orders and extensions.

(a) Upon application, notice to all parties, and hearing, the court may extend the relief granted in an existing order for protection or, if a petitioner's order for protection is no longer in effect when an application for subsequent relief is made, grant a new order. The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

(1) the respondent has violated a prior or existing order for protection;

(2) the petitioner is reasonably in fear of physical harm from the respondent;

(3) the respondent has engaged in the act of stalking within the meaning of section 609.749, subdivision 2; or

(4) the respondent is incarcerated and about to be released, or has recently been released from incarceration.

A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.

(b) Relief granted by the order for protection may be for a period of up to 50 years, if the court finds:

(1) the respondent has violated a prior or existing order for protection on two or more occasions; or

(2) the petitioner has had two or more orders for protection in effect against the same respondent.

An order issued under this paragraph may restrain the abusing party from committing acts of domestic abuse; or prohibit the abusing party from having any contact with the petitioner, whether in person, by telephone, mail or electronic mail or messaging, through electronic devices, through a third party, or by any other means.

Subd. 7. Ex parte order.

(a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from the dwelling they share or from the residence of the other, including a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order, except by further order of the court;

(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;

(4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party;

(5) continuing all currently available insurance coverage without change in coverage or beneficiary designation;

(6) directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by a party or a child of a party; and

(7) directing the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11.

* * * * *

MINN. STAT. § 609.02 (2012). Definitions.

Subdivision 1. Crime.

“Crime” means conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Subd. 2. Felony.

“Felony” means a crime for which a sentence of imprisonment for more than one year may be imposed.

Subd. 2a.

[Repealed, 1999 c 194 s 11]

Subd. 3. Misdemeanor.

“Misdemeanor” means a crime for which a sentence of not more than 90 days or a fine of not more than \$1,000, or both, may be imposed.

Subd. 4. Gross misdemeanor.

“Gross misdemeanor” means any crime which is not a felony or misdemeanor. The maximum fine which may be imposed for a gross misdemeanor is \$3,000.

Subd. 4a. Petty misdemeanor.

“Petty misdemeanor” means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than \$300 may be imposed.

Subd. 5. Conviction.

“Conviction” means any of the following accepted and recorded by the court:

- (1) A plea of guilty; or
- (2) A verdict of guilty by a jury or a finding of guilty by the court.

Subd. 6. Dangerous weapon.

“Dangerous weapon” means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm.

As used in this subdivision, “flammable liquid” means any liquid having a flash point below 100 degrees Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100 degrees Fahrenheit but does not include intoxicating liquor as defined in section 340A.101. As used in this subdivision, “combustible liquid” is a liquid having a flash point at or above 100 degrees Fahrenheit.

Subd. 7. Bodily harm.

“Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

Subd. 7a. Substantial bodily harm.

“Substantial bodily harm” means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Subd. 8. Great bodily harm.

“Great bodily harm” means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Subd. 9. Mental state.

(1) When criminal intent is an element of a crime in this chapter, such intent is indicated by the term “intentionally,” the phrase “with intent to,” the phrase “with intent that,” or some form of the verbs “know” or “believe.”

(2) “Know” requires only that the actor believes that the specified fact exists.

(3) “Intentionally” means that the actor either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result. In addition, except as provided in clause (6), the actor must have knowledge of those facts which are necessary to make the actor’s conduct criminal and which are set forth after the word “intentionally.”

(4) “With intent to” or “with intent that” means that the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.

(5) Criminal intent does not require proof of knowledge of the existence or constitutionality of the statute under which the actor is prosecuted or the scope or meaning of the terms used in that statute.

(6) Criminal intent does not require proof of knowledge of the age of a minor even though age is a material element in the crime in question.

Subd. 10. Assault.

“Assault” is:

(1) an act done with intent to cause fear in another of immediate bodily harm or death; or

(2) the intentional infliction of or attempt to inflict bodily harm upon another.

Subd. 11. Second or subsequent violation or offense.

“Second or subsequent violation” or “second or subsequent offense” means that prior to the commission of the violation or offense, the actor has been adjudicated guilty of a specified similar violation or offense.

Subd. 12.

[Repealed, 1993 c 326 art 2 s 34]

Subd. 13.

[Repealed, 1993 c 326 art 2 s 34]

Subd. 14. Electronic monitoring device.

As used in sections 609.135, subdivision 5a, 611A.07, and 629.72, subdivision 2a, “electronic monitoring device” means a radio frequency transmitter unit that is worn at all times on the person of a defendant in conjunction with a receiver unit that is located in the victim’s residence or on the victim’s person. The receiver unit emits an audible and visible signal whenever the defendant with a transmitter unit comes within a designated distance from the receiver unit.

Subd. 15. Probation.

“Probation” means a court-ordered sanction imposed upon an offender for a period of supervision no greater than that set by statute. It is imposed as an alternative to confinement or in conjunction with confinement or intermediate sanctions. The purpose of probation is to deter further criminal behavior, punish the offender, help provide reparation to crime victims and their communities, and provide offenders with opportunities for rehabilitation.

Subd. 16. Qualified domestic violence-related offense.

“Qualified domestic violence-related offense” includes a violation of or an attempt to violate sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.185 (first-degree murder); 609.19 (second-degree murder); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); 609.749 (stalking); 609.78, subdivision 2 (interference with an emergency call); and 629.75 (violation of domestic abuse no contact order); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

MINN. STAT. §609.03 (2012). Punishment when not otherwise fixed.

If a person is convicted of a crime for which no punishment is otherwise provided the person may be sentenced as follows:

- (1) If the crime is a felony, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both; or
- (2) If the crime is a gross misdemeanor, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; or
- (3) If the crime is a misdemeanor, to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both; or
- (4) If the crime is other than a misdemeanor and a fine is imposed but the amount is not specified, to payment of a fine of not more than \$1,000, or to imprisonment for a specified term of not more than six months if the fine is not paid.

MINN. STAT. §609.294 (2012). Bestiality.

Whoever carnally knows a dead body or an animal or bird is guilty of bestiality, which is a misdemeanor. If knowingly done in the presence of another the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both.

ANIMAL PROTECTION LAWS OF MISSISSIPPI

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Mississippi's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Mississippi may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MISSISSIPPI

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Cruelty to living creatures MISS. CODE ANN.§ 97-41-1</p> <p>(2) Carrying animal in a cruel manner MISS. CODE ANN.§ 97-41-5</p> <p>(3) Confining animals without food and water MISS. CODE ANN.§ 97-41-7</p> <p>(4) Failure to provide necessary sustenance MISS. CODE ANN.§ 97-41-9</p> <p>(5) Simple cruelty to dogs or cats MISS. CODE ANN.§ 97-41-16(2)(a)</p> <p>(6) Aggravated cruelty to dogs or cats MISS. CODE ANN. § 97-41-16(2)(b)</p> <p>(7) Poisoning animal MISS. CODE ANN.§ 97-41-17</p>
<p><i>Animals Covered in Definition</i></p>	<p>Authority to seize maltreated, neglected, or abandoned animals applies to “any feline, exotic animal, canine, horse, mule, jack or jennet” MISS. CODE ANN.§ 97-41-2(9)</p>
<p><i>Classification of Crimes</i></p>	<p>(1) - (5) Misdemeanor</p> <p>(6) 1st offense: Misdemeanor Subsequent offenses: Felony</p> <p>(7) Felony</p>

MISSISSIPPI*continued*

<p>2. MAXIMUM PENALTIES^{**}</p>	<p>(1) 6 months county jail <i>and/or</i> \$1,000 fine MISS. CODE ANN. § 99-19-31</p> <p>(2), (3), (4) 100 days county jail <i>and/or</i> \$100 fine MISS. CODE ANN. § 97-41-13</p> <p>(5) 6 months imprisonment <i>and/or</i> \$1,000 fine MISS. CODE ANN. § 97-41-16(2)(a)</p> <p>(6) <i>1st offense:</i> 6 months imprisonment <i>and/or</i> \$2,500 fine MISS. CODE ANN. § 97-41-16(2)(b)(i)</p> <p><i>Subsequent offenses:</i> 5 years imprisonment <i>and/or</i> \$5,000 fine MISS. CODE ANN. § 97-41-16(2)(b)(ii)</p> <p>(7) 3 years imprisonment <i>and</i> \$500 fine MISS. CODE ANN. § 97-41-17</p>
<p>3. EXEMPTIONS^{***}</p>	<p>1, 2, 3, 4, 5, 6, 7, 9 MISS. CODE ANN. §§ 97-41-16(4),(5)</p>

MISSISSIPPI*continued*

4. COUNSELING / EVALUATIONS^H	Court may order a person convicted of simple or aggravated cruelty to dogs or cats to receive a mental health evaluation and counseling, to be paid for by the offender. MISS. CODE ANN. § 97-41-16(3)(b)(ii)(1)
5. PROTECTIVE ORDERS^H	----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>Owner has 3 days after requesting a hearing to post bond to avoid forfeiture. MISS. CODE ANN. § 97-41-2(2)</p> <p>A lien for costs of care is created; court may order the animal's owner to reimburse costs; court may order animal sold with proceeds to reimburse costs. MISS. CODE ANN. § 97-41-2(4),(5)</p> <p>Court shall order restitution for simple or aggravated cruelty to a dog or cat. MISS. CODE ANN. § 97-41-16(3)(a)</p> <p>Court may order reimbursements of costs of care upon conviction. MISS. CODE ANN. § 97-41-16(3)(b)(i)</p>
7. SEIZURE / ON-SITE SUPERVISION	Courts may order seizure by a law enforcement agency for probable cause; ability to seize animals as evidence not impacted. MISS. CODE ANN. § 97-41-2(1),(8)

MISSISSIPPI*continued*

<p>8. FORFEITURE / POSSESSION^H</p>	<p>If owner fails to post bond, court shall order animal forfeited. MISS. CODE ANN. § 97-41-2(2)</p> <p>Court may order permanent forfeiture if owner is unable or unfit to provide for animal. MISS. CODE ANN. § 97-41-2(5)</p> <p>Court may order forfeiture of other animals and may enjoin owner from having custody of any animals in the future. MISS. CODE ANN. § 97-41-2(6)</p> <p>Court may enjoin offender from any employment that involves the care of dogs or cats, or in any place where dogs or cats are kept. MISS. CODE ANN. § 97-41-16(3)(b)(ii)(3)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>Any person who, in good faith, reports suspected cruelty to a dog or cat shall be immune from civil and criminal liability for so reporting. MISS. CODE ANN. § 97-41-16(6)(a)</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>Veterinarians are immune from civil or criminal liability for good faith reporting of suspected animal cruelty. MISS. CODE ANN. § 73-39-87</p> <p>Any veterinarian, or person acting at the direction of a veterinarian, who, in good faith, participates in the investigation of suspected cruelty to a dog or cat, or provides service to a dog or cat in such an investigation, shall be immune from civil and criminal liability for such acts. MISS. CODE ANN. § 97-41-16(6)(b)</p>

MISSISSIPPI*continued*

11. LAW ENFORCEMENT POLICIES	-----
12. SEXUAL ASSAULT	The sexual assault of an animal is a felony punishable by up to ten years in the penitentiary. MISS. CODE ANN.§ 97-29-59
13. FIGHTING	<p>Various animal fighting activities are misdemeanors. MISS. CODE ANN.§ 97-41-11</p> <p>Various hog and canine fighting activities are misdemeanors. MISS. CODE ANN. § 97-41-18</p> <p>Various dogfighting activities (including spectatorship) are felonies. MISS. CODE ANN.§ 97-41-19</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	Malicious or mischievous injury to livestock MISS. CODE ANN.§ 97-41-15

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 H This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

MISS. CODE ANN. § 97-41-1 (2012). Living creatures not to be cruelly treated.

Except as otherwise provided in Section 97-41-16 for a dog or cat, if any person shall intentionally or with criminal negligence override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

Editor's note: This section was held unconstitutionally vague for lack of a mental state element. *Davis v. State* (Miss. 2001) 806 So.2d 1098. It was amended in 2011 to add a specific mental state element.

MISS. CODE ANN. § 97-41-2 (2012). Authority to seize maltreated, neglected, or abandoned animals.

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has

custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.

(3) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

(b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.

(c) Expert testimony as to the proper and reasonable care of the same type of animal.

(d) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.

(f) Any other evidence the court considers to be material or relevant.

(4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.

(5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.

(6) Upon notice and hearing as provided in this section, or as a part of any proceeding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.

(7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.

(8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.

(9) *For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.*

MISS. CODE ANN. § 97-41-5 (2012). Carrying creature in a cruel manner.

If any person shall carry, or cause to be carried by hand or in or upon any vehicle or other conveyance, any creature other than a dog or cat in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-7 (2012). Confining creatures without food or water.

If any person shall confine, or cause to be confined, in any stable, lot, or other place, any living creature other than a dog or cat, without supplying the same during such confinement with a sufficient quantity of good and wholesome food and water, he shall be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-9 (2012). Failure of owner or custodian to provide sustenance.

If any person be the owner or have the custody of any living creature other than a dog or cat and unjustifiably neglect or refuse to furnish it necessary sustenance, food, or drink, he shall be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the "Mississippi Dog and Cat Pet Protection Law of 2011."

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or
2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.
2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.
3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

- (i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.
- (ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.
- (iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73–39–51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.
2. Raising, managing and using animals to provide food, fiber or transportation.
3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;
2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99–158; or
3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19–5–50, 21–19–9 and 41–53–11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69–23–1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69–19–1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97–41–3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

MISS. CODE ANN. § 97-41-17 (2012).Poisons; administering to animals.

Every person who shall willfully and unlawfully administer any poison to any horse, mare, colt, mule, jack, jennet, cattle, deer, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously expose any poison substance with intent that the same should be taken or swallowed by any horse, mare, colt, mule, jack, jennet, cattle, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding three years, or in the county jail not exceeding one year, and by a fine not exceeding five hundred dollars.

2. PENALTIES

MISS. CODE ANN. § 1-3-11(2012). Felony.

The term “felony,” when used in any statute, shall mean any violation of law punished with death or confinement in the penitentiary.

MISS. CODE ANN. § 97-41-13 (2012). Penalty for violating certain sections.

Any person who shall violate any of sections 97-41-3 to 97-41-11, or section 97-27-7 on the subject of cruelty to animals shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not less than ten days nor more than one hundred days or both.

Editor’s note: The penalty above does not apply to the general animal cruelty statute, § 97-41-1. General cruelty is covered by § 99-19-31 below.

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. *A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.*

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or

2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) *The person convicted:*

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95–5–19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73–39–51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.
2. Raising, managing and using animals to provide food, fiber or transportation.
3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;
2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or
3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97-35-47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

MISS. CODE ANN. § 97-41-17 (2012).Poisons; administering to animals.

Every person who shall willfully and unlawfully administer any poison to any horse, mare, colt, mule, jack, jennet, cattle, deer, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously expose any poison substance with intent that the same should be taken or swallowed by any horse, mare, colt, mule, jack, jennet, cattle, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, *shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding three years, or in the county jail not exceeding one year, and by a fine not exceeding five hundred dollars.*

MISS. CODE ANN.§ 99-19-31 (2012).Penalty where none fixed elsewhere by statute.

Offenses for which a penalty is not provided elsewhere by statute, and offenses indictable at common law, and for which a statutory penalty is not elsewhere prescribed, shall be punished by fine of not more than one thousand dollars (\$1,000.00) and imprisonment in the county jail not more than six (6) months, or either.

3. EXEMPTIONS

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or
2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.
2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.
3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.

2. Raising, managing and using animals to provide food, fiber or transportation.

3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

4. COUNSELING / EVALUATIONS

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or
2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.
2. Raising, managing and using animals to provide food, fiber or transportation.
3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MISS. CODE ANN. §97-41-2 (2012). Authority to seize maltreated, neglected, or abandoned animals.

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. *Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care.* Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.

(3) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

(b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.

(c) Expert testimony as to the proper and reasonable care of the same type of animal.

(d) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.

(f) Any other evidence the court considers to be material or relevant.

(4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.

*(5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized *or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.**

(6) Upon notice and hearing as provided in this section, or as a part of any preceding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.

(7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.

(8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.

(9) For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) *In addition to such fine or imprisonment which may be imposed:*

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or

2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.
2. Raising, managing and using animals to provide food, fiber or transportation.
3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

7. SEIZURE / ON-SITE SUPERVISION

MISS. CODE ANN. §97-41-2 (2012). Authority to seize maltreated, neglected, or abandoned animals.

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.

(3) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

(b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.

(c) Expert testimony as to the proper and reasonable care of the same type of animal.

(d) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.

(f) Any other evidence the court considers to be material or relevant.

(4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.

(5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.

(6) Upon notice and hearing as provided in this section, or as a part of any preceding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.

(7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.

(8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.

(9) For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

8. FORFEITURE / POSSESSION

MISS. CODE ANN. §97-41-2 (2012). Authority to seize maltreated, neglected, or abandoned animals.

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. *Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.*

(3) *In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:*

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

(b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.

(c) Expert testimony as to the proper and reasonable care of the same type of animal.

(d) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.

(f) Any other evidence the court considers to be material or relevant.

(4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.

(5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.

(6) Upon notice and hearing as provided in this section, or as a part of any preceding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.

(7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.

(8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.

(9) For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or
2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.
2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.
3. *Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.*

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.
2. Raising, managing and using animals to provide food, fiber or transportation.
3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

9. CROSS ENFORCEMENT / REPORTING

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or

2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.

2. Raising, managing and using animals to provide food, fiber or transportation.

3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

10. VETERINARIAN REPORTING / IMMUNITY

MISS. CODE ANN. § 73-39-87(2012).Immunity from liability for veterinarians reporting suspected incidents of animal cruelty.

Any veterinarian licensed in this state who reports, in good faith and in the normal course of business, a suspected incident of animal cruelty to the proper authorities shall be immune from liability in any civil or criminal action brought against the veterinarian for reporting the incident.

MISS. CODE ANN. § 97-41-16 (2012).Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or

2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.

2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.

3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.

2. Raising, managing and using animals to provide food, fiber or transportation.

3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

MISS. CODE ANN. §97-29-59 (2012). Unnatural intercourse.

Every person who shall be convicted of the detestable and abominable crime against nature committed with mankind or with a beast, shall be punished by imprisonment in the penitentiary for a term of not more than ten years.

13. FIGHTING

MISS. CODE ANN. §97-41-11 (2012). Fighting animals or cocks.

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting any bear, cock or other creature, except a dog, or of tormenting or torturing the same, and every person who shall encourage, aid, or assist therein, or who shall permit or suffer any place to be so kept or used, shall be guilty of a misdemeanor. It shall be the duty of any policeman or other officer of the law, county or municipal, to enter into any such place kept for such purpose, and to arrest each and every person concerned or participating therein.

MISS. CODE ANN. § 97-41-18 (2012). Hog and canine fighting events; prohibition.

(1) For the purposes of this section, “hog” means a pig, swine or boar.

(2) It is unlawful for any person to organize or conduct any commercial event commonly referred to as a “catch” wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated or killed.

(3) It is unlawful for any person to organize, conduct or financially or materially support any event prohibited by this section.

(4) The provisions of this section shall not apply to any competitive event in which canines trained for hunting or herding activities are released in an open or enclosed area to locate and corner hogs, commonly referred to as a “bay event,” and in which competitive points are deducted if a hog is caught and held.

(5) The provisions of this section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this subsection provided that such training is conducted for the field using accepted dog handling and training practices and is not in violation of the provisions of subsection (1) of this section.

(6) Any person convicted under the provisions of this section shall be fined not more than One Thousand Dollars (\$1,000.00), imprisoned for not more than six (6) months, or both.

MISS. CODE ANN. §97-41-19 (2012). Dog fights.

(1) If any person (a) shall sponsor, promote, stage or conduct a fight or fighting match between dogs, or (b) shall wager or bet, promote or encourage the wagering or betting of any money or other valuable thing upon any such fight or upon the result thereof, or (c) shall own a dog with the intent to wilfully enter it or to participate in any such fight, or (d) shall train or transport a dog for the purposes of participation in any such fight, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than three (3) years, or by both such fine and imprisonment, in the discretion of the court.

(2) If any person shall be present, as a spectator, at any location where preparations are being made for an exhibition of a fight between dogs with the intent to be present at such preparations, or if any person shall be present at an exhibition of a fight between dogs with the intent to be present at such exhibition, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court.

(3) Any law enforcement officer making an arrest under subsection (1) of this section may lawfully take possession of all dogs and all paraphernalia, implements, equipment or other property used in violation of subsection (1) of this section. Such officer shall file with the circuit court of the county within which the alleged violation occurred an affidavit stating therein (a) the name of the person charged, (b) a description of the property taken, (c) the time and place of the taking, (d) the name of the person who claims to own such property, if known, and (e) that the affiant has reason to believe, stating the ground of such belief, that the property taken was used in such violation. He shall thereupon deliver the property to such court which shall, by order in writing, place such dogs, paraphernalia, implements, equipment, or other property in the custody of a licensed veterinarian, the local humane society or other animal welfare agency, or other suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the county. The custodian named and designated in such order shall immediately assume the custody of such property and shall retain same, subject to order of the court.

Upon the certification of a licensed veterinarian or officer of the humane society or animal welfare agency that, in his professional judgment, a dog which has been seized is not likely to survive the final disposition of the charges or that, by reason of the physical condition of the dog, it should be humanely euthanized before such time, the court may order the dog humanely euthanized. The court shall make its finding of whether to issue such an order within seven (7) days from the certification by the veterinarian or officer of the humane society or animal welfare agency. The owner of a dog which is euthanized without an order of the court with such certification of a licensed veterinarian or officer of the humane society or other animal welfare agency shall have a right of action for damages against the department or agency by which the arresting or seizing officer is employed. Upon conviction of the person charged with a violation of subsection (1) of this section, all dogs seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same. In no event shall the court order the dog to be euthanized without the certification of a licensed veterinarian or officer of the humane society or other animal welfare agency that, in his judgment, the dog is not likely to survive or that, by reason of its physical condition, the dog should be humanely euthanized. In the event of the acquittal or final discharge without conviction of the accused, the court shall direct the delivery of the property so held in custody to the owner thereof. All reasonable expenses incurred by the custodian of seized dogs and property shall be charged as costs of court, to be taxed against the owner or county in the discretion of the court.

(4) Nothing in subsection (1) of this section shall prohibit any of the following:

- (a) The use of dogs in the management of livestock, by the owner of such livestock or other persons in lawful custody thereof;*
- (b) The use of dogs in lawful hunting; and*
- (c) The training of dogs for any purpose not prohibited by law.*

14. REFERENCED STATUTES

MISS. CODE ANN. § 1-3-11 (2012). Felony.

The term “felony,” when used in any statute, shall mean any violation of law punished with death or confinement in the penitentiary.

MISS. CODE ANN. § 73-39-87 (2012). Immunity from liability for veterinarians reporting suspected incidents of animal cruelty.

Any veterinarian licensed in this state who reports, in good faith and in the normal course of business, a suspected incident of animal cruelty to the proper authorities shall be immune from liability in any civil or criminal action brought against the veterinarian for reporting the incident.

MISS. CODE ANN. § 97-29-59 (2012). Unnatural intercourse.

Every person who shall be convicted of the detestable and abominable crime against nature committed with mankind or with a beast, shall be punished by imprisonment in the penitentiary for a term of not more than ten years.

MISS. CODE ANN. § 97-41-1 (2012). Living creatures not to be cruelly treated.

Except as otherwise provided in Section 97–41–16 for a dog or cat, if any person shall intentionally or with criminal negligence override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

Editor’s note: This section was held unconstitutionally vague for lack of a mental state element. *Davis v. State* (Miss. 2001) 806 So.2d 1098. It was amended in 2011 to add a specific mental state element.

MISS. CODE ANN. §97-41-2 (2012). Authority to seize maltreated, neglected, or abandoned animals.

(1) All courts in the State of Mississippi may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned. Such probable cause may be established upon sworn testimony of any person who has witnessed the condition of said animal. The court may appoint an animal control agency, agent of an animal shelter organization, veterinarian or other person as temporary custodian for the said animal, pending final disposition of the animal pursuant to this section. Such temporary custodian shall directly contract and be responsible for any care rendered to such animal, and may make arrangements for such care as may be necessary. Upon seizure of an animal, the law enforcement agency responsible for removal of the animal shall serve notice upon the owner of the animal, if possible, and shall also post prominently a notice to the owner or custodian to inform such person that the animal has been seized. Such process and notice shall contain a description of the animal seized, the date seized, the name of the law enforcement agency seizing the animal, the name of the temporary custodian, if known at the time, and shall include a copy of the order of the court authorizing the seizure.

(2) Within five (5) days of seizure of an animal, the owner of the animal may request a hearing in the court ordering the animal to be seized to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal. The court shall hold such hearing within fourteen (14) days of receiving such request. The hearing shall be concluded and the court order entered thereon within twenty-one (21) days after the hearing is commenced. Upon requesting a hearing, the owner shall have three (3) business days to post a bond or security with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs sufficient to provide for the animal's care. Failure to post such bond within three (3) days shall result in forfeiture of the animal to the court. If the temporary custodian has custody of the animal upon the expiration of the bond or security, the animal shall be forfeited to the court unless the court orders otherwise.

(3) In determining the owner's fitness to have custody of an animal, the court may consider, among other matters:

(a) Testimony from law enforcement officers, animal control officers, animal protection officials, and other witnesses as to the condition the animal was kept in by its owner or custodian.

(b) Testimony and evidence as to the type and amount of care provided to the animal by its owner or custodian.

(c) Expert testimony as to the proper and reasonable care of the same type of animal.

(d) Testimony from any witnesses as to prior treatment or condition of this or other animals in the same custody.

(e) Violations of laws relating to animal cruelty that the owner or custodian has been convicted of prior to the hearing.

(f) Any other evidence the court considers to be material or relevant.

(4) Upon proof of costs incurred as a result of the animal's seizure, including, but not limited to, animal medical and boarding, the court may order that the animal's owner reimburse the temporary custodian for such costs. A lien for authorized expenses is hereby created upon all animals seized under this section, and shall have priority to any other lien on such animal.

(5) If the court finds the owner of the animal is unable or unfit to adequately provide for the animal, or that the animal is severely injured, diseased, or suffering, and, therefore, not likely to recover, the court may order that the animal be permanently forfeited and released to an animal control agency, animal protection organization or to the appropriate entity to be euthanized or the court may order that such animal be sold at public sale in the manner now provided for judicial sales; any proceeds from such sale shall go first toward the payment of expenses and costs relating to the care and treatment of such animal, and any excess amount shall be paid to the owner of the animal.

(6) Upon notice and hearing as provided in this section, or as a part of any preceding conducted under the terms of this section, the court may order that other animals in the custody of the owner that were not seized be surrendered and further enjoin the owner from having custody of other animals in the future.

(7) If the court determines the owner is able to provide adequately for, and have custody of, the animal, the court shall order the animal be claimed and removed by the owner within seven (7) days after the date of the order.

(8) Nothing in this section shall be construed to prevent or otherwise interfere with a law enforcement officer's authority to seize an animal as evidence or require court action for the taking into custody and making proper disposition of animals as authorized in Sections 21-19-9 and 41-53-11.

(9) For the purposes of this section the term "animal" or "animals" means any feline, exotic animal, canine, horse, mule, jack or jennet.

MISS. CODE ANN. § 97-41-5 (2012). Carrying creature in a cruel manner.

If any person shall carry, or cause to be carried by hand or in or upon any vehicle or other conveyance, any creature other than a dog or cat in a cruel or inhuman manner, he shall be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-7 (2012). Confining creatures without food or water.

If any person shall confine, or cause to be confined, in any stable, lot, or other place, any living creature other than a dog or cat, without supplying the same during such confinement with a sufficient quantity of good and wholesome food and water, he shall be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-9 (2012). Failure of owner or custodian to provide sustenance.

If any person be the owner or have the custody of any living creature other than a dog or cat and unjustifiably neglect or refuse to furnish it necessary sustenance, food, or drink, he shall be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-11 (2012). Fighting animals or cocks.

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting any bear, cock or other creature, except a dog, or of tormenting or torturing the same, and every person who shall encourage, aid, or assist therein, or who shall permit or suffer any place to be so kept or used, shall be guilty of a misdemeanor. It shall be the duty of any policeman or other officer of the law, county or municipal, to enter into any such place kept for such purpose, and to arrest each and every person concerned or participating therein.

MISS. CODE ANN. § 97-41-13 (2012). Penalty for violating certain sections.

Any person who shall violate any of sections 97-41-3 to 97-41-11, or section 97-27-7 on the subject of cruelty to animals shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not less than ten days nor more than one hundred days or both.

MISS. CODE ANN. § 97-41-16 (2012). Maliciously injuring dogs or cats.

(1)

(a) The provisions of this section shall be known and may be cited as the “Mississippi Dog and Cat Pet Protection Law of 2011.”

(b) The intent of the Legislature in enacting this law is to provide only for the protection of domesticated dogs and cats, as these are the animals most often serving as the loyal and beloved pets of the citizens of this state. Animals other than domesticated dogs and cats are specifically excluded from the enhanced protection described in this act for dogs and cats. The provisions of this act do not apply, and shall not be construed as applying, to any animal other than a domesticated dog or cat.

(2)

(a) If a person shall intentionally or with criminal negligence wound, deprive of adequate shelter, food or water, or carry or confine in a cruel manner, any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of simple cruelty to a dog or cat. A person who is convicted of the offense of simple cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than six (6) months, or both.

(b) If a person with malice shall intentionally torture, mutilate, maim, burn, starve or disfigure any domesticated dog or cat, or cause any person to do the same, then he or she shall be guilty of the offense of aggravated cruelty to a dog or cat.

(i) A person who is convicted of a first offense of aggravated cruelty to a dog or cat shall be guilty of a misdemeanor and fined not more than Two Thousand Five Hundred Dollars (\$2,500.00), or imprisoned for not more than six (6) months, or both.

(ii) A person who is convicted of a second or subsequent offense of aggravated cruelty to a dog or cat, the offenses being committed within a period of five (5) years, shall be guilty of a felony and fined not more than Five Thousand Dollars (\$5,000.00) and imprisoned for not less than one (1) year nor more than five (5) years.

(c) A conviction entered upon a plea of nolo contendere to a charge of aggravated cruelty to a dog or cat shall be counted as a conviction for the purpose of determining whether a later conviction is a first or subsequent offense.

(d) For purposes of this section, one or more alleged acts of the offenses of simple cruelty to a dog or cat or aggravated cruelty to a dog or cat, committed against one or more domesticated dogs or cats, or any combination thereof, shall constitute a single offense if the alleged acts occurred at the same time.

(3) In addition to such fine or imprisonment which may be imposed:

(a) The court shall order that restitution be made to the owner of such dog or cat. The measure for restitution in money shall be the current replacement value of such loss and the actual veterinarian fees, medicine, special supplies, loss of income and other costs incurred as a result of actions in violation of subsection (2) of this section; and

(b) The court may order that:

(i) The reasonable costs of sheltering, transporting and rehabilitating the dog or cat, and any other costs directly related to the care of the dog or cat, be reimbursed to:

1. Any law enforcement agency; or
2. Any agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision. The agency or department may reimburse a nongovernmental organization for such costs, if the organization possesses nonprofit status under the United States Internal Revenue Code and has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats.

(ii) The person convicted:

1. Receive a psychiatric or psychological evaluation and counseling or treatment for a length of time as prescribed by the court. The cost of any evaluation, counseling and treatment shall be paid by the offender upon order of the court, up to a maximum amount that is no more than the jurisdictional limit of the sentencing court.
2. Perform community service for a period not exceeding the applicable maximum term of imprisonment that may be imposed for conviction of the offense.
3. Be enjoined from employment in any position that involves the care of a dog or cat, or in any place where dogs or cats are kept or confined, for a period which the court deems appropriate.

(4)

(a) Nothing in this section shall be construed as prohibiting a person from:

(i) Defending himself or herself or another person from physical or economic injury being threatened or caused by a dog or cat.

(ii) Injuring or killing an unconfined dog or cat on the property of the person, if the unconfined dog or cat is believed to constitute a threat of physical injury or damage to any domesticated animal under the care or control of such person.

(iii) Acting under the provisions of Section 95-5-19 to protect poultry or livestock from a trespassing dog that is in the act of chasing or killing the poultry or livestock, or acting to protect poultry or livestock from a trespassing cat that is in the act of chasing or killing the poultry or livestock.

(iv) Engaging in practices that are licensed or lawful under the Mississippi Veterinary Practice Act, Section 73-39-51 et seq., or engaging in activities by any licensed veterinarian while following accepted standards of practice of the profession within the State of Mississippi, including the euthanizing of a dog or cat.

(v) Rendering emergency care, treatment, or assistance to a dog or cat that is abandoned, ill, injured, or in distress, if the person rendering the care, treatment, or assistance is acting in good faith.

(vi) Performing activities associated with accepted agricultural and animal husbandry practices with regard to livestock, poultry or other animals, including those activities which involve:

1. Using dogs in such practices.

2. Raising, managing and using animals to provide food, fiber or transportation.

3. Butchering animals and processing food.

(vii) Training for, or participating in, a rodeo, equine activity, dog show, event sponsored by a kennel club or other bona fide organization that promotes the breeding or showing of dogs or cats, or any other competitive event which involves the lawful use of dogs or cats.

(viii) Engaging in accepted practices of dog or cat identification.

(ix) Engaging in lawful activities that are regulated by the Mississippi Department of Wildlife, Fisheries and Parks or the Mississippi Department of Marine Resources, including without limitation, hunting, trapping, fishing, and wildlife and seafood management.

(x) Performing scientific, research, medical and zoological activities undertaken by research and education facilities or institutions that are:

1. Regulated under the provisions of the Animal Welfare Act, 7 USCS 2131 et seq., as in effect on July 1, 2011;

2. Regulated under the provisions of the Health Research Extension Act of 1985, Public Law No. 99-158; or

3. Subject to any other applicable state or federal law or regulation governing animal research as in effect on July 1, 2011.

(xi) Disposing of or destroying certain dogs under authority of Sections 19-5-50, 21-19-9 and 41-53-11, which allow counties, municipalities and certain law enforcement officers to destroy dogs running at large without proper identification indicating that such dogs have been vaccinated for rabies.

(xii) Engaging in professional pest control activities, including those activities governed by the Mississippi Pesticide Law of 1975, Section 69-23-1 et seq.; professional services related to entomology, plant pathology, horticulture, tree surgery, weed control or soil classification, as regulated under Section 69-19-1 et seq.; and any other pest control activities conducted in accordance with state law.

(xiii) Performing the humane euthanization of a dog or cat pursuant to Section 97-41-3.

(b) If the owner or person in control of a dog or cat is precluded, by natural or other causes beyond his reasonable control, from acting to prevent an act or omission that might otherwise constitute an allegation of the offense of simple cruelty to a dog or cat or the offense of aggravated cruelty to a dog or cat, then that person shall not be guilty of the offense. Natural or other causes beyond the reasonable control of the person include, without limitation, acts of God, declarations of disaster, emergencies, acts of war, earthquakes, hurricanes, tornadoes, fires, floods or other natural disasters.

(5) The provisions of this section shall not be construed to:

(a) Apply to any animal other than a dog or cat.

(b) Create any civil or criminal liability on the part of the driver of a motor vehicle if the driver unintentionally injures or kills a dog or cat as a result of the dog or cat being accidentally hit by the vehicle.

(6)

(a) Except as otherwise provided in Section 97–35–47 for the false reporting of a crime, a person, who in good faith and acting without malice, reports a suspected incident of simple cruelty to a dog or cat, or aggravated cruelty to a dog or cat, to a local animal control, protection or welfare organization, a local law enforcement agency, or the Mississippi Department of Public Safety, shall be immune from civil and criminal liability for reporting the incident.

(b) A veterinarian licensed in Mississippi or a person acting at the direction of a veterinarian licensed in Mississippi, who in good faith and acting without malice, participates in the investigation of an alleged offense of simple or aggravated cruelty to a dog or cat, or makes a decision or renders services regarding the care of a dog or cat that is involved in the investigation, shall be immune from civil and criminal liability for those acts.

(7) Other than an agency or department of a political subdivision that is charged with the control, protection or welfare of dogs or cats within the subdivision, any organization that has the purpose of protecting the welfare of, or preventing cruelty to, dogs or cats, shall register the organization with the sheriff of the county in which the organization operates a physical facility for the protection, welfare or shelter of dogs or cats, on or before the first day of October each year. The provisions of this subsection (7) shall apply to any organization that has the purpose of protecting the welfare of dogs or cats, or preventing cruelty to dogs or cats, regardless of whether the organization also protects animals other than dogs or cats.

(8) Nothing in this section shall limit the authority of a municipality or board of supervisors to adopt ordinances, rules, regulations or resolutions which may be, in whole or in part, more restrictive than the provisions of this section, and in those cases, the more restrictive ordinances, rules, regulations or resolutions will govern.

MISS. CODE ANN. § 97-41-17 (2012).Poisons; administering to animals.

Every person who shall willfully and unlawfully administer any poison to any horse, mare, colt, mule, jack, jennet, cattle, deer, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, or shall maliciously expose any poison substance with intent that the same should be taken or swallowed by any horse, mare, colt, mule, jack, jennet, cattle, dog, cat, hog, sheep, chicken, duck, goose, turkey, pea-fowl, guinea-fowl, or partridge, shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding three years, or in the county jail not exceeding one year, and by a fine not exceeding five hundred dollars.

MISS. CODE ANN. § 97-41-18 (2012).Hog and canine fighting events; prohibition.

- (1) For the purposes of this section, “hog” means a pig, swine or boar.
- (2) It is unlawful for any person to organize or conduct any commercial event commonly referred to as a “catch” wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated or killed.
- (3) It is unlawful for any person to organize, conduct or financially or materially support any event prohibited by this section.
- (4) The provisions of this section shall not apply to any competitive event in which canines trained for hunting or herding activities are released in an open or enclosed area to locate and corner hogs, commonly referred to as a “bay event,” and in which competitive points are deducted if a hog is caught and held.
- (5) The provisions of this section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this subsection provided that such training is conducted for the field using accepted dog handling and training practices and is not in violation of the provisions of subsection (1) of this section.
- (6) Any person convicted under the provisions of this section shall be fined not more than One Thousand Dollars (\$1,000.00), imprisoned for not more than six (6) months, or both.

MISS. CODE ANN. §97-41-19 (2012). Dog fights.

(1) If any person (a) shall sponsor, promote, stage or conduct a fight or fighting match between dogs, or (b) shall wager or bet, promote or encourage the wagering or betting of any money or other valuable thing upon any such fight or upon the result thereof, or (c) shall own a dog with the intent to wilfully enter it or to participate in any such fight, or (d) shall train or transport a dog for the purposes of participation in any such fight, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not less than one (1) nor more than three (3) years, or by both such fine and imprisonment, in the discretion of the court.

(2) If any person shall be present, as a spectator, at any location where preparations are being made for an exhibition of a fight between dogs with the intent to be present at such preparations, or if any person shall be present at an exhibition of a fight between dogs with the intent to be present at such exhibition, he shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court.

(3) Any law enforcement officer making an arrest under subsection (1) of this section may lawfully take possession of all dogs and all paraphernalia, implements, equipment or other property used in violation of subsection (1) of this section. Such officer shall file with the circuit court of the county within which the alleged violation occurred an affidavit stating therein (a) the name of the person charged, (b) a description of the property taken, (c) the time and place of the taking, (d) the name of the person who claims to own such property, if known, and (e) that the affiant has reason to believe, stating the ground of such belief, that the property taken was used in such violation. He shall thereupon deliver the property to such court which shall, by order in writing, place such dogs, paraphernalia, implements, equipment, or other property in the custody of a licensed veterinarian, the local humane society or other animal welfare agency, or other suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the county. The custodian named and designated in such order shall immediately assume the custody of such property and shall retain same, subject to order of the court.

Upon the certification of a licensed veterinarian or officer of the humane society or animal welfare agency that, in his professional judgment, a dog which has been seized is not likely to survive the final disposition of the charges or that, by reason of the physical condition of the dog, it should be humanely euthanized before such time, the court may order the dog humanely euthanized. The court shall make its finding of whether to issue such an order within seven (7) days from the certification by the veterinarian or officer of the humane society or animal welfare agency. The owner of a dog which is euthanized without an order of the court with such certification of a licensed veterinarian or officer of the humane society or other animal welfare agency shall have a right of action for damages against the department or agency by which the arresting or seizing officer is employed. Upon conviction of the person charged with a violation of subsection (1) of this section, all dogs seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same. In no event shall the court order the dog to be euthanized without the certification of a licensed veterinarian or officer of the humane society or other animal welfare agency that, in his judgment, the dog is not likely to survive or that, by reason of its physical condition, the dog should be humanely euthanized. In the event of the acquittal or final discharge without conviction of the accused, the court shall direct the delivery of the property so held in custody to the owner thereof. All reasonable expenses incurred by the custodian of seized dogs and property shall be charged as costs of court, to be taxed against the owner or county in the discretion of the court.

(4) Nothing in subsection (1) of this section shall prohibit any of the following:

- (a) The use of dogs in the management of livestock, by the owner of such livestock or other persons in lawful custody thereof;
- (b) The use of dogs in lawful hunting; and
- (c) The training of dogs for any purpose not prohibited by law.

MISS. CODE ANN. § 99-19-31 (2012). Penalty where none fixed elsewhere by statute.

Offenses for which a penalty is not provided elsewhere by statute, and offenses indictable at common law, and for which a statutory penalty is not elsewhere prescribed, shall be punished by fine of not more than one thousand dollars (\$1,000.00) and imprisonment in the county jail not more than six (6) months, or either.

ANIMAL PROTECTION LAWS OF MISSOURI

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Missouri's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Missouri may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MISSOURI

1. GENERAL PROHIBITIONS*	(1) Animal neglect and abandonment MO. ANN. STAT.§ 578.009 (2) Animal abuse MO. ANN. STAT.§ 578.012
<i>Animals Covered in Definition</i>	“[E]very living vertebrate except a human being” MO. ANN. STAT.§ 578.005(3)
<i>Classification of Crimes</i>	(1) [1 st offense]: Class C misdemeanor [Subsequent offenses]: Class B misdemeanor ----- (2) [1 st offense]: Class A misdemeanor [2 nd offense, or for 1 st offense if crime involved torture and mutilation while animal was alive]: Class D felony

MISSOURI*continued*

<p>2. MAXIMUM PENALTIES^{**}</p>	<p>(1) [1st offense]: 15 days imprisonment MO. ANN. STAT.§ 558.011(1)(7) <i>and/or</i> \$500 fine MO. ANN. STAT.§ 578.009(3) (waivable if remedies for neglect have been made)</p> <p>[Subsequent offenses]: 6 months imprisonment MO. ANN. STAT.§ 558.011(1)(6) <i>and/or</i> \$1,000 fine MO. ANN. STAT.§ 578.009(3)</p> <p>-----</p> <p>(2) [1st offense]: 1 year imprisonment MO. ANN. STAT.§ 558.011(1)(5) <i>and/or</i> \$1,000 fine MO. ANN. STAT.§ 560.016(1)(1)</p> <p>[2nd offense, or for 1st offense if crime involved torture and mutilation while animal was alive]: 4 years imprisonment MO. ANN. STAT.§ 558.011(1)(4) <i>and/or</i> \$5,000 fine MO. ANN. STAT.§ 560.011(1)(1)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>9 MO. ANN. STAT. § 273.033 1, 2, 3, 4, 6, 7, 8, 9 MO. ANN. STAT.§ 578.007</p>

MISSOURI*continued*

4. COUNSELING / EVALUATIONS^H	Court may order psychological evaluation and counseling for unlawful sex with animals. MO. ANN. STAT. § 566.111(3)(3)
5. PROTECTIVE ORDERS^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>Humane societies are entitled to a lien on animal for reasonable costs of care. MO. ANN. STAT. § 430.165(2)</p> <p>Upon conviction, court may order defendant to pay all reasonable costs of care. MO. ANN. STAT. § 578.009(3),(4)</p> <p>Owner liable for reasonable costs of care for impounded animal; any person incurring costs of care for impounded animal shall have a lien on animal. MO. ANN. STAT. § 578.016(2)</p> <p>The court may order a bond or other security to cover the costs of care for impounded animals. MO. ANN. STAT. § 578.018(2)</p>

MISSOURI*continued*

7. SEIZURE / ON-SITE SUPERVISION	<p>Any authorized public health, law enforcement, or animal control officer can impound animals found outside, if there is evidence of abuse or neglect. MO. ANN. STAT. § 578.016</p> <p>Authorized public health and law enforcement officials may seek search warrant for entry on to private property to inspect, care for, or impound neglected or abuse animals. MO. ANN. STAT. § 578.018(1)</p> <p>Any member of the state highway patrol or other law enforcement officers may serve a search warrant and have the power to search and seize in cases involving animal fighting or for violations of the prohibition against dogs pursuing animals propelled by devices. MO. ANN. STAT. § 578.030(1)</p>
8. FORFEITURE / POSSESSION^H	<p>If a cost-of-care bond is not posted, or not renewed, an impounded animal may be humanely disposed, unless a court order prohibits such disposition. MO. ANN. STAT. § 578.018(2)</p> <p>Upon conviction, the court may order animal forfeited if court believes animal may be subject to future abuse or neglect. MO. ANN. STAT. § 578.021</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	-----

MISSOURI*continued*

<p>12. SEXUAL ASSAULT</p>	<p>Engaging in sexual conduct with an animal is a Class A misdemeanor on the first offense, and a Class D felony on subsequent offenses. MO. ANN. STAT. § 566.111</p>
<p>13. FIGHTING</p>	<p>Various dogfighting activities are Class D felonies; being a spectator at a dog fight is a Class A misdemeanor. MO. ANN. STAT. § 578.025</p> <p>Non-dog animal fighting activities are Class A misdemeanors. MO. ANN. STAT. § 578.050</p> <p>Various animal fighting activities are Class D felonies; being a spectator, selling or transporting animals used in fighting, possessing or making equipment for fighting are Class A misdemeanors. MO. ANN. STAT. § 578.173</p> <p>Bear wrestling is a Class A misdemeanor. MO. ANN. STAT. § 578.176</p> <p>Injunctions, seizures and disposition of animals involved in fighting MO. ANN. STAT. §§ 578.179, 578.185</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>-----</p>
<p>NOTES</p>	<p>The “Canine Cruelty Prevention Act” provides regulation and oversight of dog breeding operations. MO. ANN. STAT. §§ 273.327, 273.345, 273.347, <i>et. al.</i></p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

MO. ANN. STAT. § 578.005 (2012). Definitions.

As used in sections 578.005 to 578.023, the following terms shall mean:

(1) *“Adequate care”, normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health in a specific species of animal;*

(2) *“Adequate control”, to reasonably restrain or govern an animal so that the animal does not injure itself, any person, any other animal, or property;*

(3) *“Animal”, every living vertebrate except a human being;*

(4) *“Animal shelter”, a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other not for profit organization devoted to the welfare, protection, and humane treatment of animals;*

(5) *“Farm animal”, an animal raised on a farm or ranch and used or intended for use in farm or ranch production, or as food or fiber;*

(6) *“Harbor”, to feed or shelter an animal at the same location for three or more consecutive days;*

(7) *“Humane killing”, the destruction of an animal accomplished by a method approved by the American Veterinary Medical Association’s Panel on Euthanasia (JAVMA 173: 59-72, 1978); or more recent editions, but animals killed during the feeding of pet carnivores shall be considered humanely killed;*

(8) *“Owner”, in addition to its ordinary meaning, any person who keeps or harbors an animal or professes to be owning, keeping, or harboring an animal;*

(9) *“Person”, any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;*

(10) *“Pests”, birds, rabbits, or rodents which damage property or have an adverse effect on the public health, but shall not include any endangered species listed by the United States Department of the Interior nor any endangered species listed in the Wildlife Code of Missouri.*

MO. ANN. STAT. § 578.009 (2012). Animal neglect—penalties.

1. *A person is guilty of animal neglect when he has custody or ownership or both of an animal and fails to provide adequate care or adequate control, which results in substantial harm to the animal.*

2. *A person is guilty of abandonment when he has knowingly abandoned an animal in any place without making provisions for its adequate care.*

3. *Animal neglect and abandonment is a class C misdemeanor upon first conviction and for each offense, punishable by imprisonment or a fine not to exceed five hundred dollars, or both, and a class B misdemeanor punishable by imprisonment or a fine not to exceed one thousand dollars, or both upon the second and all subsequent convictions. All fines and penalties for a first conviction of animal neglect or abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived. This section shall not apply to the provisions of section 578.007.*

4. In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect or abandonment to pay all reasonable costs and expenses necessary for:

(1) The care and maintenance of neglected or abandoned animals within the person's custody or ownership;

(2) The disposal of any dead or diseased animals within the person's custody or ownership;

(3) The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and

(4) The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

MO. ANN. STAT. § 578.012 (2012). Animal abuse—penalties.

1. *A person is guilty of animal abuse when a person:*

(1) *Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030, RSMo;*

(2) *Purposely or intentionally causes injury or suffering to an animal; or*

(3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

MO. ANN. STAT. § 578.014 (2012). Responsibility of parent or guardian of minor owning.

The parent or guardian of a minor child is responsible for the adequate care of any animal owned by, in the control of, or harbored by that minor child.

2. PENALTIES

Editor's note: A class A misdemeanor is punishable by imprisonment not to exceed one year. MO. REV. STAT. § 558.011(5)(2012). A class D felony is punishable by imprisonment not to exceed 5 years. MO. REV. STAT. § 558.011(4)(2012). Missouri statutes also provide for a fine of no more than \$1,000 for a class A misdemeanor, MO. REV. STAT. § 560.016(1)(1)(2012), and no more than \$5,000 for a class D felony. MO. REV. STAT. § 560.011(1)(1)(2012). These fines may be imposed in place of, or in addition to, the prison sentences. MO. REV. STAT. § 557.011(2)(2012).

MO. ANN. STAT. § 558.011 (2012). Sentence of imprisonment, terms—conditional release.

1. *The authorized terms of imprisonment, including both prison and conditional release terms, are:*

- (1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;
- (2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;
- (3) For a class C felony, a term of years not to exceed seven years;
- (4) *For a class D felony, a term of years not to exceed four years;*
- (5) *For a class A misdemeanor, a term not to exceed one year;*
- (6) *For a class B misdemeanor, a term not to exceed six months;*
- (7) *For a class C misdemeanor, a term not to exceed fifteen days.*

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3.

- (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, RSMo, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4.

(1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036, RSMo, shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670, RSMo. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

MO. ANN. STAT. § 560.011 (2012). Fines for felonies.

1. *A person who has been convicted of a class C or D felony may be sentenced*

(1) *To pay a fine which does not exceed five thousand dollars; or*

(2) *If the offender has gained money or property through the commission of the crime, to pay an amount, fixed by the court, not exceeding double the amount of the offender's gain from the commission of the crime. An individual offender may be fined not more than twenty thousand dollars under this provision.*

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime. The amount of money or value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed shall be deducted from the fine. When the court imposes a fine based on gain the court shall make a finding as to the amount of the offender's gain from the crime. If the record does not contain sufficient evidence to support such a finding, the court may conduct a hearing upon the issue.

3. The provisions of this section shall not apply to corporations.

MO. ANN. STAT. § 560.016 (2012). Fines for misdemeanors and infractions.

1. *Except as otherwise provided for an offense outside this code, a person who has been convicted of a misdemeanor or infraction may be sentenced to pay a fine which does not exceed:*

(1) *For a class A misdemeanor, one thousand dollars;*

(2) *For a class B misdemeanor, five hundred dollars;*

(3) *For a class C misdemeanor, three hundred dollars;*

(4) *For an infraction, two hundred dollars.*

2. In lieu of a fine imposed under subsection 1, a person who has been convicted of a misdemeanor or infraction through which he derived "gain" as defined in section 560.011, may be sentenced to a fine which does not exceed double the amount of gain from the commission of the offense. An individual offender may be fined not more than twenty thousand dollars under this provision.

MO. ANN. STAT. § 578.009 (2012). Animal neglect—penalties.

1. A person is guilty of animal neglect when he has custody or ownership or both of an animal and fails to provide adequate care or adequate control, which results in substantial harm to the animal.

2. A person is guilty of abandonment when he has knowingly abandoned an animal in any place without making provisions for its adequate care.

3. Animal neglect and abandonment is a class C misdemeanor upon first conviction and for each offense, punishable by imprisonment or a fine not to exceed five hundred dollars, or both, and a class B misdemeanor punishable by imprisonment or a fine not to exceed one thousand dollars, or both upon the second and all subsequent convictions. All fines and penalties for a first conviction of animal neglect or abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived. This section shall not apply to the provisions of section 578.007.

4. In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect or abandonment to pay all reasonable costs and expenses necessary for:

(1) The care and maintenance of neglected or abandoned animals within the person's custody or ownership;

(2) The disposal of any dead or diseased animals within the person's custody or ownership;

(3) The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and

(4) The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

3. EXEMPTIONS

MO. ANN. STAT. § 273.033 (2012).Killing or injuring a dog—reasonable apprehension of imminent harmful contact.

1. In any action for damages or a criminal prosecution against any person for killing or injuring a dog, a showing by a preponderance of the evidence that such person was in reasonable apprehension of imminent harmful contact by the dog or was acting to prevent such imminent harmful contact against another person by the dog shall constitute an absolute defense to criminal prosecution or civil liability for the killing or injuring of such animal.

2. If a person has, on at least two occasions, complained to the county sheriff or to the appropriate animal control authority in his or her jurisdiction that a dog, not on a leash, has trespassed on property that such person owns, rents, or leases or on any property that constitutes such person's residence, and when at least one of the prior two complaints was motivated by reasonable apprehension for such person's safety or the safety of another person or apprehension of substantial damage to livestock or property, then any subsequent trespass by such dog shall constitute prima facie evidence that such person was in reasonable apprehension of imminent harmful contact. The county sheriff or animal control authority to which any complaint under this section is made shall notify the owner of the alleged trespassing dog of such complaint. Failure by a county sheriff or animal control authority to notify a dog owner under this subsection shall not invalidate or be construed in any way to limit any other provision of this subsection.

3. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any criminal prosecution or in any civil action brought by a plaintiff if the court finds that the defendant has an absolute defense as provided in subsection 1 of this section.

4. This section shall not be construed to provide an absolute defense to a person who is engaged in or attempting to engage in a criminal activity at the time of the apprehension of imminent harmful contact, or to a person for any damage or injury to any person or property other than the dog itself that may result from actions taken in an attempt to injure or kill such dog.

MO. ANN. STAT. § 578.007 (2012).Acts and facilities to which sections 578.005 to 578.023 do not apply.

The provisions of sections 578.005 to 578.023 shall not apply to:

(1) *Care or treatment performed by a licensed veterinarian within the provisions of chapter 340, RSMo;*

(2) *Bona fide scientific experiments;*

- (3) *Hunting, fishing, or trapping as allowed by chapter 252, RSMo, including all practices and privileges as allowed under the Missouri Wildlife Code;*
- (4) *Facilities and publicly funded zoological parks currently in compliance with the federal “Animal Welfare Act” as amended;*
- (5) *Rodeo practices currently accepted by the Professional Rodeo Cowboy’s Association;*
- (6) *The killing of an animal by the owner thereof, the agent of such owner, or by a veterinarian at the request of the owner thereof;*
- (7) *The lawful, humane killing of an animal by an animal control officer, the operator of an animal shelter, a veterinarian, or law enforcement or health official;*
- (8) *With respect to farm animals, normal or accepted practices of animal husbandry;*
- (9) *The killing of an animal by any person at any time if such animal is outside of the owned or rented property of the owner or custodian of such animal and the animal is injuring any person or farm animal but shall not include police or guard dogs while working;*
- (10) *The killing of house or garden pests; or*
- (11) *Field trials, training and hunting practices as accepted by the Professional Houndsmen of Missouri.*

4. COUNSELING / EVALUATIONS

MO. ANN. STAT. § 566.111 (2012). Unlawful sex with an animal, penalties.

1. A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.

2. Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.

3. *In addition to any penalty imposed or as a condition of probation the court may:*

(1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;

(2) Order all animals in the defendant's possession subject to a civil forfeiture action under chapter 513, RSMo; or

(3) *Order psychological evaluation and counseling of the defendant at the defendant's expense.*

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

5. For purposes of this section, the following terms mean:

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MO. ANN. STAT. § 430.165 (2012). Lien for the care of animals lawfully impounded, who entitled to.

1. Any animal lawfully impounded under the laws of this state or ordinances of any of its political subdivisions may be placed by the impounding officer in the care of any incorporated humane society or other responsible person designated by the impounding authority.

2. *Any incorporated humane society or other person designated to care for an animal under the provisions of subsection 1 shall be entitled to a lien on the animal for the reasonable cost of the care of the animal, as provided in sections 430.150 and 430.160.*

MO. ANN. STAT. § 578.009 (2012). Animal neglect—penalties.

1. A person is guilty of animal neglect when he has custody or ownership or both of an animal and fails to provide adequate care or adequate control, which results in substantial harm to the animal.

2. A person is guilty of abandonment when he has knowingly abandoned an animal in any place without making provisions for its adequate care.

3. Animal neglect and abandonment is a class C misdemeanor upon first conviction and for each offense, punishable by imprisonment or a fine not to exceed five hundred dollars, or both, and a class B misdemeanor punishable by imprisonment or a fine not to exceed one thousand dollars, or both upon the second and all subsequent convictions. All fines and penalties for a first conviction of animal neglect or abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. *Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived.* This section shall not apply to the provisions of section 578.007.

4. *In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect or abandonment to pay all reasonable costs and expenses necessary for:*

(1) The care and maintenance of neglected or abandoned animals within the person's custody or ownership;

(2) The disposal of any dead or diseased animals within the person's custody or ownership;

(3) The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and

(4) The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

MO. ANN. STAT. § 578.016 (2012). Impoundment of animal found off property of owner or custodian, disposition, procedure—liability of owner or custodian for costs—lien rights of owner or custodian.

1. Any duly authorized public health official, law enforcement official, or animal control officer may impound any animal found outside of the owned or rented property of the owner or custodian of such animal when such animal shows evidence of neglect or abuse. Any animal impounded pursuant to this section shall be:

(1) If the owner can be ascertained and the animal is not diseased or disabled beyond recovery for any useful purpose, held for recovery by the owner. The owner shall be notified within five business days of impoundment by phone or by mail of the animal's location and recovery procedures. The animal shall be held for ten business days. An animal unclaimed after ten business days may be put up for adoption or humanely killed;

(2) Placed in the care or custody of a veterinarian, the appropriate animal control authority or animal shelter. The animal shall not be disposed of, unless diseased or disabled beyond recovery for any useful purpose, until after expiration of a minimum of five business days, during which time the public shall have clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. After five business days, the animal may be put up for adoption or humanely killed; or

(3) If diseased or disabled beyond recovery for any useful purpose as determined by a public health official, law enforcement official, veterinarian or animal control officer, humanely killed.

2. The owner or custodian of an animal impounded pursuant to this section shall be liable for reasonable costs for the care and maintenance of the animal. Any person incurring reasonable costs for the care and maintenance of such animal shall have a lien against such animal until the reasonable costs have been paid and may put up for adoption or humanely kill any animal if such costs are not paid within ten days after demand. Any moneys received for an animal adopted pursuant to this subsection in excess of costs shall be paid to the owner of such animal.

3. The owner or custodian of any animal killed pursuant to this section shall be entitled to recover the actual value of the animal up to but not to exceed six hundred dollars if the owner or custodian shows that such killing was unwarranted.

MO. ANN. STAT. § 578.018 (2012). Warrant for entry on private property to inspect—impounded animals—compensation.

1. Any duly authorized public health official or law enforcement official may seek a warrant from the appropriate court to enable him to enter private property in order to inspect, care for, or impound neglected or abused animals. All requests for such warrants shall be accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to 578.023 has occurred. A person acting under the authority of a warrant shall:

- (1) Be given a disposition hearing before the court through which the warrant was issued, within thirty days of the filing of the request for the purpose of granting immediate disposition of the animals impounded;
- (2) Place impounded animals in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the animal shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;
- (3) Humanely kill any animal impounded if it is determined by a licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;
- (4) Not be liable for any necessary damage to property while acting under such warrant.

2. The owner or custodian or any person claiming an interest in any animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care and keeping for at least thirty days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the animal at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the animal from any cost of the care, keeping or disposal of the animal. The authority taking custody of an animal shall give notice of the provisions of this section by posting a copy of this section at the place where the animal was taken into custody or by delivering it to a person residing on the property.

3. The owner or custodian of any animal humanely killed pursuant to this section shall not be entitled to recover any damages related to nor the actual value of the animal if the animal was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the animal after being notified of impoundment.

7. SEIZURE / ON-SITE SUPERVISION

MO. ANN. STAT. § 578.016 (2012). Impoundment of animal found off property of owner or custodian, disposition, procedure—liability of owner or custodian for costs—lien rights of owner or custodian.

1. *Any duly authorized public health official, law enforcement official, or animal control officer may impound any animal found outside of the owned or rented property of the owner or custodian of such animal when such animal shows evidence of neglect or abuse. Any animal impounded pursuant to this section shall be:*

(1) If the owner can be ascertained and the animal is not diseased or disabled beyond recovery for any useful purpose, held for recovery by the owner. The owner shall be notified within five business days of impoundment by phone or by mail of the animal's location and recovery procedures. The animal shall be held for ten business days. An animal unclaimed after ten business days may be put up for adoption or humanely killed;

(2) Placed in the care or custody of a veterinarian, the appropriate animal control authority or animal shelter. The animal shall not be disposed of, unless diseased or disabled beyond recovery for any useful purpose, until after expiration of a minimum of five business days, during which time the public shall have clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. After five business days, the animal may be put up for adoption or humanely killed; or

(3) If diseased or disabled beyond recovery for any useful purpose as determined by a public health official, law enforcement official, veterinarian or animal control officer, humanely killed.

2. The owner or custodian of an animal impounded pursuant to this section shall be liable for reasonable costs for the care and maintenance of the animal. Any person incurring reasonable costs for the care and maintenance of such animal shall have a lien against such animal until the reasonable costs have been paid and may put up for adoption or humanely kill any animal if such costs are not paid within ten days after demand. Any moneys received for an animal adopted pursuant to this subsection in excess of costs shall be paid to the owner of such animal.

3. The owner or custodian of any animal killed pursuant to this section shall be entitled to recover the actual value of the animal up to but not to exceed six hundred dollars if the owner or custodian shows that such killing was unwarranted.

MO. ANN. STAT. § 578.018 (2012). Warrant for entry on private property to inspect—impounded animals—compensation.

1. *Any duly authorized public health official or law enforcement official may seek a warrant from the appropriate court to enable him to enter private property in order to inspect, care for, or impound neglected or abused animals. All requests for such warrants shall be accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to 578.023 has occurred. A person acting under the authority of a warrant shall:*

(1) Be given a disposition hearing before the court through which the warrant was issued, within thirty days of the filing of the request for the purpose of granting immediate disposition of the animals impounded;

(2) Place impounded animals in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the animal shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;

(3) Humanely kill any animal impounded if it is determined by a licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;

(4) Not be liable for any necessary damage to property while acting under such warrant.

2. The owner or custodian or any person claiming an interest in any animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care and keeping for at least thirty days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the animal at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the animal from any cost of the care, keeping or disposal of the animal. The authority taking custody of an animal shall give notice of the provisions of this section by posting a copy of this section at the place where the animal was taken into custody or by delivering it to a person residing on the property.

3. The owner or custodian of any animal humanely killed pursuant to this section shall not be entitled to recover any damages related to nor the actual value of the animal if the animal was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the animal after being notified of impoundment.

MO. ANN. STAT. § 578.030 (2012). State highway patrol, powers and duties to enforce animal protection.

Editor's note: The scope of this provision is limited to the animal fighting statutes and to the prohibition on dogs pursuing animals propelled by devices. MO. REV. STAT. §§ 578.025 - 578.050.

1. *The provisions of section 43.200, RSMo, notwithstanding, any member of the state highway patrol or other law enforcement officer may apply for and serve a search warrant, and shall have the power of search and seizure in order to enforce the provisions of sections 578.025 to 578.050.*

2. *Any member of the state highway patrol or other law enforcement officer making an arrest under section 578.025 shall lawfully take possession of all dogs or other animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of section 578.025. Such officer, after taking possession of such dogs, animals, paraphernalia, implements or other property or things, shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in such complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed, or was about to be used or employed, in such violation of section 578.025. He shall thereupon deliver the property so taken to the court, which shall, by order in writing, place the same in the custody of an officer or other proper person named and designated in such order, to be kept by him until the conviction or final discharge of such person complained against, and shall send a copy of such order without delay to the prosecuting attorney of the county. The officer or person so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which such person so complained against may be required to appear for trial. Upon the conviction of the person so charged, all property so seized shall be adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed of as the court may order. In the event of the acquittal or final discharge without conviction of the person so charged, such court shall, on demand, direct the delivery of such property so held in custody to the owner thereof.*

8. FORFEITURE / POSSESSION

MO. ANN. STAT. § 578.018 (2012). Warrant for entry on private property to inspect—impounded animals—compensation.

1. Any duly authorized public health official or law enforcement official may seek a warrant from the appropriate court to enable him to enter private property in order to inspect, care for, or impound neglected or abused animals. All requests for such warrants shall be accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to 578.023 has occurred. A person acting under the authority of a warrant shall:

(1) Be given a disposition hearing before the court through which the warrant was issued, within thirty days of the filing of the request for the purpose of granting immediate disposition of the animals impounded;

(2) Place impounded animals in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the animal shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;

(3) Humanely kill any animal impounded if it is determined by a licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;

(4) Not be liable for any necessary damage to property while acting under such warrant.

2. *The owner or custodian or any person claiming an interest in any animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care and keeping for at least thirty days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the animal at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the animal from any cost of the care, keeping or disposal of the animal. The authority taking custody of an animal shall give notice of the provisions of this section by posting a copy of this section at the place where the animal was taken into custody or by delivering it to a person residing on the property.*

3. The owner or custodian of any animal humanely killed pursuant to this section shall not be entitled to recover any damages related to nor the actual value of the animal if the animal was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the animal after being notified of impoundment.

MO. ANN. STAT. §578.021 (2012). Neglected or abused animal not to be returned to owner or custodian, when.

If a person is adjudicated guilty of the crime of animal neglect or animal abuse and the court having jurisdiction is satisfied that an animal owned or controlled by such person would in the future be subject to such neglect or abuse, such animal shall not be returned to or allowed to remain with such person, but its disposition shall be determined by the court.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

MO. ANN. STAT. §566.111 (2012). Unlawful sex with an animal, penalties.

1. *A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.*

2. *Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.*

3. *In addition to any penalty imposed or as a condition of probation the court may:*

(1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;

(2) Order all animals in the defendant's possession subject to a civil forfeiture action under chapter 513, RSMo; or

(3) Order psychological evaluation and counseling of the defendant at the defendant's expense.

4. *Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.*

5. *For purposes of this section, the following terms mean:*

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

13. FIGHTING

MO. ANN. STAT. §578.025(2012). Dogs, fighting, training to fight or injuring for amusement or gain, penalty—spectator, penalty.

1. Any person who:

(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog;

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other; or

(3) Permits any act as described in subdivision (1) or (2) of this subsection to be done on any premises under his charge or control, or aids or abets any such act is guilty of a class D felony.

2. Any person who is knowingly present, as a spectator, at any place, building, or structure where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subdivision (2) of subsection 1 of this section, with the intent to be present at such exhibition, fighting, or injuring is guilty of a class A misdemeanor.

3. Nothing in this section shall be construed to prohibit:

(1) The use of dogs in the management of livestock by the owner of such livestock or his employees or agents or other persons in lawful custody of such livestock;

(2) The use of dogs in hunting; or

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

MO. ANN. STAT. §578.050 (2012). Bullbaiting and cockfighting—penalty.

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock or other creature, except dogs, and any person who shall encourage, aid or assist or be present thereat, or who shall permit or suffer any place belonging to him or under his control to be so kept or used, shall, on conviction thereof, be guilty of a class A misdemeanor.

MO. ANN. STAT. § 578.170 (2012). Definitions.

As used in sections 578.170 to 578.188, the following terms mean:

- (1) “Animal,” every living vertebrate except a human being;*
- (2) “Baiting,” to attack, provoke, or harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with other animals for the purpose of amusement, entertainment, wagering or gain;*
- (3) “Bear wrestling,” a contest of fighting or physical altercation between one or more persons and a bear for the purpose of amusement, entertainment, wagering or gain;*
- (4) “Person,” any individual, partnership, firm, joint stock company, corporation, association, other business unit, society, trust, estate or other legal entity, or any public or private institution.*

MO. ANN. STAT. § 578.173 (2012). Baiting or fighting animals—penalty.

1. Any person who commits any of the following acts is guilty of a class D felony:

- (1) Baiting or fighting animals;*
- (2) Permitting baiting or animal fighting to be done on any premises under his charge or control;*
- (3) Promoting, conducting, or staging a baiting or fight between two or more animals;*
- (4) Advertising a baiting or fight between two or more animals;*
- (5) Collecting any admission fee for a baiting or fight between two or more animals.*

2. Any person who commits any of the following acts is guilty of a class A misdemeanor:

- (1) Knowingly attending the baiting or fighting of animals;*
- (2) Knowingly selling, offering for sale, shipping, or transporting any animal which has been bred or trained to bait or fight another animal;*
- (3) Owning or possessing any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock;*
- (4) Manufacturing, selling, bartering or exchanging any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock.*

MO. ANN. STAT. § 578.176 (2012). Bear wrestling—penalty.

Any person who commits any of the following acts is guilty of a class A misdemeanor:

- (1) Bear wrestling;*
- (2) Permitting bear wrestling to be done on any premises under his charge or control;*
- (3) Promoting, conducting, or staging bear wrestling;*
- (4) Advertising bear wrestling;*
- (5) Collecting any admission fee for bear wrestling;*
- (6) Purchasing, selling, or possessing a bear which he knows will be used for bear wrestling;*
- (7) Training a bear for bear wrestling;*
- (8) Subjecting a bear to surgical alteration for bear wrestling.*

MO. ANN. STAT. § 578.179 (2012). Seizure and disposition of animals.

Whenever an indictment is returned or a complaint is filed alleging a violation of section 578.173 or 578.176 and, in the case of a complaint, a magistrate finds probable cause that a violation has occurred, the court shall order the animals seized and shall provide for appropriate and humane care or disposition of the animals pursuant to section 578.018. This provision shall not be construed as a limitation on the power to seize animals as evidence at the time of arrest.

MO. ANN. STAT. § 578.182 (2012). Exemptions.

1. The provisions of sections 578.173 and 578.176 shall not apply to:

- (1) Any person simulating a fight for the purpose of using the simulated fight as part of a motion picture production or a motion picture production for television, provided sections 578.009 and 578.012 are not violated;*
- (2) Any person selling, offering for sale, shipping, transporting or using any animal, for the sole purpose of tracking, pursuing or taking wildlife, or to participate in any hunting, fishing or any other activity regulated by the Missouri wildlife code;*

(3) Any person using animals to herd, work or identify livestock for agricultural purposes according to recognized animal husbandry.

2. Nothing in the provisions of sections 578.170, 578.173, and 578.176 shall be construed to:

(1) Prohibit breeding, rearing or slaughtering poultry pursuant to the provisions of chapters 196, 262, 265, 276 and 277, RSMo;

(2) Prohibit breeding or rearing game fowl when the game fowl are not intended for use in violation of the provisions of sections 578.170, 578.173 or 578.176;

(3) Prohibit professional or amateur rodeo practices, and skill events when the practices and skill events are not intended for use in violation of the provisions of sections 578.170, 578.173 and 578.176.

MO. ANN. STAT. § 578.185 (2012). Injunction.

A court of competent jurisdiction may enjoin a person from a continuing violation of section 578.173 or 578.176.

MO. ANN. STAT. § 578.188 (2012). Severability.

The provisions of sections 578.170, 578.173, 578.176, 578.179, 578.182, and 578.185 are hereby declared to be severable. If any of these provisions, or the application of any of these provisions to any person or circumstance, is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of these sections.

14. REFERENCED STATUTES

MO. ANN. STAT. § 273.033 (2012). Killing or injuring a dog—reasonable apprehension of imminent harmful contact.

1. In any action for damages or a criminal prosecution against any person for killing or injuring a dog, a showing by a preponderance of the evidence that such person was in reasonable apprehension of imminent harmful contact by the dog or was acting to prevent such imminent harmful contact against another person by the dog shall constitute an absolute defense to criminal prosecution or civil liability for the killing or injuring of such animal.

2. If a person has, on at least two occasions, complained to the county sheriff or to the appropriate animal control authority in his or her jurisdiction that a dog, not on a leash, has trespassed on property that such person owns, rents, or leases or on any property that constitutes such person's residence, and when at least one of the prior two complaints was motivated by reasonable apprehension for such person's safety or the safety of another person or apprehension of substantial damage to livestock or property, then any subsequent trespass by such dog shall constitute prima facie evidence that such person was in reasonable apprehension of imminent harmful contact. The county sheriff or animal control authority to which any complaint under this section is made shall notify the owner of the alleged trespassing dog of such complaint. Failure by a county sheriff or animal control authority to notify a dog owner under this subsection shall not invalidate or be construed in any way to limit any other provision of this subsection.

3. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any criminal prosecution or in any civil action brought by a plaintiff if the court finds that the defendant has an absolute defense as provided in subsection 1 of this section.

4. This section shall not be construed to provide an absolute defense to a person who is engaged in or attempting to engage in a criminal activity at the time of the apprehension of imminent harmful contact, or to a person for any damage or injury to any person or property other than the dog itself that may result from actions taken in an attempt to injure or kill such dog.

MO. ANN. STAT. § 430.165 (2012). Lien for the care of animals lawfully impounded, who entitled to.

1. Any animal lawfully impounded under the laws of this state or ordinances of any of its political subdivisions may be placed by the impounding officer in the care of any incorporated humane society or other responsible person designated by the impounding authority.

2. Any incorporated humane society or other person designated to care for an animal under the provisions of subsection 1 shall be entitled to a lien on the animal for the reasonable cost of the care of the animal, as provided in sections 430.150 and 430.160.

MO. ANN. STAT. §558.011 (2012). Sentence of imprisonment, terms—conditional release.

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;

(3) For a class C felony, a term of years not to exceed seven years;

(4) For a class D felony, a term of years not to exceed four years;

(5) For a class A misdemeanor, a term not to exceed one year;

(6) For a class B misdemeanor, a term not to exceed six months;

(7) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3.

(1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, RSMo, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4.

(1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036, RSMo, shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670, RSMo. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

MO. ANN. STAT. § 560.011 (2012). Fines for felonies.

1. A person who has been convicted of a class C or D felony may be sentenced

(1) To pay a fine which does not exceed five thousand dollars; or

(2) If the offender has gained money or property through the commission of the crime, to pay an amount, fixed by the court, not exceeding double the amount of the offender's gain from the commission of the crime. An individual offender may be fined not more than twenty thousand dollars under this provision.

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime. The amount of money or value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed shall be deducted from the fine. When the court imposes a fine based on gain the court shall make a finding as to the amount of the offender's gain from the crime. If the record does not contain sufficient evidence to support such a finding, the court may conduct a hearing upon the issue.

3. The provisions of this section shall not apply to corporations.

MO. ANN. STAT. § 560.016 (2012). Fines for misdemeanors and infractions.

1. Except as otherwise provided for an offense outside this code, a person who has been convicted of a misdemeanor or infraction may be sentenced to pay a fine which does not exceed:

(1) For a class A misdemeanor, one thousand dollars;

(2) For a class B misdemeanor, five hundred dollars;

(3) For a class C misdemeanor, three hundred dollars;

(4) For an infraction, two hundred dollars.

2. In lieu of a fine imposed under subsection 1, a person who has been convicted of a misdemeanor or infraction through which he derived "gain" as defined in section 560.011, may be sentenced to a fine which does not exceed double the amount of gain from the commission of the offense. An individual offender may be fined not more than twenty thousand dollars under this provision.

MO. ANN. STAT. § 566.111 (2012). Unlawful sex with an animal, penalties.

1. A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.

2. Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.

3. In addition to any penalty imposed or as a condition of probation the court may:

(1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;

(2) Order all animals in the defendant's possession subject to a civil forfeiture action under chapter 513, RSMo; or

(3) Order psychological evaluation and counseling of the defendant at the defendant's expense.

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

5. For purposes of this section, the following terms mean:

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

MO. ANN. STAT. § 578.005 (2012). Definitions.

As used in sections 578.005 to 578.023, the following terms shall mean:

(1) "Adequate care", normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health in a specific species of animal;

(2) "Adequate control", to reasonably restrain or govern an animal so that the animal does not injure itself, any person, any other animal, or property;

(3) "Animal", every living vertebrate except a human being;

- (4) “Animal shelter”, a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other not for profit organization devoted to the welfare, protection, and humane treatment of animals;
- (5) “Farm animal”, an animal raised on a farm or ranch and used or intended for use in farm or ranch production, or as food or fiber;
- (6) “Harbor”, to feed or shelter an animal at the same location for three or more consecutive days;
- (7) “Humane killing”, the destruction of an animal accomplished by a method approved by the American Veterinary Medical Association’s Panel on Euthanasia (JAVMA 173: 59-72, 1978); or more recent editions, but animals killed during the feeding of pet carnivores shall be considered humanely killed;
- (8) “Owner”, in addition to its ordinary meaning, any person who keeps or harbors an animal or professes to be owning, keeping, or harboring an animal;
- (9) “Person”, any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity;
- (10) “Pests”, birds, rabbits, or rodents which damage property or have an adverse effect on the public health, but shall not include any endangered species listed by the United States Department of the Interior nor any endangered species listed in the Wildlife Code of Missouri.

MO. ANN. STAT. § 578.007 (2012). Acts and facilities to which sections 578.005 to 578.023 do not apply.

The provisions of sections 578.005 to 578.023 shall not apply to:

- (1) Care or treatment performed by a licensed veterinarian within the provisions of chapter 340, RSMo;
- (2) Bona fide scientific experiments;
- (3) Hunting, fishing, or trapping as allowed by chapter 252, RSMo, including all practices and privileges as allowed under the Missouri Wildlife Code;
- (4) Facilities and publicly funded zoological parks currently in compliance with the federal “Animal Welfare Act” as amended;
- (5) Rodeo practices currently accepted by the Professional Rodeo Cowboy’s Association;

(6) The killing of an animal by the owner thereof, the agent of such owner, or by a veterinarian at the request of the owner thereof;

(7) The lawful, humane killing of an animal by an animal control officer, the operator of an animal shelter, a veterinarian, or law enforcement or health official;

(8) With respect to farm animals, normal or accepted practices of animal husbandry;

(9) The killing of an animal by any person at any time if such animal is outside of the owned or rented property of the owner or custodian of such animal and the animal is injuring any person or farm animal but shall not include police or guard dogs while working;

(10) The killing of house or garden pests; or

(11) Field trials, training and hunting practices as accepted by the Professional Houndsmen of Missouri.

MO. ANN. STAT. § 578.009 (2012). Animal neglect—penalties.

1. A person is guilty of animal neglect when he has custody or ownership or both of an animal and fails to provide adequate care or adequate control, which results in substantial harm to the animal.

2. A person is guilty of abandonment when he has knowingly abandoned an animal in any place without making provisions for its adequate care.

3. Animal neglect and abandonment is a class C misdemeanor upon first conviction and for each offense, punishable by imprisonment or a fine not to exceed five hundred dollars, or both, and a class B misdemeanor punishable by imprisonment or a fine not to exceed one thousand dollars, or both upon the second and all subsequent convictions. All fines and penalties for a first conviction of animal neglect or abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived. This section shall not apply to the provisions of section 578.007.

4. In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect or abandonment to pay all reasonable costs and expenses necessary for:

(1) The care and maintenance of neglected or abandoned animals within the person's custody or ownership;

- (2) The disposal of any dead or diseased animals within the person's custody or ownership;
- (3) The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and
- (4) The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

MO. ANN. STAT. § 578.012 (2012). Animal abuse—penalties.

1. A person is guilty of animal abuse when a person:

- (1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030, RSMo;
- (2) Purposely or intentionally causes injury or suffering to an animal; or
- (3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

MO. ANN. STAT. § 578.014 (2012). Responsibility of parent or guardian of minor owning.

The parent or guardian of a minor child is responsible for the adequate care of any animal owned by, in the control of, or harbored by that minor child.

MO. ANN. STAT. § 578.016 (2012). Impoundment of animal found off property of owner or custodian, disposition, procedure—liability of owner or custodian for costs—lien rights of owner or custodian.

1. Any duly authorized public health official, law enforcement official, or animal control officer may impound any animal found outside of the owned or rented property of the owner or custodian of such animal when such animal shows evidence of neglect or abuse. Any animal impounded pursuant to this section shall be:

(1) If the owner can be ascertained and the animal is not diseased or disabled beyond recovery for any useful purpose, held for recovery by the owner. The owner shall be notified within five business days of impoundment by phone or by mail of the animal's location and recovery procedures. The animal shall be held for ten business days. An animal unclaimed after ten business days may be put up for adoption or humanely killed;

(2) Placed in the care or custody of a veterinarian, the appropriate animal control authority or animal shelter. The animal shall not be disposed of, unless diseased or disabled beyond recovery for any useful purpose, until after expiration of a minimum of five business days, during which time the public shall have clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. After five business days, the animal may be put up for adoption or humanely killed; or

(3) If diseased or disabled beyond recovery for any useful purpose as determined by a public health official, law enforcement official, veterinarian or animal control officer, humanely killed.

2. The owner or custodian of an animal impounded pursuant to this section shall be liable for reasonable costs for the care and maintenance of the animal. Any person incurring reasonable costs for the care and maintenance of such animal shall have a lien against such animal until the reasonable costs have been paid and may put up for adoption or humanely kill any animal if such costs are not paid within ten days after demand. Any moneys received for an animal adopted pursuant to this subsection in excess of costs shall be paid to the owner of such animal.

3. The owner or custodian of any animal killed pursuant to this section shall be entitled to recover the actual value of the animal up to but not to exceed six hundred dollars if the owner or custodian shows that such killing was unwarranted.

MO. ANN. STAT. § 578.018 (2012). Warrant for entry on private property to inspect—impounded animals—compensation.

1. Any duly authorized public health official or law enforcement official may seek a warrant from the appropriate court to enable him to enter private property in order to inspect, care for, or impound neglected or abused animals. All requests for such warrants shall be accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to 578.023 has occurred. A person acting under the authority of a warrant shall:

(1) Be given a disposition hearing before the court through which the warrant was issued, within thirty days of the filing of the request for the purpose of granting immediate disposition of the animals impounded;

(2) Place impounded animals in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the animal shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;

(3) Humanely kill any animal impounded if it is determined by a licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;

(4) Not be liable for any necessary damage to property while acting under such warrant.

2. The owner or custodian or any person claiming an interest in any animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care and keeping for at least thirty days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the animal at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the animal from any cost of the care, keeping or disposal of the animal. The authority taking custody of an animal shall give notice of the provisions of this section by posting a copy of this section at the place where the animal was taken into custody or by delivering it to a person residing on the property.

3. The owner or custodian of any animal humanely killed pursuant to this section shall not be entitled to recover any damages related to nor the actual value of the animal if the animal was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the animal after being notified of impoundment.

MO. ANN. STAT. § 578.021 (2012). Neglected or abused animal not to be returned to owner or custodian, when.

If a person is adjudicated guilty of the crime of animal neglect or animal abuse and the court having jurisdiction is satisfied that an animal owned or controlled by such person would in the future be subject to such neglect or abuse, such animal shall not be returned to or allowed to remain with such person, but its disposition shall be determined by the court.

MO. ANN. STAT. § 578.025 (2012). Dogs, fighting, training to fight or injuring for amusement or gain, penalty—spectator, penalty.

1. Any person who:

(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog;

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other; or

(3) Permits any act as described in subdivision (1) or (2) of this subsection to be done on any premises under his charge or control, or aids or abets any such act is guilty of a class D felony.

2. Any person who is knowingly present, as a spectator, at any place, building, or structure where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subdivision (2) of subsection 1 of this section, with the intent to be present at such exhibition, fighting, or injuring is guilty of a class A misdemeanor.

3. Nothing in this section shall be construed to prohibit:

(1) The use of dogs in the management of livestock by the owner of such livestock or his employees or agents or other persons in lawful custody of such livestock;

(2) The use of dogs in hunting; or

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

MO. ANN. STAT. § 578.030 (2012). State highway patrol, powers and duties to enforce animal protection.

1. The provisions of section 43.200, RSMo, notwithstanding, any member of the state highway patrol or other law enforcement officer may apply for and serve a search warrant, and shall have the power of search and seizure in order to enforce the provisions of sections 578.025 to 578.050.

2. Any member of the state highway patrol or other law enforcement officer making an arrest under section 578.025 shall lawfully take possession of all dogs or other animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of section 578.025. Such officer, after taking possession of such dogs, animals, paraphernalia, implements or other property or things, shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in such complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed, or was about to be used or employed, in such violation of section 578.025. He shall thereupon deliver the property so taken to the court, which shall, by order in writing, place the same in the custody of an officer or other proper person named and designated in such order, to be kept by him until the conviction or final discharge of such person complained against, and shall send a copy of such order without delay to the prosecuting attorney of the county. The officer or person so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which such person so complained against may be required to appear for trial. Upon the conviction of the person so charged, all property so seized shall be adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed of as the court may order. In the event of the acquittal or final discharge without conviction of the person so charged, such court shall, on demand, direct the delivery of such property so held in custody to the owner thereof.

MO. ANN. STAT. § 578.050 (2012). Bullbaiting and cockfighting—penalty.

Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock or other creature, except dogs, and any person who shall encourage, aid or assist or be present thereat, or who shall permit or suffer any place belonging to him or under his control to be so kept or used, shall, on conviction thereof, be guilty of a class A misdemeanor.

MO. ANN. STAT. § 578.170 (2012). Definitions.

As used in sections 578.170 to 578.188, the following terms mean:

- (1) “Animal,” every living vertebrate except a human being;
- (2) “Baiting,” to attack, provoke, or harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with other animals for the purpose of amusement, entertainment, wagering or gain;

(3) “Bear wrestling,” a contest of fighting or physical altercation between one or more persons and a bear for the purpose of amusement, entertainment, wagering or gain;

(4) “Person,” any individual, partnership, firm, joint stock company, corporation, association, other business unit, society, trust, estate or other legal entity, or any public or private institution.

MO. ANN. STAT. § 578.173 (2012). Baiting or fighting animals—penalty.

1. Any person who commits any of the following acts is guilty of a class D felony:

(1) Baiting or fighting animals;

(2) Permitting baiting or animal fighting to be done on any premises under his charge or control;

(3) Promoting, conducting, or staging a baiting or fight between two or more animals;

(4) Advertising a baiting or fight between two or more animals;

(5) Collecting any admission fee for a baiting or fight between two or more animals.

2. Any person who commits any of the following acts is guilty of a class A misdemeanor:

(1) Knowingly attending the baiting or fighting of animals;

(2) Knowingly selling, offering for sale, shipping, or transporting any animal which has been bred or trained to bait or fight another animal;

(3) Owning or possessing any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock;

(4) Manufacturing, selling, bartering or exchanging any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock.

MO. ANN. STAT. § 578.176 (2012). Bear wrestling—penalty.

Any person who commits any of the following acts is guilty of a class A misdemeanor:

(1) Bear wrestling;

(2) Permitting bear wrestling to be done on any premises under his charge or control;

- (3) Promoting, conducting, or staging bear wrestling;
- (4) Advertising bear wrestling;
- (5) Collecting any admission fee for bear wrestling;
- (6) Purchasing, selling, or possessing a bear which he knows will be used for bear wrestling;
- (7) Training a bear for bear wrestling;
- (8) Subjecting a bear to surgical alteration for bear wrestling.

MO. ANN. STAT. § 578.179 (2012). Seizure and disposition of animals.

Whenever an indictment is returned or a complaint is filed alleging a violation of section 578.173 or 578.176 and, in the case of a complaint, a magistrate finds probable cause that a violation has occurred, the court shall order the animals seized and shall provide for appropriate and humane care or disposition of the animals pursuant to section 578.018. This provision shall not be construed as a limitation on the power to seize animals as evidence at the time of arrest.

MO. ANN. STAT. § 578.182 (2012). Exemptions.

1. The provisions of sections 578.173 and 578.176 shall not apply to:

- (1) Any person simulating a fight for the purpose of using the simulated fight as part of a motion picture production or a motion picture production for television, provided sections 578.009 and 578.012 are not violated;
- (2) Any person selling, offering for sale, shipping, transporting or using any animal, for the sole purpose of tracking, pursuing or taking wildlife, or to participate in any hunting, fishing or any other activity regulated by the Missouri wildlife code;
- (3) Any person using animals to herd, work or identify livestock for agricultural purposes according to recognized animal husbandry.

2. Nothing in the provisions of sections 578.170, 578.173, and 578.176 shall be construed to:

- (1) Prohibit breeding, rearing or slaughtering poultry pursuant to the provisions of chapters 196, 262, 265, 276 and 277, RSMo;

(2) Prohibit breeding or rearing game fowl when the game fowl are not intended for use in violation of the provisions of sections 578.170, 578.173 or 578.176;

(3) Prohibit professional or amateur rodeo practices, and skill events when the practices and skill events are not intended for use in violation of the provisions of sections 578.170, 578.173 and 578.176.

MO. ANN. STAT. § 578.185 (2012). Injunction.

A court of competent jurisdiction may enjoin a person from a continuing violation of section 578.173 or 578.176.

MO. ANN. STAT. § 578.188 (2012). Severability.

The provisions of sections 578.170, 578.173, 578.176, 578.179, 578.182, and 578.185 are hereby declared to be severable. If any of these provisions, or the application of any of these provisions to any person or circumstance, is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of these sections.

ANIMAL PROTECTION LAWS OF MONTANA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Montana's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Montana may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

MONTANA

<p>1. GENERAL PROHIBITIONS*</p>	<p>Cruelty to animals MONT. CODE ANN.§ 45-8-211</p> <p>Aggravated cruelty to animals MONT. CODE ANN.§ 45-8-217</p>
<p><i>Animals Covered in Definition</i></p>	<p>-----</p>
<p><i>Classification of Crimes</i></p>	<p>(1) [1st offense]: Misdemeanor</p> <p>[Subsequent offenses]: Felony</p> <p>-----</p> <p>(2) Felony</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1) [1st offense]: 1 year county jail <i>and/or</i> \$1,000 fine MONT. CODE ANN.§ 45-8-211(2)(a)</p> <p>[Subsequent offenses]: 2 years prison <i>and/or</i> \$2,500 fine MONT. CODE ANN.§ 45-8-211(2)(a)</p> <p>(2) 2 years prison <i>and/or</i> \$2,500 fine MONT. CODE ANN. § 45-8-211(2)(a)</p>

MONTANA*continued*

<p>3. EXEMPTIONS***</p>	<p>1, 2, 3, 4, 5, 6, 7, 9 MONT. CODE ANN.§ 45-8-211(4)</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Upon petition by the prosecutor, the court may require the defendant to post a bond to cover the costs of care. MONT. CODE ANN. § 27-1-434</p> <p>The court shall require defendant to pay reasonable costs of veterinary care. MONT. CODE ANN.§ 45-8-211(3)(a)</p> <p>The court may require defendant to pay reasonable costs of necessary care. MONT. CODE ANN.§ 45-8-211(3)(b)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>-----</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>At a pre-trial animal welfare hearing, the court may order a seized animal retained by a shelter, euthanized if seriously injured or suffering, or returned to the animal’s owner. MONT. CODE ANN. § 27-1-434</p> <p>Convicted owner may be required to forfeit affected animal(s) to the county. MONT. CODE ANN.§ 45-8-211(2)(b)</p> <p>Court may prohibit or limit ownership/possession/custody of animals during term of sentence. MONT. CODE ANN.§ 45-8-211(3)(c)</p>

MONTANA*continued*

9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	-----
12. SEXUAL ASSAULT	The sexual assault of an animal is a felony punishable by up to 10 years in the state prison and a \$50,000 fine. MONT. CODE ANN.§ 45-5-505
13. FIGHTING	Various animal fighting activities are felonies punishable by up to 5 years in the state prison and a \$5,000 fine. MONT. CODE ANN.§ 45-8-210
<i>Other Felony Provisions Affecting Animals</i> ¹	Killing or injuring a commonly domesticated hoofed animal MONT. CODE ANN.§ 45-6-101
NOTES	Exemplary damages may be awarded for inhumane injuries to animals MONT. CODE ANN.§ 27-1-222

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1 This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

MONT. CODE ANN. §45-8-211 (2012). Cruelty to animals—exceptions.

(1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

- (a) overworking, beating, tormenting, torturing, injuring, or killing the animal;*
- (b) carrying or confining the animal in a cruel manner;*
- (c) failing to provide an animal in the person's custody with:
 - (i) food and water of sufficient quantity and quality to sustain the animal's normal health;*
 - (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;*
 - (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;**
- (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or*
- (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.*

(2)

- (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.
- (b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
- (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

MONT. CODE ANN. §45-8-217 (2012). Aggravated animal cruelty.

A person commits the offense of aggravated animal cruelty if the person purposely or knowingly:

(1) kills or inflicts cruelty to an animal with the purpose of terrifying, torturing, or mutilating the animal; or

(2) inflicts cruelty to animals on a collection, kennel, or herd of 10 or more animals.

2. PENALTIES

MONT. CODE ANN. §45-8-211 (2012). Cruelty to animals—exceptions.

(1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

- (a) overworking, beating, tormenting, torturing, injuring, or killing the animal;
- (b) carrying or confining the animal in a cruel manner;
- (c) failing to provide an animal in the person's custody with:
 - (i) food and water of sufficient quantity and quality to sustain the animal's normal health;
 - (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;
 - (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;
- (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
- (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

3. EXEMPTIONS

MONT. CODE ANN. §45-8-211 (2012). Cruelty to animals—exceptions.

(1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

- (a) overworking, beating, tormenting, torturing, injuring, or killing the animal;
- (b) carrying or confining the animal in a cruel manner;
- (c) failing to provide an animal in the person's custody with:
 - (i) food and water of sufficient quantity and quality to sustain the animal's normal health;
 - (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;
 - (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;
- (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
- (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

- (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.
- (b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
- (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) *This section does not prohibit:*

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

4. COUNSELING

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MONT. CODE ANN. § 27-1-434 (2012). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

- (a) the purported facts regarding animal neglect and the current condition of the animal;*
- (b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and*
- (c) the name and address of the respondent.*

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

- (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;*
- (b) the extent of the animal's disease, injury, or suffering, if applicable;*
- (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and*
- (d) the availability of funding to provide for the animal's treatment, shelter, and care.*

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

- (a) immediate release of the animal to the owner;*
- (b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;*
- (c) euthanization of severely diseased, injured, or suffering animals; or*

(d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

MONT. CODE ANN. §45-8-211 (2012). Cruelty to animals—exceptions.

(1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

(a) overworking, beating, tormenting, torturing, injuring, or killing the animal;

(b) carrying or confining the animal in a cruel manner;

(c) failing to provide an animal in the person's custody with:

(i) food and water of sufficient quantity and quality to sustain the animal's normal health;

(ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;

(iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;

(d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) *In addition to the sentence provided in subsection (2), the court:*

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

7. SEIZURE / ON-SITE SUPERVISION

8. FORFEITURE / POSSESSION

MONT. CODE ANN. § 27-1-434 (2012). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

(a) the purported facts regarding animal neglect and the current condition of the animal;

(b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and

(c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

(a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;

(b) the extent of the animal's disease, injury, or suffering, if applicable;

(c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and

(d) the availability of funding to provide for the animal's treatment, shelter, and care.

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

(a) immediate release of the animal to the owner;

(b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;

(c) euthanization of severely diseased, injured, or suffering animals; or

(d) retention of the animal in a humane animal treatment shelter.

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(c) failing to provide an animal in the person's custody with:

(i) food and water of sufficient quantity and quality to sustain the animal's normal health;

(ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;

(iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;

(d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) *If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.*

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) *In addition to the sentence provided in subsection (2), the court:*

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

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(c) *shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.*

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

MONT. CODE ANN. §45-2-101 (2012). General definitions.

Unless otherwise specified in the statute, all words will be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

* * * * *

(21) *“Deviate sexual relations” means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.*

* * * * *

MONT. CODE ANN. §45-5-505 (2012). Deviate sexual conduct.

(1) *A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct.*

(2) *A person convicted of the offense of deviate sexual conduct shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.*

(3) *The fact that a person seeks testing or receives treatment for the HIV-related virus or another sexually transmitted disease may not be used as a basis for a prosecution under this section and is not admissible in evidence in a prosecution under this section.*

13. FIGHTING

MONT. CODE ANN. §45-8-210 (2012). Causing animals to fight—owners, trainers, and spectators—penalties—exception—definition.

(1) A person commits the offense of causing animals to fight if he:

(a) owns, possesses, keeps, or trains any animal with the intent that such animal fight or be engaged in an exhibition of fighting with another animal;

(b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain;

(c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under his charge or control, or aids or abets any such act;

(d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain.

(2) A person convicted of violating this section is guilty of a felony and shall be fined an amount not to exceed \$5,000 or imprisoned in the state prison for a term of not less than 1 year or more than 5 years, or both such fine and imprisonment.

(3) Nothing in this section prohibits the following:

(a) accepted husbandry practices used in the raising of livestock or poultry;

(b) the use of animals in the normal and usual course of rodeo events; or

(c) the use of animals in hunting and training as permitted by law.

(4) For purposes of this section, “animal” means any cock, bird, dog, or mammal except man.

14. REFERENCED STATUTES

MONT. CODE ANN. § 27-1-434 (2012). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

- (a) the purported facts regarding animal neglect and the current condition of the animal;
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- (c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

- (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
- (b) the extent of the animal's disease, injury, or suffering, if applicable;
- (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
- (d) the availability of funding to provide for the animal's treatment, shelter, and care.

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

- (a) immediate release of the animal to the owner;
- (b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;
- (c) euthanization of severely diseased, injured, or suffering animals; or

(d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

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Unless otherwise specified in the statute, all words will be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

* * * * *

(21) “Deviate sexual relations” means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.

* * * * *

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(1) A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct.

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(3) The fact that a person seeks testing or receives treatment for the HIV-related virus or another sexually transmitted disease may not be used as a basis for a prosecution under this section and is not admissible in evidence in a prosecution under this section.

MONT. CODE ANN. §45-8-210 (2012). Causing animals to fight—owners, trainers, and spectators—penalties—exception—definition.

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(a) owns, possesses, keeps, or trains any animal with the intent that such animal fight or be engaged in an exhibition of fighting with another animal;

(b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain;

(c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under his charge or control, or aids or abets any such act;

(d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain.

(2) A person convicted of violating this section is guilty of a felony and shall be fined an amount not to exceed \$5,000 or imprisoned in the state prison for a term of not less than 1 year or more than 5 years, or both such fine and imprisonment.

(3) Nothing in this section prohibits the following:

(a) accepted husbandry practices used in the raising of livestock or poultry;

(b) the use of animals in the normal and usual course of rodeo events; or

(c) the use of animals in hunting and training as permitted by law.

(4) For purposes of this section, “animal” means any cock, bird, dog, or mammal except man.

MONT. CODE ANN.§45-8-211 (2012).Cruelty to animals—exceptions.

(1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

(a) overworking, beating, tormenting, torturing, injuring, or killing the animal;

(b) carrying or confining the animal in a cruel manner;

(c) failing to provide an animal in the person’s custody with:

(i) food and water of sufficient quantity and quality to sustain the animal’s normal health;

(ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;

(iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;

(d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

- (f) lawful scientific or agricultural research or teaching that involves the use of animals;
- (g) services performed by a licensed veterinarian;
- (h) lawful control of rodents and predators and other lawful animal damage control activities; or
- (i) accepted training and discipline methods.

MONT. CODE ANN. §45-8-217 (2012). Aggravated animal cruelty.

A person commits the offense of aggravated animal cruelty if the person purposely or knowingly:

- (1) kills or inflicts cruelty to an animal with the purpose of terrifying, torturing, or mutilating the animal; or
- (2) inflicts cruelty to animals on a collection, kennel, or herd of 10 or more animals.

ANIMAL PROTECTION LAWS OF NEBRASKA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Nebraska's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Nebraska may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEBRASKA

<p>1. GENERAL PROHIBITIONS*</p>	<p>Abandonment, cruel neglect, cruel mistreatment NEB. REV. STAT. § 28-1009</p> <p>Abandonment, cruel neglect, cruel mistreatment of a livestock animal NEB. REV. STAT. § 54-903</p>
<p><i>Animals Covered in Definition</i></p>	<p>“Any vertebrate member of the animal kingdom” except an “uncaptured wild creature or a livestock animal” NEB. REV. STAT. § 28-1008(2)</p> <p>“Livestock animal means any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, or poultry” NEB. REV. STAT. § 54-902(9)</p>
<p><i>Classification of Crimes</i></p>	<p>[Abandonment, cruel neglect]: Class I misdemeanor</p> <p>[Abandonment, cruel neglect resulting in serious injury or illness or death]: Class IV felony</p> <p>[Cruel mistreatment] [1st offense]: Class I misdemeanor [Subsequent offenses]: Class IV felony</p> <p>[Cruel mistreatment involving torture, repeated beating or mutilation of a non-livestock animal]: Class IV felony</p>

NEBRASKA*continued*

<p>2. MAXIMUM PENALTIES^{**}</p>	<p>[Class I misdemeanor]: 1 year imprisonment <i>and/or</i> \$1,000 fine NEB. REV. STAT. § 28-106(1)</p> <p>[Class IV felony]: 5 years imprisonment <i>and/or</i> \$10,000 fine NEB. REV. STAT. § 28-105(1)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>1, 2, 3, 4, 5, 6, 7, 9 NEB. REV. STAT. § 28-1007 NEB. REV. STAT. § 28-1013 NEB. REV. STAT. § 28-1016 NEB. REV. STAT. § 54-907</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Reimbursement for expenses may be ordered by the court. NEB. REV. STAT. § 28-1006(4) NEB. REV. STAT. § 28-1011(1) NEB. REV. STAT. § 54-905(1)</p> <p>Even if reimbursement is not ordered by the court, defendant may still be liable for costs of care, which are a lien on the animal. NEB. REV. STAT. § 28-1011(2) NEB. REV. STAT. § 54-905(2)</p> <p>Judgments for fines and costs shall be a lien upon the property of the defendant. NEB. REV. STAT. § 29-2407</p>

NEBRASKA*continued*

<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Any animal or property involved in fighting may be seized. NEB. REV. STAT. § 28-1006(2), (3)</p> <p>Any law enforcement officer who has reason to believe that an animal has been abandoned, cruelly neglected or mistreated, may be issued a search warrant and may seize the animal if a violation has occurred. NEB. REV. STAT. § 28-1012 NEB. REV. STAT. § 54-906</p> <p>Animals involved in a violation of a no-possession order may be seized. NEB. REV. STAT. § 28-1019 NEB. REV. STAT. § 54-909</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>Any seized animal or property may be distributed or disposed as directed by the court. NEB. REV. STAT. § 28-1012(3),(4) NEB. REV. STAT. § 54-906(3)</p> <p>Upon a misdemeanor conviction for animal cruelty or fighting the court may prohibit owning, possessing or residing with an animal for up to 5 years; upon a felony conviction the court shall prohibit owning, possessing or residing with an animal for 5 to 15 years. NEB. REV. STAT. § 28-1019 NEB. REV. STAT. § 54-909</p> <p>When a seized or held animal is no longer required as evidence, the court may direct its disposal. NEB. REV. STAT. § 29-820(3)</p>

NEBRASKA*continued*

9. CROSS ENFORCEMENT / REPORTING	<p>Employees of agencies relating to government child or adult protective services, animal control, or animal abuse shall report cases of suspected animal abandonment, cruel neglect and cruel mistreatment. NEB. REV. STAT. § 28-1017</p> <p>Employees of agencies dealing with livestock animal control or abuse shall report cases of suspected animal abandonment, cruel neglect and cruel mistreatment NEB. REV. STAT. § 54-908</p>
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians and veterinary technicians shall report suspected cases of abandonment, cruel neglect, or cruel mistreatment, and are immune from liability except for false statements of fact made with malicious intent. NEB. REV. STAT. § 28-1020 NEB. REV. STAT. § 54-910</p>
11. LAW ENFORCEMENT POLICIES	<p>Law enforcement officers have a duty to investigate and make arrests for animal fighting violations. NEB. REV. STAT. § 28-1006</p> <p>Any law enforcement officer who has reason to believe that an animal is being mistreated may obtain a search warrant, issue citations, and seize the mistreated animal; officers are not liable for non-negligent property damage. NEB. REV. STAT. § 28-1012(1),(2),(5)</p>
12. SEXUAL ASSAULT	<p>Subjecting an animal to sexual penetration is a Class III misdemeanor. NEB. REV. STAT. §§ 28-1010, 54-904</p>

NEBRASKA*continued*

<p>13. FIGHTING</p>	<p>All various aspects relating to animal fighting, including being a spectator, are prohibited. Violations are Class IV felonies. NEB. REV. STAT. §28-1005</p> <p>Ownership or possession of animal fighting paraphernalia is a Class I misdemeanor. NEB. REV. STAT. § 28-1005.01</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>Harassment that is the proximate cause of the death of a police animal is a Class IV felony. NEB. REV. STAT. § 28-1009(2)</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; each state may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

NEB. REV. STAT. § 28-1008 (2012). Terms, defined.

For purposes of sections 28-1008 to 28-1017, 28-1019, and 28-1020:

(1) Abandon means to leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;

(2) Animal means any vertebrate member of the animal kingdom. Animal does not include an uncaptured wild creature or a livestock animal as defined in section 54-902;

(3) Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal;

(4) Cruelly neglect means to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;

(5) Humane killing means the destruction of an animal by a method which causes the animal a minimum of pain and suffering;

(6) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local animal control laws, rules, regulations, or ordinances. Law enforcement officer also includes any inspector under the Commercial Dog and Cat Operator Inspection Act to the extent that such inspector may exercise the authority of a law enforcement officer under section 28-1012 while in the course of performing inspection activities under the Commercial Dog and Cat Operator Inspection Act;

(7) Mutilation means intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. Mutilation does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices;

(8) Police animal means a horse or dog owned or controlled by the State of Nebraska or any county, city, or village for the purpose of assisting a law enforcement officer in the performance of his or her official enforcement duties;

(9) Repeated beating means intentional successive strikes to an animal by a person resulting in serious bodily injury or death to the animal;

(10) Serious injury or illness includes any injury or illness to any animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ; and

(11) Torture means intentionally subjecting an animal to extreme pain, suffering, or agony. Torture does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.

NEB. REV. STAT. § 28-1009 (2012). Abandonment; cruelty; harassment of a police animal; penalty.

(1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects an animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness or death of the animal, in which case it is a Class IV felony.

(2)

(a) Except as provided in subdivision (b) of this subsection, a person who cruelly mistreats an animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

(b) A person who cruelly mistreats an animal is guilty of a Class IV felony if such cruel mistreatment involves the knowing and intentional torture, repeated beating, or mutilation of the animal.

(3) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. Harassment of a police animal is a Class IV misdemeanor unless the harassment is the proximate cause of the death of the police animal, in which case it is a Class IV felony.

NEB. REV. STAT. § 54-902 (2012). Terms, defined.

For purposes of the Livestock Animal Welfare Act:

(1) Abandon means to leave a livestock animal in one's care, whether as owner or custodian, for any length of time without making effective provision for the livestock animal's food, water, or other care as is reasonably necessary for the livestock animal's health;

(2) Animal welfare practice means veterinarian practices and animal husbandry practices common to the livestock animal industry, including transport of livestock animals from one location to another;

(3) Bovine means a cow, an ox, or a bison;

(4) Cruelly mistreat means to knowingly and intentionally kill or cause physical harm to a livestock animal in a manner that is not consistent with animal welfare practices;

(5) Cruelly neglect means to fail to provide a livestock animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the livestock animal's health;

(6) Equine means a horse, pony, donkey, mule, hinny, or llama;

(7) Euthanasia means the destruction of a livestock animal by commonly accepted veterinary practices;

(8) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local laws, rules, regulations, or ordinances. Law enforcement officer also includes any inspector under the Commercial Dog and Cat Operator Inspection Act to the extent that such inspector may exercise the authority of a law enforcement officer under section 28-1012 while in the course of performing inspection activities under the Commercial Dog and Cat Operator Inspection Act;

(9) Livestock animal means any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, or poultry; and

(10) Serious injury or illness includes any injury or illness to any livestock animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

NEB. REV. STAT. § 54-903 (2012). Abandonment or cruel neglect; mistreatment; prohibited acts; violation; penalty.

(1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects a livestock animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness or death of the livestock animal, in which case it is a Class IV felony.

(2) A person who cruelly mistreats a livestock animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

2. PENALTIES

NEB. REV. STAT. § 28-105(2012). Felonies; classification of penalties; sentences; where served; eligibility for probation.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into nine classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I felony Death

Class IA felony Life imprisonment

Class IB felony Maximum-life imprisonment

Minimum-twenty years imprisonment

Class IC felony Maximum-fifty years imprisonment

Mandatory minimum-five years imprisonment

Class ID felony Maximum-fifty years imprisonment

Mandatory minimum-three years imprisonment

Class II felony Maximum-fifty years imprisonment

Minimum-one year imprisonment

Class III felony ... Maximum-twenty years imprisonment, or twenty-five thousand dollars fine, or both

Minimum-one year imprisonment

Class IIIA felony .. Maximum-five years imprisonment, or ten thousand dollars fine, or both

Minimum-none

Class IV felony Maximum-five years imprisonment, or ten thousand dollars fine, or both

Minimum-none

(2) All sentences of imprisonment for Class IA, IB, IC, ID, II, and III felonies and sentences of one year or more for Class IIIA and IV felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. Sentences of less than one year shall be served in the county jail except as provided in this subsection. If the department certifies that it has programs and facilities available for persons sentenced to terms of less than one year, the court may order that any sentence of six months or more be served in any institution under the jurisdiction of the department. Any such certification shall be given by the department to the State Court Administrator, who shall forward copies thereof to each judge having jurisdiction to sentence in felony cases.

(3) Nothing in this section shall limit the authority granted in sections 29-2221 and 29-2222 to increase sentences for habitual criminals.

(4) A person convicted of a felony for which a mandatory minimum sentence is prescribed shall not be eligible for probation.

NEB. REV. STAT. § 28-106 (2012).Misdemeanors; classification of penalties; sentences; where served.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I misdemeanor

*Maximum –not more than one year imprisonment, or one thousand dollars fine, or both
Minimum –none*

Class II misdemeanor

Maximum –six months imprisonment, or one thousand dollars fine, or both
Minimum –none

Class III misdemeanor

*Maximum –three months imprisonment, or five hundred dollars fine, or both
Minimum –none*

Class IIIA misdemeanor

Maximum –seven days imprisonment, five hundred dollars fine, or both
Minimum –none

Class IV misdemeanor Maximum –no imprisonment, five hundred dollars fine

Minimum --one hundred dollars fine

Class V misdemeanor Maximum –no imprisonment, one hundred dollars fine

Minimum –none

Class W misdemeanor Driving under the influence or implied consent

First conviction

Maximum –sixty days imprisonment and five hundred dollars fine

Mandatory minimum –seven days imprisonment and five hundred dollars fine

Second conviction

Maximum –six months imprisonment and five hundred dollars fine

Mandatory minimum –thirty days imprisonment and five hundred dollars fine

Third conviction

Maximum –one year imprisonment and one thousand dollars fine

Mandatory minimum –ninety days imprisonment and one thousand dollars fine

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

(a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor;

(b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or

(c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.

NEB. REV. STAT. § 28-1015 (2012).Ownership by child; applicability of penalties.

When an animal is owned by a minor child, the parent of such minor child with whom the child resides or legal guardian with whom the child resides shall be subject to the penalties provided under sections 28-1008 to 28-1017, 28-1019, and 28-1020 if the animal is abandoned or cruelly neglected.

3. EXEMPTIONS

NEB. REV. STAT. § 28-1007 (2012). Sections, how construed.

Sections 28-1004 to 28-1006 shall not be construed to amend or in any manner change the authority of the Game and Parks Commission under the Game Law, to prohibit any conduct authorized or permitted in the Game Law, or to prohibit the training of animals for any purpose not prohibited by law.

NEB. REV. STAT. § 28-1013 (2012). Sections; exemptions.

Sections 28-1008 to 28-1017 and 28-1019 shall not apply to:

(1) Care or treatment of an animal or other conduct by a veterinarian or veterinary technician licensed under the Veterinary Medicine and Surgery Practice Act that occurs within the scope of his or her employment, that occurs while acting in his or her professional capacity, or that conforms to commonly accepted veterinary practices;

(2) Commonly accepted care or treatment of a police animal by a law enforcement officer in the normal course of his or her duties;

(3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2010;

(4) Commonly accepted practices of hunting, fishing, or trapping;

(5) Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;

(6) Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;

(7) Killing of house or garden pests;

(8) Commonly accepted animal training practices.

NEB. REV. STAT. § 28-1016 (2012). Game and Parks Commission; Game Law; sections, how construed.

Nothing in sections 28-1008 to 28-1017, 28-1019, and 28-1020 shall be construed as amending or changing the authority of the Game and Parks Commission as established in the Game Law or to prohibit any conduct authorized or permitted by such law.

NEB. REV. STAT. § 54-907 (2012). Act; applicability.

The Livestock Animal Welfare Act shall not apply to:

(1) Care or treatment of a livestock animal or other conduct by a veterinarian or veterinary technician licensed under the Veterinary Medicine and Surgery Practice Act that occurs within the scope of his or her employment, that occurs while acting in his or her professional capacity, or that conforms to commonly accepted veterinary practices;

(2) Euthanasia of a livestock animal or livestock animals as conducted by the owner or by his or her agent or a veterinarian upon the owner's request;

(3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2010;

(4) Commonly accepted animal welfare practices with respect to livestock animals and commercial livestock operations, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;

(5) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts;

(6) Commonly accepted animal training practices; and

(7) Commonly accepted practices occurring in conjunction with sanctioned rodeos, animal racing, and pulling contests.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

NEB. REV. STAT. § 28-1006 (2012). Investigation; arrest; seizure of property; reimbursement of expenses.

(1) It shall be the duty of the sheriff, a police officer, or the Nebraska State Patrol to make prompt investigation of and arrest for any violation of section 28-1005 or 28-1005.01.

(2) Any animal, equipment, device, or other property or things involved in any violation of section 28-1005 or 28-1005.01 shall be subject to seizure, and disposition may be made in accordance with the method of disposition directed for contraband in sections 29-818 and 29-820.

(3) Any animal involved in any violation of section 28-1005 or 28-1005.01 shall be subject to seizure. Distribution or disposition shall be made as provided in section 29-818 and in such manner as the court may direct. The court may give preference to adoption alternatives through humane societies or comparable institutions and to the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) In addition to any other sentence given for a violation of section 28-1005 or 28-1005.01, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal, including adoption, of an animal involved in the violation of section 28-1005 or 28-1005.01. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

NEB. REV. STAT. § 28-1011 (2012). Violations; liability for expenses.

(1) In addition to any other sentence given for a violation of section 28-1009 or 28-1010, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal of an animal involved in the violation of such section. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all expenses incurred by a public or private agency in conjunction with the care, impoundment, or disposal of an animal. The expenses shall be a lien upon the animal.

NEB. REV. STAT. § 29-2407(2012). Judgments for fines, costs, and forfeited recognizances; lien; exemptions; duration.

Judgments for fines and costs in criminal cases shall be a lien upon all the property of the defendant within the county from the time of docketing the case by the clerk of the proper court, and judgments upon forfeited recognizance shall be a like lien from the time of forfeiture. No property of any convict shall be exempt from execution issued upon any such judgment as set out in this section against such convict except in cases when the convict is sentenced to a Department of Correctional Services adult correctional facility for a period of more than two years or to suffer death, in which cases there shall be the same exemptions as at the time may be provided by law for civil cases. The lien on real estate of any such judgment for costs shall terminate as provided in section 25-1716.

NEB. REV. STAT. § 54-905 (2012). Court order for reimbursement of expenses; liability for expenses.

(1) In addition to any other sentence given for a violation of section 54-903 or 54-904, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal of a livestock animal involved in the violation of such section. Whenever the court believes that such reimbursement is a proper sentence or at the prosecuting attorney's request, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all expenses incurred by a public or private agency in conjunction with the care, impoundment, or disposal of a livestock animal. The expenses shall be a lien upon the livestock animal.

7. SEIZURE / ON-SITE SUPERVISION

NEB. REV. STAT. § 28-1006 (2012).Investigation; arrest; seizure of property; reimbursement of expenses.

(1) It shall be the duty of the sheriff, a police officer, or the Nebraska State Patrol to make prompt investigation of and arrest for any violation of section 28-1005 or 28-1005.01.

(2) Any animal, equipment, device, or other property or things involved in any violation of section 28-1005 or 28-1005.01 shall be subject to seizure, and disposition may be made in accordance with the method of disposition directed for contraband in sections 29-818 and 29-820.

(3) Any animal involved in any violation of section 28-1005 or 28-1005.01 shall be subject to seizure. Distribution or disposition shall be made as provided in section 29-818 and in such manner as the court may direct. The court may give preference to adoption alternatives through humane societies or comparable institutions and to the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) In addition to any other sentence given for a violation of section 28-1005 or 28-1005.01, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal, including adoption, of an animal involved in the violation of section 28-1005 or 28-1005.01. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

NEB. REV. STAT. § 28-1012 (2012).Law enforcement officer; powers; immunity.

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any animal, equipment, device, or other property or things involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure and distribution or disposition shall be made under section 29-818 and in such manner as the court may direct.

(4) Any animal involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure. Distribution or disposition shall be made under section 29-818 and in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(5) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

NEB. REV. STAT. § 28-1019 (2012). Conviction; order prohibiting ownership, possession, or residing with animal; duration; violation; penalty; seizure of animal.

(1)

(a) If a person is convicted of a Class IV felony under section 28-1005 or 28-1009, the sentencing court shall order such person not to own, possess, or reside with any animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such court order shall be guilty of a Class I misdemeanor.

(b) If a person is convicted of a Class I misdemeanor under subdivision (2)(a) of section 28-1009 or section 28-1005.01 or a Class III misdemeanor under section 28-1010, the sentencing court may order such person not to own, possess, or reside with any animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

(c) Any animal involved in a violation of a court order under subdivision (a) or (b) of this subsection shall be subject to seizure by law enforcement. Distribution or disposition shall be made under section 29-818.

(2) This section shall not apply to any person convicted under section 28-1005 or 28-1009 or 28-1005.01 if a licensed physician confirms in writing that ownership or possession of or residence with an animal is essential to the health of such person.

NEB. REV. STAT. § 54-906 (2012). Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; liability.

(1) Any law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the livestock animal or livestock animals.

(2) Any law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any livestock animal, equipment, device, or other property or things involved in a violation of section 54-903 or 54-904 shall be subject to seizure, and distribution or disposition may be made in such manner as the court may direct.

(4) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

NEB. REV. STAT. § 54-909 (2012). Conviction; court order not to own or possess livestock animal; violation; penalty; seizure of livestock animal.

(1) If a person is convicted of a Class IV felony under section 54-903, the sentencing court shall order such person not to own or possess a livestock animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such court order shall be guilty of a Class I misdemeanor.

(2) If a person is convicted of a Class I misdemeanor under section 54-903 or a Class III misdemeanor under section 54-904, the sentencing court may order such person not to own or possess any livestock animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

(3) Any livestock animal involved in a violation of a court order under subsection (1) or (2) of this section shall be subject to seizure by law enforcement.

8. FORFEITURE / POSSESSION

NEB. REV. STAT. § 28-1012 (2012).Law enforcement officer; powers; immunity.

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any animal, equipment, device, or other property or things involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure and distribution or disposition shall be made under section 29-818 and in such manner as the court may direct.

(4) Any animal involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure. *Distribution or disposition shall be made under section 29-818 and in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.*

(5) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

NEB. REV. STAT. § 28-1019 (2012).Conviction; order prohibiting ownership, possession, or residing with animal; duration; violation; penalty; seizure of animal.

(1)

(a) If a person is convicted of a Class IV felony under section 28-1005 or 28-1009, the sentencing court shall order such person not to own, possess, or reside with any animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such court order shall be guilty of a Class I misdemeanor.

(b) If a person is convicted of a Class I misdemeanor under subdivision (2)(a) of section 28-1009 or section 28-1005.01 or a Class III misdemeanor under section 28-1010, the sentencing court may order such person not to own, possess, or reside with any animal after the date of conviction, but such time restriction, if any, shall not exceed five years.

Any person violating such court order shall be guilty of a Class IV misdemeanor.

(c) Any animal involved in a violation of a court order under subdivision (a) or (b) of this subsection shall be subject to seizure by law enforcement. Distribution or disposition shall be made under section 29-818.

(2) This section shall not apply to any person convicted under section 28-1005 or 28-1009 or 28-1005.01 if a licensed physician confirms in writing that ownership or possession of or residence with an animal is essential to the health of such person.

NEB. REV. STAT. § 29-820 (2012). Seized property; disposition.

(1) Unless other disposition is specifically provided by law, when property seized or held is no longer required as evidence, it shall be disposed of by the law enforcement agency on such showing as the law enforcement agency may deem adequate, as follows:

(a) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

(b) Money shall be restored to the owner unless it was used in unlawful gambling or lotteries or it was used or intended to be used to facilitate a violation of Chapter 28, article 4, in which case the money shall be forfeited and disposed of as required by Article VII, section 7, of the Constitution of Nebraska;

(c) Property which is unclaimed or the ownership of which is unknown shall be sold at a public auction held by the officer having custody thereof and the net proceeds disposed of as provided in subdivision (b) of this subsection, as shall any money which is unclaimed or the ownership of which is unknown;

(d) Except as provided in subsection 2 of this section, articles of contraband shall be destroyed; and

(e) Firearms, ammunition, explosives, bombs, and like devices which have been used in the commission of crime shall be destroyed; and

(f) Firearms which have come into the law enforcement agency's possession through a seizure or otherwise and (i) have not been used in the commission of crime, (ii) have not been defaced or altered in any manner that violates any state or federal law, (iii) may have a lawful use and be lawfully possessed, and (iv) are not subject to section 29-440 shall be restored to the owner.

(2) When the following property is seized or held and is no longer required as evidence, such property shall be disposed of on order of the court as the court may deem adequate:

Goods which are declared to be contraband but may reasonably be returned to a condition or state in which such goods may be lawfully used, possessed, or distributed by the public.

(3) When any animal as defined by section 28-1008 is seized or held and is no longer required as evidence, such animal may be disposed of in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) Unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.

NEB. REV. STAT. § 54-906 (2012). Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; liability.

(1) Any law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the livestock animal or livestock animals.

(2) Any law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any livestock animal, equipment, device, or other property or things involved in a violation of section 54-903 or 54-904 shall be subject to seizure, and distribution or disposition may be made in such manner as the court may direct.

(4) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

NEB. REV. STAT. § 54-909 (2012). Conviction; court order not to own or possess livestock animal; violation; penalty; seizure of livestock animal.

(1) If a person is convicted of a Class IV felony under section 54-903, the sentencing court shall order such person not to own or possess a livestock animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such

court order shall be guilty of a Class I misdemeanor.

(2) If a person is convicted of a Class I misdemeanor under section 54-903 or a Class III misdemeanor under section 54-904, the sentencing court may order such person not to own or possess any livestock animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

(3) Any livestock animal involved in a violation of a court order under subsection (1) or (2) of this section shall be subject to seizure by law enforcement.

9. CROSS ENFORCEMENT / REPORTING

NEB. REV. STAT. § 28-1017 (2012). Animal abandonment, cruel neglect, or cruel mistreatment; report required by certain employees; violation; penalty.

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

(8) Any employee failing to report under this section shall be guilty of an infraction.

NEB. REV. STAT. § 54-908 (2012). Employee of governmental livestock animal control or animal abuse agency; duty to report suspected criminal activity; immunity from liability; contents of report; form; failure to report; penalty.

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

(8) Any employee failing to report under this section shall be guilty of an infraction.

10. VETERINARIAN REPORTING / IMMUNITY

NEB. REV. STAT. § 28-1020 (2012). Animal abandonment, cruel neglect, or cruel mistreatment; report required by animal health care professional; immunity from liability.

(1) Any animal health care professional, while acting in his or her professional capacity or within the scope of his or her employment, who observes or is involved in an incident which leads the animal health care professional to reasonably suspect that an animal has been abandoned, cruelly neglected, or cruelly mistreated, shall report such treatment to an entity that investigates such reports in the appropriate jurisdiction.

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

3. For purposes of this section, an animal health care professional means a licensed veterinarian as defined in section 38-3310 or a licensed veterinary technician as defined in section 38-3311.

NEB. REV. STAT. § 54-910 (2012). Livestock animal health care professional; duty to report suspected criminal activity; immunity from liability.

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

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

(3) For purposes of this section, a livestock animal health care professional means a licensed veterinarian as defined in section 38-3310 or a licensed veterinary technician as defined in section 38-3311 whose practice involves care of livestock animals.

11. LAW ENFORCEMENT POLICIES

NEB. REV. STAT. § 28-1006 (2012). Investigation; arrest; seizure of property; reimbursement of expenses.

(1) It shall be the duty of the sheriff, a police officer, or the Nebraska State Patrol to make prompt investigation of and arrest for any violation of section 28-1005.

(2) Any animal, equipment, device, or other property or things involved in any violation of section 28-1005 shall be subject to seizure, and disposition may be made in accordance with the method of disposition directed for contraband in section 29-820.

(3) Any animal involved in any violation of section 28-1005 shall be subject to seizure. Distribution or disposition may be made in such manner as the court may direct. The court may give preference to adoption alternatives through humane societies or comparable institutions and to the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) In addition to any other sentence given for a violation of section 28-1005, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal, including adoption, of an animal involved in the violation of such section. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

NEB. REV. STAT. § 28-1012 (2012). Law enforcement officer; powers; immunity.

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any animal, equipment, device, or other property or things involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure and distribution or disposition shall be made under section 29-818 and in such manner as the court may direct.

(4) Any animal involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure. Distribution or disposition shall be made under section 29-818 and in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(5) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

12. SEXUAL ASSAULT

NEB. REV. STAT. § 28-1010 (2012).Indecency with an animal; penalty.

A person commits indecency with an animal when such person subjects an animal to sexual penetration as defined in section 28-318. Indecency with an animal is a Class III misdemeanor.

NEB. REV. STAT.§ 54-904 (2012).Indecency with a livestock animal; penalty.

A person commits indecency with a livestock animal when such person subjects an animal to sexual penetration as defined in section 28-318. Indecency with a livestock animal is a Class III misdemeanor.

13. FIGHTING

NEB. REV. STAT. § 28-1004 (2012). Terms, defined.

As used in this section and section 28-1005, unless the context otherwise requires:

- (1) Bearbaiting shall mean the pitting of any animal against a bear;*
- (2) Cockfighting shall mean the pitting of a fowl against another fowl;*
- (3) Dogfighting shall mean the pitting of a dog against another dog; and*
- (4) Pitting shall mean bringing animals together in combat.*

NEB. REV. STAT. § 28-1005 (2012). Dogfighting, cockfighting, bearbaiting, or pitting an animal against another; prohibited acts; penalty.

(1) No person shall knowingly:

- (a) Promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another;*
- (b) Receive money for the admission of another person to a place kept for such purpose;*
- (c) Own, use, train, sell, or possess an animal for such purpose; or*
- (d) Permit any act as described in this subsection to occur on any premises owned or controlled by him or her.*

(2) Any person violating subsection (1) of this section shall be guilty of a Class IV felony.

(3) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in subsection (1) of this section. Any person who violates any provision of this subsection shall be guilty of a Class IV felony.

NEB. REV. STAT. § 28-1005.01 (2012). Ownership or possession of animal fighting paraphernalia; penalty.

(1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of section 28-1005.

(2)

(a) For purposes of this section, except as provided in subdivision (b) of this subsection, animal fighting paraphernalia means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in section 28-1004. Animal fighting paraphernalia includes, but is not limited to, the following:

(i) A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;

(ii) A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

(iii) A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;

(iv) A fighting pit, which means a walled area designed to contain an animal fight;

(v) A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;

(vi) A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;

(vii) A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and

(viii) Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) Animal fighting paraphernalia does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state.

(3) Any person violating subsection (1) of this section is guilty of a Class I misdemeanor.

14. REFERENCED STATUTES

NEB. REV. STAT. § 28-105(2012). Felonies; classification of penalties; sentences; where served; eligibility for probation.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into nine classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I felony Death

Class IA felony Life imprisonment

Class IB felony Maximum-life imprisonment
Minimum-twenty years imprisonment

Class IC felony Maximum-fifty years imprisonment
Mandatory minimum-five years imprisonment

Class ID felony Maximum-fifty years imprisonment
Mandatory minimum-three years imprisonment

Class II felony Maximum-fifty years imprisonment
Minimum-one year imprisonment

Class III felony ... Maximum-twenty years imprisonment, or
twenty-five thousand dollars fine, or both
Minimum-one year imprisonment

Class IIIA felony .. Maximum-five years imprisonment, or
ten thousand dollars fine, or both
Minimum-none

Class IV felony Maximum-five years imprisonment, or ten
thousand dollars fine, or both
Minimum-none

(2) All sentences of imprisonment for Class IA, IB, IC, ID, II, and III felonies and sentences of one year or more for Class IIIA and IV felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. Sentences of less than one year shall be served in the county jail except as provided in this subsection. If the department certifies that it has programs and facilities available for persons sentenced to terms of less than one year, the court may order that any sentence of six months or more be served in any institution under the jurisdiction of the department. Any such certification shall be given by the department to the State Court Administrator, who shall forward copies thereof to each judge having jurisdiction to sentence in felony cases.

(3) Nothing in this section shall limit the authority granted in sections 29- 2221 and 29-2222 to increase sentences for habitual criminals.

(4) A person convicted of a felony for which a mandatory minimum sentence is prescribed shall not be eligible for probation.

NEB. REV. STAT. § 28-106 (2012).Misdemeanors; classification of penalties; sentences; where served.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I misdemeanor

Maximum –not more than one year imprisonment, or one thousand dollars fine, or both
Minimum –none

Class II misdemeanor

Maximum –six months imprisonment, or one thousand dollars fine, or both
Minimum –none

Class III misdemeanor

Maximum –three months imprisonment, or five hundred dollars fine, or both
Minimum –none

Class IIIA misdemeanor

Maximum –seven days imprisonment, five hundred dollars fine, or both
Minimum –none

Class IV misdemeanor Maximum –no imprisonment, five hundred dollars fine

Minimum –one hundred dollars fine

Class V misdemeanor Maximum –no imprisonment, one hundred dollars fine

Minimum –none

Class W misdemeanor Driving under the influence or implied consent

First conviction

Maximum –sixty days imprisonment and five hundred dollars fine

Mandatory minimum –seven days imprisonment and five hundred dollars fine

Second conviction

Maximum –six months imprisonment and five hundred dollars fine

Mandatory minimum –thirty days imprisonment and five hundred dollars fine

Third conviction

Maximum –one year imprisonment and one thousand dollars fine

Mandatory minimum –ninety days imprisonment and one thousand dollars fine

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

- (a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor;
- (b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or
- (c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.

NEB. REV. STAT. § 28-1004 (2012). Terms, defined.

As used in this section and section 28-1005, unless the context otherwise requires:

- (1) Bearbaiting shall mean the pitting of any animal against a bear;
- (2) Cockfighting shall mean the pitting of a fowl against another fowl;
- (3) Dogfighting shall mean the pitting of a dog against another dog; and
- (4) Pitting shall mean bringing animals together in combat.

NEB. REV. STAT. § 28-1005 (2012). Dogfighting, cockfighting, bearbaiting, or pitting an animal against another; prohibited acts; penalty.

- (1) No person shall knowingly:
 - (a) Promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another;
 - (b) Receive money for the admission of another person to a place kept for such purpose;
 - (c) Own, use, train, sell, or possess an animal for such purpose; or
 - (d) Permit any act as described in this subsection to occur on any premises owned or controlled by him or her.

(2) Any person violating subsection (1) of this section shall be guilty of a Class IV felony.

(3) No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in subsection (1) of this section. Any person who violates any provision of this subsection shall be guilty of a Class IV felony.

NEB. REV. STAT. § 28-1005.01 (2012).Ownership or possession of animal fighting paraphernalia; penalty.

(1) No person shall knowingly or intentionally own or possess animal fighting paraphernalia with the intent to commit a violation of section 28-1005.

(2)

(a) For purposes of this section, except as provided in subdivision (b) of this subsection, animal fighting paraphernalia means equipment, products, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of the pitting of an animal against another as defined in section 28-1004. Animal fighting paraphernalia includes, but is not limited to, the following:

(i) A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;

(ii) A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

(iii) A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing place;

(iv) A fighting pit, which means a walled area designed to contain an animal fight;

(v) A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;

(vi) A heel, which means any edged or pointed instrument designed to be attached to the leg of a fowl;

(vii) A boxing glove or muff, which means a fitted protective covering for the spurs of a fowl; and

(viii) Any other instrument commonly used in the furtherance of pitting an animal against another.

(b) Animal fighting paraphernalia does not include equipment, products, or materials of any kind used by a veterinarian licensed to practice veterinary medicine and surgery in this state.

(3) Any person violating subsection (1) of this section is guilty of a Class I misdemeanor.

NEB. REV. STAT. § 28-1006 (2012). Investigation; arrest; seizure of property; reimbursement of expenses.

(1) It shall be the duty of the sheriff, a police officer, or the Nebraska State Patrol to make prompt investigation of and arrest for any violation of section 28-1005 or 28-1005.01.

(2) Any animal, equipment, device, or other property or things involved in any violation of section 28-1005 or 28-1005.01 shall be subject to seizure, and disposition may be made in accordance with the method of disposition directed for contraband in sections 29-818 and 29-820.

(3) Any animal involved in any violation of section 28-1005 or 28-1005.01 shall be subject to seizure. Distribution or disposition shall be made as provided in section 29-818 and in such manner as the court may direct. The court may give preference to adoption alternatives through humane societies or comparable institutions and to the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) In addition to any other sentence given for a violation of section 28-1005 or 28-1005.01, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal, including adoption, of an animal involved in the violation of section 28-1005 or 28-1005.01. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

NEB. REV. STAT. § 28-1007 (2012). Sections, how construed.

Sections 28-1004 to 28-1006 shall not be construed to amend or in any manner change the authority of the Game and Parks Commission under the Game Law, to prohibit any conduct authorized or permitted in the Game Law, or to prohibit the training of animals for any purpose not prohibited by law.

NEB. REV. STAT. § 28-1008 (2012). Terms, defined.

For purposes of sections 28-1008 to 28-1017, 28-1019, and 28-1020:

- (1) Abandon means to leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;
- (2) Animal means any vertebrate member of the animal kingdom. Animal does not include an uncaptured wild creature or a livestock animal as defined in section 54-902;
- (3) Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal;
- (4) Cruelly neglect means to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;
- (5) Humane killing means the destruction of an animal by a method which causes the animal a minimum of pain and suffering;
- (6) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local animal control laws, rules, regulations, or ordinances. Law enforcement officer also includes any inspector under the Commercial Dog and Cat Operator Inspection Act to the extent that such inspector may exercise the authority of a law enforcement officer under section 28-1012 while in the course of performing inspection activities under the Commercial Dog and Cat Operator Inspection Act;
- (7) Mutilation means intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. Mutilation does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices;
- (8) Police animal means a horse or dog owned or controlled by the State of Nebraska or any county, city, or village for the purpose of assisting a law enforcement officer in the performance of his or her official enforcement duties;

(9) Repeated beating means intentional successive strikes to an animal by a person resulting in serious bodily injury or death to the animal;

(10) Serious injury or illness includes any injury or illness to any animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ; and

(11) Torture means intentionally subjecting an animal to extreme pain, suffering, or agony. Torture does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.

NEB. REV. STAT. § 28-1009 (2012). Abandonment; cruelty; harassment of a police animal; penalty.

(1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects an animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness or death of the animal, in which case it is a Class IV felony.

(2)

(a) Except as provided in subdivision (b) of this subsection, a person who cruelly mistreats an animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

(b) A person who cruelly mistreats an animal is guilty of a Class IV felony if such cruel mistreatment involves the knowing and intentional torture, repeated beating, or mutilation of the animal.

(3) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. Harassment of a police animal is a Class IV misdemeanor unless the harassment is the proximate cause of the death of the police animal, in which case it is a Class IV felony.

NEB. REV. STAT. § 28-1010 (2012). Indecency with an animal; penalty.

A person commits indecency with an animal when such person subjects an animal to sexual penetration as defined in section 28-318. Indecency with an animal is a Class III misdemeanor.

NEB. REV. STAT. § 28-1011 (2012). Violations; liability for expenses.

(1) In addition to any other sentence given for a violation of section 28-1009 or 28-1010, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal of an animal involved in the violation of such section. Whenever the court believes that such reimbursement may be a proper sentence or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all expenses incurred by a public or private agency in conjunction with the care, impoundment, or disposal of an animal. The expenses shall be a lien upon the animal.

NEB. REV. STAT. § 28-1012 (2012). Law enforcement officer; powers; immunity.

(1) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.

(2) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any animal, equipment, device, or other property or things involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure and distribution or disposition shall be made under section 29-818 and in such manner as the court may direct.

(4) Any animal involved in a violation of section 28-1009 or 28-1010 shall be subject to seizure. Distribution or disposition shall be made under section 29-818 and in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(5) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

NEB. REV. STAT. § 28-1013 (2012). Sections; exemptions.

Sections 28-1008 to 28-1017 and 28-1019 shall not apply to:

- (1) Care or treatment of an animal or other conduct by a veterinarian or veterinary technician licensed under the Veterinary Medicine and Surgery Practice Act that occurs within the scope of his or her employment, that occurs while acting in his or her professional capacity, or that conforms to commonly accepted veterinary practices;
- (2) Commonly accepted care or treatment of a police animal by a law enforcement officer in the normal course of his or her duties;
- (3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2010;
- (4) Commonly accepted practices of hunting, fishing, or trapping;
- (5) Humane killing of an animal by the owner or by his or her agent or a veterinarian upon the owner's request;
- (6) Use of reasonable force against an animal, other than a police animal, which is working, including killing, capture, or restraint, if the animal is outside the owned or rented property of its owner or custodian and is injuring or posing an immediate threat to any person or other animal;
- (7) Killing of house or garden pests;
- (8) Commonly accepted animal training practices.

NEB. REV. STAT. § 28-1015 (2012). Ownership by child; applicability of penalties.

When an animal is owned by a minor child, the parent of such minor child with whom the child resides or legal guardian with whom the child resides shall be subject to the penalties provided under sections 28-1008 to 28-1017, 28-1019, and 28-1020 if the animal is abandoned or cruelly neglected.

NEB. REV. STAT. § 28-1016 (2012). Game and Parks Commission; Game Law; sections, how construed.

Nothing in sections 28-1008 to 28-1017, 28-1019, and 28-1020 shall be construed as amending or changing the authority of the Game and Parks Commission as established in the Game Law or to prohibit any conduct authorized or permitted by such law.

NEB. REV. STAT. § 28-1017 (2012). Animal abandonment, cruel neglect, or cruel mistreatment; report required by certain employees; violation; penalty.

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

(8) Any employee failing to report under this section shall be guilty of an infraction.

NEB. REV. STAT. § 28-1019 (2012). Conviction; order prohibiting ownership, possession, or residing with animal; duration; violation; penalty; seizure of animal.

(1)

(a) If a person is convicted of a Class IV felony under section 28-1005 or 28-1009, the sentencing court shall order such person not to own, possess, or reside with any animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such court order shall be guilty of a Class I misdemeanor.

(b) If a person is convicted of a Class I misdemeanor under subdivision (2)(a) of section 28-1009 or section 28-1005.01 or a Class III misdemeanor under section 28-1010, the sentencing court may order such person not to own, possess, or reside with any animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

(c) Any animal involved in a violation of a court order under subdivision (a) or (b) of this subsection shall be subject to seizure by law enforcement. Distribution or disposition shall be made under section 29-818.

(2) This section shall not apply to any person convicted under section 28-1005 or 28-1009 or 28-1005.01 if a licensed physician confirms in writing that ownership or possession of or residence with an animal is essential to the health of such person.

NEB. REV. STAT. § 28-1020 (2012). Animal abandonment, cruel neglect, or cruel mistreatment; report required by animal health care professional; immunity from liability.

(1) Any animal health care professional, while acting in his or her professional capacity or within the scope of his or her employment, who observes or is involved in an incident which leads the animal health care professional to reasonably suspect that an animal has been abandoned, cruelly neglected, or cruelly mistreated, shall report such treatment to an entity that investigates such reports in the appropriate jurisdiction.

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

3. For purposes of this section, an animal health care professional means a licensed veterinarian as defined in section 38-3310 or a licensed veterinary technician as defined in section 38-3311.

NEB. REV. STAT. § 29-2407(2012). Judgments for fines, costs, and forfeited recognizances; lien; exemptions; duration.

Judgments for fines and costs in criminal cases shall be a lien upon all the property of the defendant within the county from the time of docketing the case by the clerk of the proper court, and judgments upon forfeited recognizance shall be a like lien from the time of forfeiture. No property of any convict shall be exempt from execution issued upon any such judgment as set out in this section against such convict except in cases when the convict is sentenced to a Department of Correctional Services adult correctional facility for a period of more than two years or to suffer death, in which cases there shall be the same exemptions as at the time may be provided by law for civil cases. The lien on real estate of any such judgment for costs shall terminate as provided in section 25-1716.

NEB. REV. STAT. § 29-820 (2012). Seized property; disposition.

(1) Unless other disposition is specifically provided by law, when property seized or held is no longer required as evidence, it shall be disposed of by the law enforcement agency on such showing as the law enforcement agency may deem adequate, as follows:

(a) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

(b) Money shall be restored to the owner unless it was used in unlawful gambling or lotteries or it was used or intended to be used to facilitate a violation of Chapter 28, article 4, in which case the money shall be forfeited and disposed of as required by Article VII, section 7, of the Constitution of Nebraska;

(c) Property which is unclaimed or the ownership of which is unknown shall be sold at a public auction held by the officer having custody thereof and the net proceeds disposed of as provided in subdivision (b) of this subsection, as shall any money which is unclaimed or the ownership of which is unknown;

(d) Except as provided in subsection 2 of this section, articles of contraband shall be destroyed; and

(e) Firearms, ammunition, explosives, bombs, and like devices which have been used in the commission of crime shall be destroyed; and

(f) Firearms which have come into the law enforcement agency's possession through a seizure or otherwise and (i) have not been used in the commission of crime, (ii) have not been defaced or altered in any manner that violates any state or federal law, (iii) may have a lawful use and be lawfully possessed, and (iv) are not subject to section 29-440 shall be restored to the owner.

(2) When the following property is seized or held and is no longer required as evidence, such property shall be disposed of on order of the court as the court may deem adequate:

Goods which are declared to be contraband but may reasonably be returned to a condition or state in which such goods may be lawfully used, possessed, or distributed by the public.

(3) When any animal as defined by section 28-1008 is seized or held and is no longer required as evidence, such animal may be disposed of in such manner as the court may direct. The court may consider adoption alternatives through humane societies or comparable institutions and the protection of such animal's welfare. For a humane society or comparable institution to be considered as an adoption alternative under this subsection, it must first be licensed by the Department of Agriculture as having passed the inspection requirements in the Commercial Dog and Cat Operator Inspection Act and paid the fee for inspection under the act. The court may prohibit an adopting or purchasing party from selling such animal for a period not to exceed one year.

(4) Unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.

NEB. REV. STAT. § 54-902 (2012). Terms, defined.

For purposes of the Livestock Animal Welfare Act:

(1) Abandon means to leave a livestock animal in one's care, whether as owner or custodian, for any length of time without making effective provision for the livestock animal's food, water, or

other care as is reasonably necessary for the livestock animal's health;

(2) Animal welfare practice means veterinarian practices and animal husbandry practices common to the livestock animal industry, including transport of livestock animals from one location to another;

(3) Bovine means a cow, an ox, or a bison;

(4) Cruelly mistreat means to knowingly and intentionally kill or cause physical harm to a livestock animal in a manner that is not consistent with animal welfare practices;

(5) Cruelly neglect means to fail to provide a livestock animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the livestock animal's health;

(6) Equine means a horse, pony, donkey, mule, hinny, or llama;

(7) Euthanasia means the destruction of a livestock animal by commonly accepted veterinary practices;

(8) Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local laws, rules, regulations, or ordinances. Law enforcement officer also includes any inspector under the Commercial Dog and Cat Operator Inspection Act to the extent that such inspector may exercise the authority of a law enforcement officer under section 28-1012 while in the course of performing inspection activities under the Commercial Dog and Cat Operator Inspection Act;

(9) Livestock animal means any bovine, equine, swine, sheep, goats, domesticated cervine animals, ratite birds, or poultry; and

(10) Serious injury or illness includes any injury or illness to any livestock animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

NEB. REV. STAT. § 54-903 (2012). Abandonment or cruel neglect; mistreatment; prohibited acts; violation; penalty.

(1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects a livestock animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness or death of the livestock animal, in which case it is a Class IV felony.

(2) A person who cruelly mistreats a livestock animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

NEB. REV. STAT. § 54-904 (2012). Indecency with a livestock animal; penalty.

A person commits indecency with a livestock animal when such person subjects an animal to sexual penetration as defined in section 28-318. Indecency with a livestock animal is a Class III misdemeanor.

NEB. REV. STAT. § 54-905 (2012). Court order for reimbursement of expenses; liability for expenses.

(1) In addition to any other sentence given for a violation of section 54-903 or 54-904, the sentencing court may order the defendant to reimburse a public or private agency for expenses incurred in conjunction with the care, impoundment, or disposal of a livestock animal involved in the violation of such section. Whenever the court believes that such reimbursement is a proper sentence or at the prosecuting attorney's request, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the expenses incurred. The court may order that reimbursement be made immediately, in specified installments, or within a specified period of time, not to exceed five years after the date of judgment.

(2) Even if reimbursement for expenses is not ordered under subsection (1) of this section, the defendant shall be liable for all expenses incurred by a public or private agency in conjunction with the care, impoundment, or disposal of a livestock animal. The expenses shall be a lien upon the livestock animal.

NEB. REV. STAT. § 54-906 (2012). Law enforcement officer; warrant authorizing entry upon property; issue citation; seizure of animal and property; liability.

(1) Any law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the livestock animal or livestock animals.

(2) Any law enforcement officer who has reason to believe that a livestock animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed in sections 29-422 to 29-429.

(3) Any livestock animal, equipment, device, or other property or things involved in a violation of section 54-903 or 54-904 shall be subject to seizure, and distribution or disposition may be made in such manner as the court may direct.

(4) Any law enforcement officer acting under this section shall not be liable for damage to

property if such damage is not the result of the officer's negligence.

NEB. REV. STAT. § 54-907 (2012). Act; applicability.

The Livestock Animal Welfare Act shall not apply to:

- (1) Care or treatment of a livestock animal or other conduct by a veterinarian or veterinary technician licensed under the Veterinary Medicine and Surgery Practice Act that occurs within the scope of his or her employment, that occurs while acting in his or her professional capacity, or that conforms to commonly accepted veterinary practices;
- (2) Euthanasia of a livestock animal or livestock animals as conducted by the owner or by his or her agent or a veterinarian upon the owner's request;
- (3) Research activity carried on by any research facility currently meeting the standards of the federal Animal Welfare Act, 7 U.S.C. 2131 et seq., as such act existed on January 1, 2010;
- (4) Commonly accepted animal welfare practices with respect to livestock animals and commercial livestock operations, including their transport from one location to another and nonnegligent actions taken by personnel or agents of the Department of Agriculture or the United States Department of Agriculture in the performance of duties prescribed by law;
- (5) Commonly followed practices occurring in conjunction with the slaughter of animals for food or byproducts;
- (6) Commonly accepted animal training practices; and
- (7) Commonly accepted practices occurring in conjunction with sanctioned rodeos, animal racing, and pulling contests.

NEB. REV. STAT. § 54-908 (2012). Employee of governmental livestock animal control or animal abuse agency; duty to report suspected criminal activity; immunity from liability; contents of report; form; failure to report; penalty.

(1) For purposes of this section:

- (a) Employee means any employee of a governmental agency dealing with livestock animal control or animal abuse; and
- (b) Reasonably suspects means a basis for reporting knowledge or a set of facts that would lead a person of ordinary care and prudence to believe and conscientiously entertain a strong suspicion that criminal activity is at hand or that a crime has been committed.

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

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

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

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

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

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

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

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

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

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

(8) Any employee failing to report under this section shall be guilty of an infraction.

NEB. REV. STAT. § 54-909 (2012). Conviction; court order not to own or possess livestock animal; violation; penalty; seizure of livestock animal.

(1) If a person is convicted of a Class IV felony under section 54-903, the sentencing court shall order such person not to own or possess a livestock animal for at least five years after the date of conviction, but such time restriction shall not exceed fifteen years. Any person violating such court order shall be guilty of a Class I misdemeanor.

(2) If a person is convicted of a Class I misdemeanor under section 54-903 or a Class III misdemeanor under section 54-904, the sentencing court may order such person not to own or possess any livestock animal after the date of conviction, but such time restriction, if any, shall not exceed five years. Any person violating such court order shall be guilty of a Class IV misdemeanor.

(3) Any livestock animal involved in a violation of a court order under subsection (1) or (2) of this section shall be subject to seizure by law enforcement.

NEB. REV. STAT. § 54-910 (2012). Livestock animal health care professional; duty to report suspected criminal activity; immunity from liability.

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

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

(3) For purposes of this section, a livestock animal health care professional means a licensed veterinarian as defined in section 38-3310 or a licensed veterinary technician as defined in section 38-3311 whose practice involves care of livestock animals.

ANIMAL PROTECTION LAWS OF NEVADA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Nevada's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Nevada may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEVADA

1. GENERAL PROHIBITIONS*

- (1)
Maiming, poisoning, or killing another person's animal
NEV. REV. STAT. § 206.150(1)
- (2)
Willful and malicious killing of livestock without authority
NEV. REV. STAT. § 206.150(2)
- (3)
Willfully and maliciously torture, maim, mutilate or kill companion/pleasure animals or any dog or cat
NEV. REV. STAT. § 574.100(1)(a)
- (4)
Cruelty, neglect and abandonment of animals
NEV. REV. STAT. § 574.100(1)(b)-(e)
- (5)
Abandonment of a disabled animal
NEV. REV. STAT. § 574.110
- (6)
Failure to provide food and water to impounded animals
NEV. REV. STAT. § 574.120
- (7)
Poisoning a horse, mule, or domestic cattle
NEV. REV. STAT. § 574.150(1)
- (8)
Poisoning other animals
NEV. REV. STAT. § 574.150(2)
- (9)
Carrying animal in a cruel manner
NEV. REV. STAT. § 574.190

NEVADA*continued*

<p>1. GENERAL PROHIBITIONS* <i>continued</i></p>	<p>(10) Leaving dog or cat unattended in a vehicle during extreme heat or cold NEV. REV. STAT. § 574.195</p>
<p><i>Animals Covered in Definition</i></p>	<p>“Animal’ does not include the human race, but includes every other living creature.” NEV. REV. STAT. § 574.050</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (3) D felony ----- (2), (3)*, (7) C felony ----- (4) [1st & 2nd offenses]: Misdemeanor [3rd and subsequent offenses]: C felony ----- (5), (6), (9), (10) Misdemeanor ----- (8) Gross misdemeanor ----- * <i>When done to threaten, intimidate or terrorize another person</i></p>

NEVADA*continued*

2. MAXIMUM PENALTIES**

(1), (3)
4 years prison
and
\$5,000 fine
NEV. REV. STAT. § 193.130(2)(d)

(2), (3)*, (7)
5 years prison
and
\$10,000 fine
NEV. REV. STAT. § 193.130(2)(c)
** When done to threaten, intimidate or terrorize another person*

(4)
[1st offense]:6 months county jail
and
120 hours community service
and
\$1,000 fine
and
Restitution
NEV. REV. STAT. §§ 574.100(5)(a),(6)

[2nd offense]:6 months county jail
and
200 hours community service
and
\$1,000 fine
and
Restitution
NEV. REV. STAT. §§ 574.100(5)(b),(6)

[3rd and subsequent offenses]:5 years prison
and
\$10,000 fine
NEV. REV. STAT. § 193.130(2)(c)
and
Restitution
NEV. REV. STAT. § 574.100(6)

NEVADA*continued*

<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(5), (6), (9), (10) 6 months county jail <i>and/or</i> \$1,000 fine <i>or</i> Community service NEV. REV. STAT. § 193.150</p> <p>-----</p> <p>(8) 1 year county jail <i>and/or</i> \$2,000 fine NEV. REV. STAT. § 193.140</p>
<p>3. EXEMPTIONS^{***}</p>	<p>4 NEV. REV. STAT. § 574.055(6)</p> <p>4, 7, 9 NEV. REV. STAT. § 574.100(4),(9)</p> <p>9 NEV. REV. STAT. § 206.150 NEV. REV. STAT. § 574.150(3)</p> <p>3, 9 NEV. REV. STAT. § 574.195(3)</p> <p>2, 3, 4, 5, 9 NEV. REV. STAT. § 574.200</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>Court may order defendant convicted of animal cruelty to undergo a psychiatric evaluation or counseling. NEV. REV. STAT. § 176A.416</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>NEV. REV. STAT. §§ 33.018, 33.030</p>

NEVADA*continued*

**6. RESTITUTION / REIMBURSEMENT
OF COSTS / BONDING & LIENS^H**

Costs of care is a lien upon the animal.
NEV. REV. STAT. § 574.055(3),(7)

Upon conviction for cruelty, neglect or abandonment of animals, improper restraint of a dog, or keeping a dog in an improperly-sized pen, the court shall order restitution for costs of care and impoundment.
NEV. REV. STAT. § 574.100(7)

Expenses incurred in taking care of an animal who was in the charge of an arrested person shall be charged to the defendant.
NEV. REV. STAT. § 574.110(3)

Upon conviction for neglecting impounded or confined animal, defendant shall be ordered to pay restitution for all costs of care and impoundment of mistreated animal.
NEV. REV. STAT. § 574.120(3)

Person who aids impounded animals may collect costs of care.
NEV. REV. STAT. § 574.120(4)

Court shall order restitution upon conviction for poisoning animals.
NEV. REV. STAT. § 574.150

NEVADA*continued*

7. SEIZURE / ON-SITE SUPERVISION	<p>Authorized agents shall seize cruelly treated animals and give notice of such seizure NEV. REV. STAT.§§ 574.055(1),(2)</p> <p>An officer who seizes a cruelly treated animal is not liable for any action arising out of the taking or humane destruction of the animal. NEV. REV. STAT.§ 574.055(5)</p> <p>Special seizure procedure for animals on agricultural lands NEV. REV. STAT.§ 574.055(6)</p> <p>Peace officers or authorized agents may take charge of an animal who is in the charge of an arrested person. NEV. REV. STAT. § 574.110(3)</p>
8. FORFEITURE / POSSESSION^H	<p>Upon conviction, the court may order forfeiture of a mistreated animal. NEV. REV. STAT.§ 574.100(8)</p>
9. CROSS ENFORCEMENT / REPORTING	<p>Any person who knows or has reasonable cause to believe that an animal has been subjected to cruelty may confidentially so report. NEV. REV. STAT. § 574.053</p>
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Any person who knows or has reasonable cause to believe that an animal has been subjected to cruelty may confidentially so report. NEV. REV. STAT. § 574.053</p>
11. LAW ENFORCEMENT POLICIES	<p>All specially authorized humane society members, agents, and officers may make arrests. NEV. REV. STAT.§ 574.040</p>

NEVADA*continued*

12. SEXUAL ASSAULT	-----
13. FIGHTING	<p>Certain acts concerning place kept for animal fighting are gross misdemeanors on first offense, E felonies on second offense and D felonies on third or subsequent offenses. NEV. REV. STAT.§ 574.060</p> <p>Various non-dog animal fighting activities are gross misdemeanors or misdemeanors on first offense and E and D felonies on subsequent offenses. NEV. REV. STAT.§ 574.070</p> <p>Various dogfighting activities are D felonies on first offense, C felonies on second offense, and B felonies on third or subsequent offense. NEV. REV. STAT.§ 574.070</p> <p>Officer may take possession of animals and implements used in animal fights. NEV. REV. STAT.§ 574.080</p> <p>Upon conviction for animal fighting, seized animals, implements and other property shall be forfeited. NEV. REV. STAT.§ 574.090</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1 This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

NEV. REV. STAT. § 206.150 (2012). Killing, maiming, disfiguring or poisoning animal of another person; killing estray or livestock.

1. Except as otherwise provided in subsections 2 and 3, any person who willfully and maliciously kills, maims or disfigures any animal belonging to another, or exposes any poison or noxious substance with intent that it should be taken by the animal is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$10,000.

2. Except as otherwise provided in NRS 205.220, a person who willfully and maliciously kills an estray or one or more head of livestock, without the authority to do so, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. The provisions of subsection 1 do not apply to any person who kills a dog pursuant to NRS 575.020.

4. As used in this section:

(a) "Estray" means any livestock running at large upon public or private lands in this state, whose owner is unknown in the section where the animal is found.

(b) "Livestock" has the meaning ascribed to it in NRS 205.219.

NEV. REV. STAT. § 574.050 (2012). Definitions.

As used in NRS 574.050 to 574.200, inclusive, and section 1 of this act:

1. "Animal" does not include the human race, but includes every other living creature.

2. "First responder" means a person who has successfully completed the national standard course for first responders.

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer.

4. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

NEV. REV. STAT. § 574.100 (2012).Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

(d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

(e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

(f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. *A person who willfully and maliciously violates paragraph (a) of subsection 1:*

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. *Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:*

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service. The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service. The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. In addition to any other fine or penalty provided in subsection 5 or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

8. The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

9. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

- (a) Carrying out the activities of a rodeo or livestock show; or
- (b) Operating a ranch.

NEV. REV. STAT. §574.110 (2012). Abandonment of disabled animal unlawful; penalty.

1. A person being the owner or possessor, or having charge or custody, of a maimed, diseased, disabled or infirm animal, who abandons such animal or leaves it to die in a public street, road or public place, or who allows it to lie in a public street, road or public place more than 3 hours after he receives notice that it is left disabled, is guilty of a misdemeanor.

2. Any agent or officer of any society for the prevention of cruelty to animals, or of any society duly incorporated for that purpose, or any police officer, may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing, in the judgment of two reputable citizens called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose, or after such agent or officer has obtained in writing from the owner of such animal his consent to such destruction.

3. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of such society or societies or any police officer may take charge of such animal and of such vehicle and its contents and deposit the same in a safe place of custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof. All necessary expenses incurred in taking charge of such property shall be a charge thereon.

NEV. REV. STAT. § 574.120 (2012). Failure to provide proper air, food, shelter or water to impounded animal unlawful; penalties.

1. *A person who has impounded or confined any animal shall not refuse or neglect to supply to the animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water.*

2. A person who violates subsection 1:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. In addition to any other fine or penalty provided in subsection 2, a court shall order a person convicted of violating subsection 1 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, including, without limitation, money expended for veterinary treatment, feed and housing.

4. If any animal is at any time impounded as provided in subsection 1, and continues to be without necessary food and water for more than 12 successive hours, any person may, as often as it is necessary, enter into and upon any pound in which the animal is so confined and supply it with necessary food and water, so long as it remains so confined. Such a person is not liable to any action for such entry, and the reasonable cost of such food and water may be collected by him from the owner of the animal, and the animal is not exempt from levy and sale upon execution issued upon a judgment therefor.

NEV. REV. STAT. § 574.150 (2012). Poisoning or attempting to poison animals unlawful; penalties.

1. A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by a horse, mule or domestic cattle, whether the horse, mule or domestic cattle are the property of himself or another, is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. A person who unjustifiably administers any poisonous or noxious drug or substance to any animal other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by an animal other than a horse, mule or domestic cattle, whether the animal is the property of himself or another, is guilty of a gross misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

3. This section does not prohibit the destruction of noxious animals.

NEV. REV. STAT. § 574.190 (2012). Carrying animal in cruel manner; penalty.

A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

NEV. REV. STAT. § 574.195 (2012). Allowing cat or dog to remain unattended in motor vehicle during period of extreme heat or cold unlawful; removal of animal; exceptions; immunity from liability; penalty.

1. Except as otherwise provided in subsection 3, a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.

2. Any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040;

(c) Animal control officer;

(d) Governmental officer or employee whose primary duty is to ensure public safety;

(e) Employee or volunteer of any organized fire department; or

(f) Member of a search and rescue organization in this State that is under the direct supervision of a sheriff, may use any force that is reasonable and necessary under the circumstances to remove from a motor vehicle a cat or dog that is allowed to remain in the motor vehicle in violation of subsection 1.

3. The provisions of subsection 1 do not apply to:

(a) A police animal or an animal that is used by:

(1) A federal law enforcement agency to assist the agency in carrying out the duties of the agency; or

(2) A search and rescue organization specified in paragraph (f) of subsection 2 to assist the organization in carrying out the activities of the organization;

(b) A dog that is under the possession or control of:

(1) An animal control officer; or

(2) A first responder during an emergency;

(c) A dog that is under the possession or control of a person who:

(1) Is actively engaged in hunting a species of game mammal or game bird during the season for hunting that species of game mammal or game bird;

(2) Is using the dog for the purpose set forth in subparagraph (1); and

(3) Holds a license or tag to hunt that species of game mammal or game bird during that season; or

(d) A dog that is participating in:

(1) Training exercises relating to hunting; or

(2) Field trials relating to hunting.

4. A cat or dog that is removed from a motor vehicle pursuant to subsection 2 shall be deemed to be an animal being treated cruelly for the purposes of NRS 574.055. The person who removed the cat or dog may take any action relating to the cat or dog specified in that section and is entitled to any lien or immunity from liability that is applicable pursuant to that section.

5. A person who violates a provision of subsection 1 is guilty of a misdemeanor.

2. PENALTIES

NEV. REV. STAT. § 193.130 (2012). Categories and punishment of felonies.

1. Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty. The minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed.

2. *Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995:*

(a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole may be imposed, as provided by specific statute.

(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.

(c) *A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute.*

(d) *A category D felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater fine is authorized or required by statute.*

(e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of 1 year and a maximum term of 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater penalty is authorized or required by statute.

NEV. REV. STAT. § 193.140 (2012). Punishment of gross misdemeanors.

Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$2,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such gross misdemeanor prescribed a different penalty.

NEV. REV. STAT. § 193.150 (2012). Punishment of misdemeanors.

1. Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty.

2. In lieu of all or a part of the punishment which may be imposed pursuant to subsection 1, the convicted person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.

NEV. REV. STAT. § 574.100 (2012). Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

(d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

(e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

(f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service. The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service. The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. In addition to any other fine or penalty provided in subsection 5 or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

8. The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

9. The provisions of this section do not apply with respect to an injury to or the death of an

animal that occurs accidentally in the normal course of:

- (a) Carrying out the activities of a rodeo or livestock show; or
- (b) Operating a ranch.

3. EXEMPTIONS

NEV. REV. STAT. § 206.150 (2012). Killing, maiming, disfiguring or poisoning animal of another person; killing stray or livestock.

1. Except as otherwise provided in subsections 2 and 3, any person who willfully and maliciously kills, maims or disfigures any animal belonging to another, or exposes any poison or noxious substance with intent that it should be taken by the animal is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$10,000.

2. *Except as otherwise provided in NRS 205.220*, a person who willfully and maliciously kills an stray or one or more head of livestock, *without the authority to do so*, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. *The provisions of subsection 1 do not apply to any person who kills a dog pursuant to NRS 575.020.*

4. As used in this section:

(a) “Estray” means any livestock running at large upon public or private lands in this state, whose owner is unknown in the section where the animal is found.

(b) “Livestock” has the meaning ascribed to it in NRS 205.219.

NEV. REV. STAT. § 574.055 (2012). Taking possession of animal being treated cruelly; notice to owner; lien for cost of care; disposition of animal; liability of officer; limitations and procedure when animal on agricultural land.

1. Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.

2. If an officer takes possession of an animal, he shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, he shall post the notice on the property from which he takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if he has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or his designee, a licensed veterinarian and the district brand inspector or his designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to his custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the state department of agriculture shall sell the animal. The department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

NEV. REV. STAT. § 574.100 (2012).Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

(d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

(e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

(f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. *The provisions of subsections 2 and 3 do not apply to a dog that is:*

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service. The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service. The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. In addition to any other fine or penalty provided in subsection 5 or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

8. The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

9. *The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:*

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

NEV. REV. STAT. § 574.150 (2012). Poisoning or attempting to poison animals unlawful; penalties.

1. A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by a horse, mule or domestic cattle, whether the horse, mule or domestic cattle are the property of himself or another, is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. A person who unjustifiably administers any poisonous or noxious drug or substance to any animal other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by an animal other than a horse, mule or domestic cattle, whether the animal is the property of himself or another, is guilty of a gross misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

3. *This section does not prohibit the destruction of noxious animals.*

NEV. REV. STAT. § 574.195 (2012). Allowing cat or dog to remain unattended in motor vehicle during period of extreme heat or cold unlawful; removal of animal; exceptions; immunity from liability; penalty.

1. Except as otherwise provided in subsection 3, a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.

2. Any:

- (a) Peace officer;
- (b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040;
- (c) Animal control officer;
- (d) Governmental officer or employee whose primary duty is to ensure public safety;
- (e) Employee or volunteer of any organized fire department; or
- (f) Member of a search and rescue organization in this State that is under the direct supervision of a sheriff, may use any force that is reasonable and necessary under the circumstances to remove from a motor vehicle a cat or dog that is allowed to remain in the motor vehicle in violation of subsection 1.

3. *The provisions of subsection 1 do not apply to:*

- (a) *A police animal or an animal that is used by:*
 - (1) *A federal law enforcement agency to assist the agency in carrying out the duties of the agency; or*
 - (2) *A search and rescue organization specified in paragraph (f) of subsection 2 to assist the organization in carrying out the activities of the organization;*
- (b) *A dog that is under the possession or control of:*
 - (1) *An animal control officer; or*
 - (2) *A first responder during an emergency;*
- (c) *A dog that is under the possession or control of a person who:*
 - (1) *Is actively engaged in hunting a species of game mammal or game bird during the season for hunting that species of game mammal or game bird;*
 - (2) *Is using the dog for the purpose set forth in subparagraph (1); and*
 - (3) *Holds a license or tag to hunt that species of game mammal or game bird during that season; or*
- (d) *A dog that is participating in:*

(1) Training exercises relating to hunting; or

(2) Field trials relating to hunting.

4. A cat or dog that is removed from a motor vehicle pursuant to subsection 2 shall be deemed to be an animal being treated cruelly for the purposes of NRS 574.055. The person who removed the cat or dog may take any action relating to the cat or dog specified in that section and is entitled to any lien or immunity from liability that is applicable pursuant to that section.

5. A person who violates a provision of subsection 1 is guilty of a misdemeanor.

NEV. REV. STAT. § 574.200 (2012).Intended applicability of provisions.

The provisions of NRS 574.050 to 574.510, inclusive, do not:

1. Interfere with any of the fish and game laws contained in Title 45 of NRS or any laws for the destruction of certain birds.

2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.

3. Interfere with the right to kill all animals and fowl used for food.

4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this state.

5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.

6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

4. COUNSELING / EVALUATIONS

NEV. REV. STAT. § 176A.416 (2012). Evaluations and counseling for offenses involving cruelty to animals; powers and duties of court.

1. As a condition of probation, the court may order a defendant who is convicted of a violation of chapter 574 of NRS that is punishable as a felony or gross misdemeanor to:

- (a) Submit to a psychiatric evaluation; and
- (b) Participate in any counseling or therapy recommended in the evaluation.

2. The court shall order a defendant, to the extent of the defendant's financial ability, to pay the cost for an evaluation and any counseling or therapy pursuant to this section.

5. PROTECTIVE ORDERS

NEV. REV. STAT. § 33.018 (2012). Acts which constitute domestic violence.

1. Domestic violence occurs when a person commits one of the following acts against or upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons, his minor child or any person who has been appointed the custodian or legal guardian for his minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(7) *Injuring or killing an animal.*

(f) A false imprisonment.

(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

2. As used in this section, “dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

NEV. REV. STAT. § 33.030 (2012).Contents of order; interlocutory appeal.

1. The court by a temporary order may:

- (a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;
- (b) Exclude the adverse party from the applicant’s place of residence;
- (c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;
- (d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant;
- (e) Enjoin the adverse party from physically injuring, threatening to injure or taking possession of any animal that is owned or kept by the applicant or minor child, either directly or through an agent;*
- (f) Enjoin the adverse party from physically injuring or threatening to injure any animal that is owned or kept by the adverse party, either directly or through an agent; and
- (g) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

- (a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary;
- (b) Specify arrangements for the possession and care of any animal owned or kept by the adverse party, applicant or minor child; and*
- (c) Order the adverse party to:
 - (1) Avoid or limit communication with the applicant or minor child;
 - (2) Pay rent or make payments on a mortgage on the applicant’s place of residence;

(3) Pay for the support of the applicant or minor child, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to chapter 159 of NRS or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS, if he is found to have a duty to support the applicant or minor child;

(4) Pay all costs and fees incurred by the applicant in bringing the action; and

(5) Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

NEV. REV. STAT. § 574.055 (2012). Taking possession of animal being treated cruelly; notice to owner; lien for cost of care; disposition of animal; liability of officer; limitations and procedure when animal on agricultural land.

1. Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.

2. If an officer takes possession of an animal, he shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, he shall post the notice on the property from which he takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if he has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or his designee, a licensed veterinarian and the district brand inspector or his designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to his custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the state department of agriculture shall sell the animal. The department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

NEV. REV. STAT. § 574.100 (2012).Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

(d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

(e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

(f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or

otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service. The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service. The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. In addition to any other fine or penalty provided in subsection 5 or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

8. The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

9. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

NEV. REV. STAT. §574.110 (2012). Abandonment of disabled animal unlawful; penalty.

1. A person being the owner or possessor, or having charge or custody, of a maimed, diseased, disabled or infirm animal, who abandons such animal or leaves it to die in a public street, road or public place, or who allows it to lie in a public street, road or public place more than 3 hours after he receives notice that it is left disabled, is guilty of a misdemeanor.

2. Any agent or officer of any society for the prevention of cruelty to animals, or of any society duly incorporated for that purpose, or any police officer, may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing, in the judgment of two reputable citizens called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose, or after such agent or officer has obtained in writing from the owner of such animal his consent to such destruction.

3. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of such society or societies or any police officer may take charge of such animal and of such vehicle and its contents and deposit the same in a safe place of custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof. *All necessary expenses incurred in taking charge of such property shall be a charge thereon.*

NEV. REV. STAT. § 574.120 (2012). Failure to provide proper air, food, shelter or water to impounded animal unlawful; penalties.

1. A person who has impounded or confined any animal shall not refuse or neglect to supply to the animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water.

2. A person who violates subsection 1:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. In addition to any other fine or penalty provided in subsection 2, a court shall order a person convicted of violating subsection 1 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, including, without limitation, money expended for veterinary treatment, feed and housing.

4. If any animal is at any time impounded as provided in subsection 1, and continues to be without necessary food and water for more than 12 successive hours, any person may, as often as it is necessary, enter into and upon any pound in which the animal is so confined and supply it with necessary food and water, so long as it remains so confined. Such a person is not liable to any action for such entry, and *the reasonable cost of such food and water may be collected by him from the owner of the animal, and the animal is not exempt from levy and sale upon execution issued upon a judgment therefor.*

NEV. REV. STAT. § 574.150 (2012). Poisoning or attempting to poison animals unlawful; penalties.

1. A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by a horse, mule or domestic cattle, whether the horse, mule or domestic cattle are the property of himself or another, is guilty of a category C felony and shall be punished as provided in NRS 193.130. *In addition to any other penalty, the court shall order the person to pay restitution.*

2. A person who unjustifiably administers any poisonous or noxious drug or substance to any animal other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by an animal other than a horse, mule or domestic cattle, whether the animal is the property of himself or another, is guilty of a gross misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

3. This section does not prohibit the destruction of noxious animals.

7. SEIZURE / ON-SITE SUPERVISION

NEV. REV. STAT. § 574.055 (2012). Taking possession of animal being treated cruelly; notice to owner; lien for cost of care; disposition of animal; liability of officer; limitations and procedure when animal on agricultural land.

1. Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.

2. If an officer takes possession of an animal, he shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, he shall post the notice on the property from which he takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if he has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or his designee, a licensed veterinarian and the district brand inspector or his designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to his custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the state department of agriculture shall sell the animal. The department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

NEV. REV. STAT. § 574.110 (2012). Abandonment of disabled animal unlawful; penalty.

1. A person being the owner or possessor, or having charge or custody, of a maimed, diseased, disabled or infirm animal, who abandons such animal or leaves it to die in a public street, road or public place, or who allows it to lie in a public street, road or public place more than 3 hours after he receives notice that it is left disabled, is guilty of a misdemeanor.

2. Any agent or officer of any society for the prevention of cruelty to animals, or of any society duly incorporated for that purpose, or any police officer, may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing, in the judgment of two reputable citizens called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose, or after such agent or officer has obtained in writing from the owner of such animal his consent to such destruction.

3. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of such society or societies or any police officer may take charge of such animal and of such vehicle and its contents and deposit the same in a safe place of custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof. All necessary expenses incurred in taking charge of such property shall be a charge thereon.

8. FORFEITURE / POSSESSION

NEV. REV. STAT. § 574.100 (2012). Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

(d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

(e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

(f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service. The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service. The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. In addition to any other fine or penalty provided in subsection 5 or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

8. *The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.*

9. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

9. CROSS ENFORCEMENT / REPORTING

NEV. REV. STAT. § 574.053(2012). Reporting acts of cruelty.

1. Any person who knows or has reasonable cause to believe that an animal has been subjected to an act of cruelty in violation of NRS 574.100 may report the act of cruelty to any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or

(c) Animal control officer.

2. Any report made pursuant to subsection 1 is confidential.

3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except for the purposes of a criminal investigation or prosecution, is guilty of a misdemeanor.

10. VETERINARIAN REPORTING / IMMUNITY

NEV. REV. STAT. § 574.053 (2012). Reporting acts of cruelty.

1. Any person who knows or has reasonable cause to believe that an animal has been subjected to an act of cruelty in violation of NRS 574.100 may report the act of cruelty to any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or

(c) Animal control officer.

2. Any report made pursuant to subsection 1 is confidential.

3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except for the purposes of a criminal investigation or prosecution, is guilty of a misdemeanor.

11. LAW ENFORCEMENT POLICIES

NEV. REV. STAT. § 574.040 (2012). Arrests by members, agents and officers of certain societies: Application; submission of fingerprints; exhibition of badge; resistance to officers unlawful.

1. Except as otherwise provided in this subsection and NRS 574.350, a member, agent or local or district officer of a society so incorporating, if authorized in writing by the trustees of the society, approved by the district judge of the county, and sworn in the same manner as peace officers are sworn, may make arrests for a violation of the provisions of this chapter in the same manner as is provided for other officers. The provisions of this subsection apply only to a society that, on the date the society submits an application to the district judge for approval for a member, agent or local or district officer of the society to make arrests pursuant to this subsection:

(a) Has at least 25 members; and

(b) Has been incorporated in accordance with NRS 574.010 for not less than 5 years immediately preceding the submission of the application.

2. Before submitting an application specified in subsection 1, the society shall require that each member, agent or local or district officer of the society to whom the application relates submit to the society a complete set of his fingerprints which the society shall submit to the sheriff of the county.

3. The sheriff shall:

(a) Upon receipt of the fingerprints, forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report concerning the criminal history of the member, agent or local or district officer of the society.

(b) Upon receipt of the report, forward the report to the society. The society shall include the report in the application submitted pursuant to subsection 1.

4. A member, agent or local or district officer who is authorized to make arrests pursuant to subsection 1 shall, when making those arrests, exhibit and expose a suitable badge, to be adopted by the society.

5. A person who resists such a specially appointed officer shall be punished for that resistance in the same manner as is provided for the punishment of resistance to other officers.

12. SEXUAL ASSAULT

13. FIGHTING

NEV. REV. STAT. § 574.060 (2012). Commission of certain acts concerning place kept or used for baiting or fighting birds or other animals unlawful; penalties.

1. A person shall not keep or use, or in any manner be connected with, or be interested in the management of, or receive money for the admission of any person to, a house, apartment, pit or place kept or used for baiting or fighting any bird or animal, or be an owner or occupant of a house, apartment, pit or place who willfully procures or permits the same to be used or occupied for such baiting or fighting.

2. A person who violates any provision of subsection 1 is guilty of:

(a) For a first offense, a gross misdemeanor.

(b) For a second offense, a category E felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

3. Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant has just and reasonable cause to suspect that any provision of law relating to or in any way affecting animals is being or is about to be violated in any particular building or place, the magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search the building or place, to arrest any person there present found violating any such law and to bring the person before the nearest magistrate of competent jurisdiction to be dealt with according to law.

NEV. REV. STAT. § 574.070 (2012). Instigating or witnessing fights between birds or other animals unlawful; penalties; exceptions.

1. Except as otherwise provided in this section, a person shall not begin, cause, instigate, promote, carry on or do any act as an assistant, umpire or principal, or in any way aid in or engage in the furtherance of any fight between animals in an exhibition or for amusement or gain which is premeditated by a person owning or having custody of the animals.

2. A person shall not:

(a) Own, possess, keep, train, promote or purchase an animal with the intent to use it to fight another animal; or

(b) Sell an animal knowing that it is intended to be used to fight another animal.

3. A person shall not knowingly witness any fight between animals in an exhibition or for amusement or gain.

4. Except as otherwise provided in subsection 7, a person who violates any provision of subsection 1 is guilty of:

(a) For a first offense, a gross misdemeanor.

(b) For a second offense, a category E felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

5. A person who violates any provision of subsection 2 is guilty of:

(a) For a first offense, a gross misdemeanor.

(b) For a second offense, a category E felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

6. A person who violates any provision of subsection 3 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third or subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

7. If a violation of subsection 1 involves a dog, a person who commits such a violation is guilty of:

(a) For a first offense, a category D felony and shall be punished as provided in NRS 193.130.

(b) For a second offense, a category C felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

8. If a person who violates this section is not a natural person, he shall be punished by a fine of not more than \$10,000.

9. This section does not prohibit the use of dogs or birds for:

(a) The management of livestock by the owner thereof, his employees or agents or any other person in the lawful custody of the livestock; or

(b) Hunting as permitted by law.

NEV. REV. STAT. § 574.080 (2012). Officer may take possession of animals and implements used in fights among animals.

1. Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals.

2. He shall state to the person in charge thereof, at the time of such taking, his name and residence, and also the time and place at which the application provided for by NRS 574.090 will be made.

NEV. REV. STAT. § 574.090 (2012). Disposition of animals or implements used in fights among animals.

1. The officer, after taking possession of such animals, or implements or other property, pursuant to NRS 574.080, shall apply to the magistrate, before whom the complaint is made against the offender violating such provision of law, for the order mentioned in subsection 2, and shall make and file an affidavit with such magistrate, stating therein:

(a) The name of the offender charged in such complaint.

(b) The time, place and description of the animals, implements or other property so taken, together with the name of the person who claims the same, if known.

(c) That the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender.

2. He shall then deliver such animals, implements or other property to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person in such order named and designated, to be kept by him until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county.

3. The officer or person so named and designated in the order shall immediately thereupon assume custody, and shall retain the same for the purpose of evidence upon the trial, subject to the order of the court before which the offender may be required to appear, until his final discharge or conviction.

4. Upon the conviction of the offender, the animals, implements or other property shall be adjudged by the court to be forfeited.

5. In the event of the acquittal or final discharge, without conviction, of the offender, the court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.

14. REFERENCED STATUTES

NEV. REV. STAT. § 33.018 (2012). Acts which constitute domestic violence.

1. Domestic violence occurs when a person commits one of the following acts against or upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons, his minor child or any person who has been appointed the custodian or legal guardian for his minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(7) Injuring or killing an animal.

(f) A false imprisonment.

(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

2. As used in this section, “dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

NEV. REV. STAT. § 33.030 (2012).Contents of order; interlocutory appeal.

1. The court by a temporary order may:

- (a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;
- (b) Exclude the adverse party from the applicant’s place of residence;
- (c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;
- (d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant;
- (e) Enjoin the adverse party from physically injuring, threatening to injure or taking possession of any animal that is owned or kept by the applicant or minor child, either directly or through an agent;
- (f) Enjoin the adverse party from physically injuring or threatening to injure any animal that is owned or kept by the adverse party, either directly or through an agent; and
- (g) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

- (a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary;
- (b) Specify arrangements for the possession and care of any animal owned or kept by the adverse party, applicant or minor child; and
- (c) Order the adverse party to:
 - (1) Avoid or limit communication with the applicant or minor child;
 - (2) Pay rent or make payments on a mortgage on the applicant’s place of residence;

(3) Pay for the support of the applicant or minor child, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to chapter 159 of NRS or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS, if he is found to have a duty to support the applicant or minor child;

(4) Pay all costs and fees incurred by the applicant in bringing the action; and

(5) Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

NEV. REV. STAT. § 193.130 (2012). Categories and punishment of felonies.

1. Except when a person is convicted of a category A felony, and except as otherwise provided by specific statute, a person convicted of a felony shall be sentenced to a minimum term and a maximum term of imprisonment which must be within the limits prescribed by the applicable statute, unless the statute in force at the time of commission of the felony prescribed a different penalty. The minimum term of imprisonment that may be imposed must not exceed 40 percent of the maximum term imposed.

2. Except as otherwise provided by specific statute, for each felony committed on or after July 1, 1995:

(a) A category A felony is a felony for which a sentence of death or imprisonment in the state prison for life with or without the possibility of parole may be imposed, as provided by specific statute.

(b) A category B felony is a felony for which the minimum term of imprisonment in the state prison that may be imposed is not less than 1 year and the maximum term of imprisonment that may be imposed is not more than 20 years, as provided by specific statute.

(c) A category C felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than \$10,000, unless a greater fine is authorized or required by statute.

(d) A category D felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 4 years. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater fine is authorized or required by statute.

(e) A category E felony is a felony for which a court shall sentence a convicted person to imprisonment in the state prison for a minimum term of 1 year and a maximum term of 4 years. Except as otherwise provided in paragraph (b) of subsection 1 of NRS 176A.100, upon sentencing a person who is found guilty of a category E felony, the court shall suspend the execution of the sentence and grant probation to the person upon such conditions as the court deems appropriate. In addition to any other penalty, the court may impose a fine of not more than \$5,000, unless a greater penalty is authorized or required by statute.

NEV. REV. STAT. § 193.140 (2012). Punishment of gross misdemeanors.

Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$2,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such gross misdemeanor prescribed a different penalty.

NEV. REV. STAT. § 193.150 (2012). Punishment of misdemeanors.

1. Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty.

2. In lieu of all or a part of the punishment which may be imposed pursuant to subsection 1, the convicted person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed in NRS 176.087.

NEV. REV. STAT. § 206.150 (2012). Killing, maiming, disfiguring or poisoning animal of another person; killing estray or livestock.

1. Except as otherwise provided in subsections 2 and 3, any person who willfully and maliciously kills, maims or disfigures any animal belonging to another, or exposes any poison or noxious substance with intent that it should be taken by the animal is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$10,000.

2. Except as otherwise provided in NRS 205.220, a person who willfully and maliciously kills an estray or one or more head of livestock, without the authority to do so, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. The provisions of subsection 1 do not apply to any person who kills a dog pursuant to NRS 575.020.

4. As used in this section:

(a) "Estray" means any livestock running at large upon public or private lands in this state, whose owner is unknown in the section where the animal is found.

(b) "Livestock" has the meaning ascribed to it in NRS 205.219.

NEV. REV. STAT. § 574.* (2012). Reporting of animal cruelty.**

1. Any person who knows or has reasonable cause to believe that an animal has been subjected to an act of cruelty in violation of NRS 574.100 may report the act of cruelty to any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or

(c) Animal control officer.

2. Any report made pursuant to subsection 1 is confidential.

3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except for the purposes of a criminal investigation or prosecution, is guilty of a misdemeanor.

NEV. REV. STAT. § 574.040 (2012). Arrests by members, agents and officers of certain societies: Application; submission of fingerprints; exhibition of badge; resistance to officers unlawful.

1. Except as otherwise provided in this subsection and NRS 574.350, a member, agent or local or district officer of a society so incorporating, if authorized in writing by the trustees of the society, approved by the district judge of the county, and sworn in the same manner as peace officers are sworn, may make arrests for a violation of the provisions of this chapter in the same manner as is provided for other officers. The provisions of this subsection apply only to a society that, on the date the society submits an application to the district judge for approval for a member, agent or local or district officer of the society to make arrests pursuant to this subsection:

(a) Has at least 25 members; and

(b) Has been incorporated in accordance with NRS 574.010 for not less than 5 years immediately preceding the submission of the application.

2. Before submitting an application specified in subsection 1, the society shall require that each member, agent or local or district officer of the society to whom the application relates submit to the society a complete set of his fingerprints which the society shall submit to the sheriff of the county.

3. The sheriff shall:

(a) Upon receipt of the fingerprints, forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report concerning the criminal history of the member, agent or local or district officer of the society.

(b) Upon receipt of the report, forward the report to the society. The society shall include the report in the application submitted pursuant to subsection 1.

4. A member, agent or local or district officer who is authorized to make arrests pursuant to subsection 1 shall, when making those arrests, exhibit and expose a suitable badge, to be adopted by the society.

5. A person who resists such a specially appointed officer shall be punished for that resistance in the same manner as is provided for the punishment of resistance to other officers.

NEV. REV. STAT. § 574.050 (2012).Definitions.

As used in NRS 574.050 to 574.200, inclusive, and section 1 of this act:

1. “Animal” does not include the human race, but includes every other living creature.
2. “First responder” means a person who has successfully completed the national standard course for first responders.
3. “Police animal” means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer.
4. “Torture” or “cruelty” includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

NEV. REV. STAT.§ 574.055 (2012).Taking possession of animal being treated cruelly; notice to owner; lien for cost of care; disposition of animal; liability of officer; limitations and procedure when animal on agricultural land.

1. Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.
2. If an officer takes possession of an animal, he shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, he shall post the notice on the property from which he takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.
3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if he has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or his designee, a licensed veterinarian and the district brand inspector or his designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to his custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the state department of agriculture shall sell the animal. The department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

NEV. REV. STAT. § 574.060 (2012). Commission of certain acts concerning place kept or used for baiting or fighting birds or other animals unlawful; penalties.

1. A person shall not keep or use, or in any manner be connected with, or be interested in the management of, or receive money for the admission of any person to, a house, apartment, pit or place kept or used for baiting or fighting any bird or animal, or be an owner or occupant of a house, apartment, pit or place who willfully procures or permits the same to be used or occupied for such baiting or fighting.

2. A person who violates any provision of subsection 1 is guilty of:

(a) For a first offense, a gross misdemeanor.

(b) For a second offense, a category E felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

3. Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant has just and reasonable cause to suspect that any provision of law relating to or in any way affecting animals is being or is about to be violated in any particular building or place, the magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search the building or place, to arrest any person there present found violating any such law and to bring the person before the nearest magistrate of competent jurisdiction to be dealt with according to law.

NEV. REV. STAT. § 574.070 (2012). Instigating or witnessing fights between birds or other animals unlawful; penalties; exceptions.

1. Except as otherwise provided in this section, a person shall not begin, cause, instigate, promote, carry on or do any act as an assistant, umpire or principal, or in any way aid in or engage in the furtherance of any fight between animals in an exhibition or for amusement or gain which is premeditated by a person owning or having custody of the animals

2. A person shall not:

(a) Own, possess, keep, train, promote or purchase an animal with the intent to use it to fight another animal; or

(b) Sell an animal knowing that it is intended to be used to fight another animal.

3. A person shall not knowingly witness any fight between animals in an exhibition or for amusement or gain.

4. Except as otherwise provided in subsection 7, a person who violates any provision of subsection 1 is guilty of:

(a) For a first offense, a gross misdemeanor.

(b) For a second offense, a category E felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

5. A person who violates any provision of subsection 2 is guilty of:

(a) For a first offense, a gross misdemeanor.

(b) For a second offense, a category E felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

6. A person who violates any provision of subsection 3 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third or subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

7. If a violation of subsection 1 involves a dog, a person who commits such a violation is guilty of:

(a) For a first offense, a category D felony and shall be punished as provided in NRS 193.130.

(b) For a second offense, a category C felony and shall be punished as provided in NRS 193.130.

(c) For a third or subsequent offense, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

8. If a person who violates this section is not a natural person, he shall be punished by a fine of not more than \$10,000.

9. This section does not prohibit the use of dogs or birds for:

(a) The management of livestock by the owner thereof, his employees or agents or any other person in the lawful custody of the livestock; or

(b) Hunting as permitted by law.

NEV. REV. STAT. § 574.080 (2012). Officer may take possession of animals and implements used in fights among animals.

1. Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals.
2. He shall state to the person in charge thereof, at the time of such taking, his name and residence, and also the time and place at which the application provided for by NRS 574.090 will be made.

NEV. REV. STAT. § 574.090 (2012). Disposition of animals or implements used in fights among animals.

1. The officer, after taking possession of such animals, or implements or other property, pursuant to NRS 574.080, shall apply to the magistrate, before whom the complaint is made against the offender violating such provision of law, for the order mentioned in subsection 2, and shall make and file an affidavit with such magistrate, stating therein:

- (a) The name of the offender charged in such complaint.
- (b) The time, place and description of the animals, implements or other property so taken, together with the name of the person who claims the same, if known.
- (c) That the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender.

2. He shall then deliver such animals, implements or other property to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person in such order named and designated, to be kept by him until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county.

3. The officer or person so named and designated in the order shall immediately thereupon assume custody, and shall retain the same for the purpose of evidence upon the trial, subject to the order of the court before which the offender may be required to appear, until his final discharge or conviction.

4. Upon the conviction of the offender, the animals, implements or other property shall be adjudged by the court to be forfeited.

5. In the event of the acquittal or final discharge, without conviction, of the offender, the court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.

NEV. REV. STAT. § 574.100 (2012).Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

1. A person shall not:

(a) Torture or unjustifiably maim, mutilate or kill:

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

(d) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

(e) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

(f) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. A person who willfully and maliciously violates paragraph (a) of subsection 1:

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service. The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service. The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. In addition to any other fine or penalty provided in subsection 5 or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

8. The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

9. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

(a) Carrying out the activities of a rodeo or livestock show; or

(b) Operating a ranch.

NEV. REV. STAT. § 574.110 (2012). Abandonment of disabled animal unlawful; penalty.

1. A person being the owner or possessor, or having charge or custody, of a maimed, diseased, disabled or infirm animal, who abandons such animal or leaves it to die in a public street, road or public place, or who allows it to lie in a public street, road or public place more than 3 hours after he receives notice that it is left disabled, is guilty of a misdemeanor.
2. Any agent or officer of any society for the prevention of cruelty to animals, or of any society duly incorporated for that purpose, or any police officer, may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing, in the judgment of two reputable citizens called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose, or after such agent or officer has obtained in writing from the owner of such animal his consent to such destruction.
3. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of such society or societies or any police officer may take charge of such animal and of such vehicle and its contents and deposit the same in a safe place of custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof. All necessary expenses incurred in taking charge of such property shall be a charge thereon.

NEV. REV. STAT. § 574.120 (2012). Failure to provide proper air, food, shelter or water to impounded animal unlawful; penalties.

1. A person who has impounded or confined any animal shall not refuse or neglect to supply to the animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water.
2. A person who violates subsection 1:
 - (a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:
 - (1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and
 - (2) Perform not less than 48 hours, but not more than 120 hours, of community service.

The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. In addition to any other fine or penalty provided in subsection 2, a court shall order a person convicted of violating subsection 1 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, including, without limitation, money expended for veterinary treatment, feed and housing.

4. If any animal is at any time impounded as provided in subsection 1, and continues to be without necessary food and water for more than 12 successive hours, any person may, as often as it is necessary, enter into and upon any pound in which the animal is so confined and supply it with necessary food and water, so long as it remains so confined. Such a person is not liable to any action for such entry, and the reasonable cost of such food and water may be collected by him from the owner of the animal, and the animal is not exempt from levy and sale upon execution issued upon a judgment therefor.

NEV. REV. STAT. § 574.150 (2012). Poisoning or attempting to poison animals unlawful; penalties.

1. A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by a horse, mule or domestic cattle, whether the horse, mule or domestic cattle are the property of himself or another, is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. A person who unjustifiably administers any poisonous or noxious drug or substance to any animal other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with the intent that it be taken by an animal other than a horse, mule or domestic cattle, whether the animal is the property of himself or another, is guilty of a gross misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

3. This section does not prohibit the destruction of noxious animals.

NEV. REV. STAT. § 574.190 (2012). Carrying animal in cruel manner; penalty.

A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

NEV. REV. STAT. § 574.195 (2012). Allowing cat or dog to remain unattended in motor vehicle during period of extreme heat or cold unlawful; removal of animal; exceptions; immunity from liability; penalty.

1. Except as otherwise provided in subsection 3, a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.

2. Any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040;

(c) Animal control officer;

(d) Governmental officer or employee whose primary duty is to ensure public safety;

(e) Employee or volunteer of any organized fire department; or

(f) Member of a search and rescue organization in this State that is under the direct supervision of a sheriff, may use any force that is reasonable and necessary under the circumstances to remove from a motor vehicle a cat or dog that is allowed to remain in the motor vehicle in violation of subsection 1.

3. The provisions of subsection 1 do not apply to:

(a) A police animal or an animal that is used by:

(1) A federal law enforcement agency to assist the agency in carrying out the duties of the agency; or

(2) A search and rescue organization specified in paragraph (f) of subsection 2 to assist the organization in carrying out the activities of the organization;

(b) A dog that is under the possession or control of:

(1) An animal control officer; or

(2) A first responder during an emergency;

(c) A dog that is under the possession or control of a person who:

(1) Is actively engaged in hunting a species of game mammal or game bird during the season for hunting that species of game mammal or game bird;

(2) Is using the dog for the purpose set forth in subparagraph (1); and

(3) Holds a license or tag to hunt that species of game mammal or game bird during that season; or

(d) A dog that is participating in:

(1) Training exercises relating to hunting; or

(2) Field trials relating to hunting.

4. A cat or dog that is removed from a motor vehicle pursuant to subsection 2 shall be deemed to be an animal being treated cruelly for the purposes of NRS 574.055. The person who removed the cat or dog may take any action relating to the cat or dog specified in that section and is entitled to any lien or immunity from liability that is applicable pursuant to that section.

5. A person who violates a provision of subsection 1 is guilty of a misdemeanor.

NEV. REV. STAT. § 574.200 (2012).Intended applicability of provisions.

The provisions of NRS 574.050 to 574.510, inclusive, and NRS 574.*** [“Reporting acts of cruelty” not codified as of date of publication], do not:

1. Interfere with any of the fish and game laws contained in Title 45 of NRS or any laws for the destruction of certain birds.
2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.
3. Interfere with the right to kill all animals and fowl used for food.
4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this state.
5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.
6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

ANIMAL PROTECTION LAWS OF NEW BRUNSWICK

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains New Brunswick's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

New Brunswick may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in New Brunswick. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEW BRUNSWICK

1. GENERAL PROHIBITIONS*	<p>(1) Duty of care R.S.N.B., ch S-12, s. 18</p> <p>(2) Destruction of animals must be humane R.S.N.B., ch S-12, s. 19</p> <p>(3) Duty upon injuring a domestic animal with a vehicle R.S.N.B., ch S-12, s. 21</p> <p>(4) Standards for animal care N.B. Reg. 2000-4, s. 4</p>
<i>Animals Covered in Definition</i>	<p>“[A] non-human living being with a developed nervous system”</p> <p>“‘[D]omestic animal’ means any animal that is kept under human control or by habit or training lives in association with man”</p> <p>N.B. Reg. 2000-4, s. 2</p>
<i>Classification of Crimes</i>	<p>(1) Category J offence</p> <p>(2) Category D offense</p> <p>(3) Category C offence</p> <p>(4) Category B offence</p>

NEW BRUNSWICK*continued*

<p>2. MAXIMUM PENALTIES **</p>	<p>(1) 18 months imprisonment R.S.N.B., c. P-22.1, s. 64(3) <i>and</i> \$200,000 fine R.S.N.B., c. P-22.1, s. 56(10)</p> <p>(2) \$2,100 fine R.S.N.B., c. P-22.1, s. 56(4)</p> <p>(3) \$1,000 fine R.S.N.B., c. P-22.1, s. 56(3)</p> <p>(4) \$640 fine R.S.N.B., c. P-22.1, s. 56(2)</p>
<p>3. EXEMPTIONS ***</p>	<p>9 R.S.N.B., c. S-12, s. 19</p> <p>4, 9 N.B. Reg. 2000-4, s. 4(2)</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>The owner of a seized animal is liable for the costs incurred in the care and treatment of the seized animal, and this amount is a debt due by that person R.S.N.B., c.S-12, s. 16</p>

NEW BRUNSWICK*continued*

7. SEIZURE / ON-SITE SUPERVISION

An animal protection officer may examine, seize and destroy an animal found running at large, abandoned, or not properly cared for, if a veterinarian determines the animal is injured, disabled, diseased past recovery, or unfit for any useful purpose
R.S.N.B., ch S-12, s. 13

An animal protection officer may seize an animal found running at large
R.S.N.B., ch S-12, s. 15(1)(a)

Notification of seizure; procedures for reclaiming
R.S.N.B., ch S-12, s. 16

Restrictions on the seizure authority
R.S.N.B., ch S-12, s. 16.1

An animal protection officer may apply for an entry warrant
R.S.N.B., ch S-12, ss. 17.1, 27(3)

Upon reasonable and probable grounds that an animal is not receiving minimum care for more than 24 hours, an animal protection officer may enter to provide such care; and may seize the animal if necessary to attend to the immediate needs of the animal
R.S.N.B., ch S-12, s. 27

An animal protection officer may use reasonable force to seize an animal confined in a motor vehicle in distress or deprived of reasonable protection from heat or cold, after taking reasonable steps to find the owner or person in charge of the vehicle
R.S.N.B., ch S-12, s. 27.1

NEW BRUNSWICK <i>continued</i>	
<p>7. SEIZURE / ON-SITE SUPERVISION <i>continued</i></p>	<p>Upon reasonable and probable grounds that an animal in a dwelling house requires immediate attention, an animal protection officer may apply for a warrant to enter the house and seize the animal if necessary to attend to the immediate needs of the animal R.S.N.B., ch S-12, s. 28</p> <p>If a person is violating a no-animals sentencing requirement, an animal protection officer may apply for a warrant to enter a dwelling house to seize the animal R.S.N.B., ch S-12, s. 29</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>Ownership of a seized animal is vested in the society if an owner is not identified within 3 business days after the seizure, or if the owner does not reclaim and pay the costs incurred for care within 3 business days of notice R.S.N.B., ch S-12, ss. 16(4), (4.1)</p> <p>Seized animals that are beyond hope of recovery, or if it would be inhumane to allow the continued pain and suffering of the animal, may be euthanized R.S.N.B., ch S-12, s. 17</p> <p>Upon conviction, a court may prohibit an offender from owning or having possession, care and control of any animal for any period of time; upon a subsequent conviction this period may be for the life of the offender R.S.N.B., ch S-12, s. 26</p> <p>Upon conviction, a court may order the animal victimized by the offender forfeited, and any other animals owned by the offender</p>

	R.S.N.B., ch S-12, s. 26
NEW BRUNSWICK <i>continued</i>	
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING / IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	<p>Animal protection officers have and may exercise all the powers, authorities and immunities of a peace officer R.S.N.B., ch S-12, s. 11</p> <p>No person may hinder or obstruct an animal protection officer; violation is a category D offence R.S.N.B., ch S-12, s. 11.1</p> <p>Members of the Royal Canadian Mounted Police and police officers shall aid and assist animal protection officers in the enforcement of this Act and have the powers of animal protection officers R.S.N.B., ch S-12, s. 12</p> <p>Requirements for appointment as animal protection officer N.B. Reg. 2000-4, s. 3</p>
12. SEXUAL ASSAULT	-----
13. FIGHTING	Animal fighting is a Category B offence N.B. Reg. 2000-4, s. 6
NOTES	New Brunswick has additional statutes and regulations relating to commercial animal establishments

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Society for the Prevention of Cruelty to Animals Act, R.S.N.B. 1973, c. S-12, ss. 0.1, 1, 18, 19, 21 (2012)

0.1

In this Act

"animal" means animal as defined in the regulations;

"animal protection officer" means an officer, agent or employee of the society or any other person appointed by the Minister under section 8;

"business day" means a day on which the offices of the society are open for business;

"domestic animal" means domestic animal as defined in the regulations;

"Minister" means the Minister of the Environment and Local Government and includes any person designated by the Minister to act on the Minister's behalf;

"pet establishment" means pet establishment as defined in the regulations;

"public road" means public road as defined in the regulations;

"society" means The New Brunswick Society for the Prevention of Cruelty to Animals continued under section 1.

1

The New Brunswick Society for the Prevention of Cruelty incorporated by Chapter 58 of the Acts of 44 Victoria, (1881), is hereby continued under the name of The New Brunswick Society for the Prevention of Cruelty to Animals and shall consist of all persons who contribute to the funds thereof, according to the terms and conditions prescribed by the rules and regulations of the society.

18(1)

A person who has ownership, possession or the care and control of an animal shall provide the animal with food, water, shelter and care in accordance with the regulations.

18(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category J offence.

18(3)

[Repealed 1997, c. 27, s. 5.]

18(4)

[Repealed 1997, c. 27, s. 5.]

19(1)

A person who destroys or assists in the destruction of an animal shall do so in a humane manner in accordance with the regulations.

19(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category D offence.

19(3)

A person does not commit an offence under subsection (1) where, in an emergency situation or where the provision of veterinary services are impracticable, an animal is destroyed by use of a firearm in a manner that does not cause unnecessary pain or panic to the animal.

21(1)

A person operating a motor vehicle that strikes and injures a domestic animal shall stop and use reasonable diligence to notify the owner, a peace officer or an animal protection officer and take such other reasonable and appropriate action so that the animal may receive proper care.

21(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category C offence.

A person who violates or fails to comply with any provision of the regulations commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category B offence.

General Regulation, N.B. Reg. 2000-4, s. 2(2012).

Definitions

2(1)

In this Regulation

“Act” means the Society for the Prevention of Cruelty to Animals Act.

2(2)

In the Act and this Regulation

“animal” means a non-human living being with a developed nervous system;

“domestic animal” means any animal that is kept under human control or by habit or training lives in association with man;

“public road” means a highway as defined in the Motor Vehicle Act and does not include a private road or driveway as defined in the Motor Vehicle Act.

* * * * *

Standards for animal care

4(1)

For the purpose of subsection 18(1) of the Act, a person who has ownership, possession or care and control of an animal

(a) shall ensure that the animal has an adequate source of food and water;

(b) shall provide the animal with adequate medical attention when the animal is wounded or ill;

(c) shall provide the animal with reasonable protection from injurious heat or cold; and

(d) shall not confine the animal to an enclosure, area or motor vehicle

- (i) with inadequate space,*
- (ii) with unsanitary conditions,*
- (iii) with inadequate ventilation,*
- (iv) with inappropriate other occupants,*
- (v) without providing an opportunity for exercise, or*
- (vi) that is in a state of disrepair,*

so as to significantly impair the animal's health or well-being.

2. PENALTIES

Provincial Offences Procedure Act, S.N.B. 1987, c. P-22.1, ss. 56, 64 (2011)

* * * * *

56(2)

Where an Act makes an offence punishable as a category B offence, a judge shall impose a fine of not less than \$140 and not more than \$640.

56(3)

Where an Act makes an offence punishable as a category C offence, a judge shall impose a fine of not less than \$140 and not more than \$1,100.

56(4)

Where an Act makes an offence punishable as a category D offence, a judge shall impose a fine of not less than \$140 and not more than \$2,100.

* * * * *

56(10)

Where an Act makes an offence punishable as a category J offence, a judge shall impose a fine of not less than \$500 and not more than \$200,000.

* * * * *

64(3)

A judge may, in relation to a category J offence, sentence a defendant to a term of imprisonment of not more than eighteen months.

3. EXEMPTIONS

Society for the Prevention of Cruelty to Animals Act, R.S.N.B. 1973, c. S-12, s. 19 (2012)

19(1)

A person who destroys or assists in the destruction of an animal shall do so in a humane manner in accordance with the regulations.

19(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category D offence.

19(3)

A person does not commit an offence under subsection (1) where, in an emergency situation or where the provision of veterinary services are impracticable, an animal is destroyed by use of a firearm in a manner that does not cause unnecessary pain or panic to the animal.

General Regulation, N.B. Reg. 2000-4, s. 4(2) (2012).

4(2)

A person shall not be convicted of an offence under subsection 18(2) of the Act for treating an animal in a manner

(a) consistent with a standard or code of conduct, practice or procedure specified in Schedule A,

(b) consistent with generally accepted practices or procedures for such an activity, or

(c) otherwise reasonable in the circumstances.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Society for the Prevention of Cruelty to Animals Act, R.S.N.B. 1973, c. S-12, s. 16 (2012)

16(1)

Where an animal has been seized under this Act, the animal protection officer shall within five days notify the owner or make reasonable attempts to identify and notify the owner if the owner is not known,

(a) that the animal has been seized by the animal protection officer, and

(b) of the costs that have been incurred or will be incurred in the care and treatment of the animal.

16(2)

The owner of a seized animal is liable to pay the costs incurred in the care and treatment of the seized animal.

16(3)

Where the owner of an animal seized under paragraph 15(1)(a) is identified, the owner may reclaim the animal 3 business days after receipt of the notice under subsection (1) if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(3.1)

Where the owner of an animal seized under paragraph 15(1)(b) is identified, the owner may reclaim the animal 15 days after the seizure if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(4)

The ownership of an animal seized under paragraph 15(1)(a) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 3 business days after receipt of the notice under subsection (1) *and does not pay the costs incurred in respect of the care and treatment of the animal.*

16(4.1)

The ownership of an animal seized under paragraph 15(1)(b) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 15 days after the seizure *and does not pay the costs incurred in respect of the care and treatment of the animal.*

16(5)

An animal protection officer may, before the 3 day period referred to in paragraph (4)(b) expires, release to the owner an animal seized under paragraph 15(1)(a) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(5.1)

An animal protection officer may, before the 15 day period referred to in paragraph (4.1)(b) expires, release to the owner an animal seized under paragraph 15(1)(b) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(6)

Any amount for which a person is liable for the costs incurred in respect of the care and treatment of a seized animal under this Act is a debt due by that person.

7. SEIZURE / ON-SITE SUPERVISION

Society for the Prevention of Cruelty to Animals Act, R.S.N.B. 1973, c. S-12, ss. 13, 15, 16, 16.1, 17.1, 27-29(2012)

13

An agent of the society, or of any branch thereof, may lawfully examine, seize and destroy or cause to be destroyed, an animal found at large, abandoned or not properly cared for if, in the judgment of a veterinary surgeon called by such agent to view the same, the animal is injured, disabled, diseased past recovery, or unfit for any useful purpose.

14(1)

An animal protection officer may at any reasonable time enter and inspect

(a) a licensed pet establishment, or

(b) any building, place or premises, except a dwelling house, that the animal protection officer has reason to believe is being used for or in connection with a pet establishment.

14(2)

Before or after attempting to enter any place for the purposes of subsection (1), an animal protection officer may apply to a judge for an entry warrant under the Entry Warrants Act.

14(3)

An animal protection officer may at any time require a licensee

(a) to produce an animal for inspection, or

(b) to produce for inspection, or for the purpose of obtaining copies or extracts, any records, books, accounts or other documents, other than financial records, books, accounts or documents, relating to the establishment, operation or maintenance of a pet establishment.

14(4)

A licensee shall immediately on demand by an animal protection officer produce

(a) the animal, or

(b) the records, books, accounts and other documents relating to the pet establishment.

14(5)

An animal protection officer may seize an animal that is being kept in a pet establishment if the animal requires immediate attention.

15(1)

An animal protection officer may seize an animal

(a) found running at large, or

(b) otherwise, in accordance with this Act and the regulations.

15(2)

An animal protection officer may place a seized animal under care for a period not exceeding 15 days and for such additional periods as may be required for the prosecution of an offence respecting the animal.

16(1)

Where an animal has been seized under this Act, the animal protection officer shall within 3 business days notify the owner or make reasonable attempts to identify and notify the owner if the owner is not known,

(a) that the animal has been seized by the animal protection officer, and

(b) of the costs that have been incurred or will be incurred in the care and treatment of the animal.

16(2)

The owner of a seized animal is liable to pay the costs incurred in the care and treatment of the seized animal.

16(3)

Where the owner of an animal seized under paragraph 15(1)(a) is identified, the owner may reclaim the animal 3 business days after receipt of the notice under subsection (1) if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(3.1)

Where the owner of an animal seized under paragraph 15(1)(b) is identified, the owner may reclaim the animal 15 days after the seizure if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(4)

The ownership of an animal seized under paragraph 15(1)(a) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 3 business days after receipt of the notice under subsection (1) and does not pay the costs incurred in respect of the care and treatment of the animal.

16(4.1)

The ownership of an animal seized under paragraph 15(1)(b) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 15 days after the seizure and does not pay the costs incurred in respect of the care and treatment of the animal.

16(5)

An animal protection officer may, before the 3 day period referred to in paragraph (4)(b) expires, release to the owner an animal seized under paragraph 15(1)(a) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(5.1)

An animal protection officer may, before the 15 day period referred to in paragraph (4.1)(b) expires, release to the owner an animal seized under paragraph 15(1)(b) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(6)

Any amount for which a person is liable for the costs incurred in respect of the care and treatment of a seized animal under this Act is a debt due by that person.

16.1

The powers in section 16 may only be exercised

(a) in emergencies, or

(b) pursuant to an entry warrant.

17.1

Before or after attempting to enter any place for the purposes of section 15, 16 or 17, an agent of the society may apply for an entry warrant in accordance with the Entry Warrants Act.

27(1)

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that an animal is confined, impounded or yarded without adequate food, water, shelter or care for more than twenty-four consecutive hours, an animal protection officer or a person authorized by an animal protection officer may enter the place or break and enter any enclosure, erection or building where the animal is confined, impounded or yarded, except a dwelling house, to provide the animal with food, water, shelter or care.

27(2)

An animal protection officer may seize an animal referred to in subsection (1) if the seizure is necessary to attend to the immediate needs of the animal.

27(3)

Before or after attempting to enter any place for the purpose of subsection (1), an animal protection officer may apply to a judge for an entry warrant under the Entry Warrants Act.

27.1(1)

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that an animal is confined in a motor vehicle and is in distress or is deprived of reasonable protection from injurious heat or cold, the animal protection officer or a person authorized by the animal protection officer may enter the motor vehicle, using the force the animal protection officer considers necessary, for the purposes of attending to the needs of the animal.

27.1(2)

An animal protection officer may seize an animal referred to in subsection (1) if the seizure is necessary to attend to the immediate needs of the animal.

27.1(3)

If the circumstances permit, an animal protection officer shall, before attempting to enter a motor vehicle under subsection (1), take reasonable steps to find the owner or person in charge of the motor vehicle.

28

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that an animal confined in a dwelling house requires immediate attention, the animal protection officer may apply to a judge for a entry warrant under the Entry Warrants Act to enter a dwelling house for the purposes of attending to the needs of the animal and to seize the animal if necessary to attend to the immediate needs of the animal.

29

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that a person owns an animal or has an animal in his or her possession or care and control contrary to an order issued under section 26, the animal protection officer may apply to a judge for a entry warrant under the Entry Warrants Act to enter any place including a dwelling house for the purpose of seizing the animal.

8. FORFEITURE / POSSESSION

Society for the Prevention of Cruelty to Animals Act, R.S.N.B. 1973, c. S-12, ss.16, 17, 24, 26(2012)

16(1)

Where an animal has been seized under this Act, the animal protection officer shall within five days notify the owner or make reasonable attempts to identify and notify the owner if the owner is not known,

(a) that the animal has been seized by the animal protection officer, and

(b) of the costs that have been incurred or will be incurred in the care and treatment of the animal.

16(2)

The owner of a seized animal is liable to pay the costs incurred in the care and treatment of the seized animal.

16(3)

Where the owner of an animal seized under paragraph 15(1)(a) is identified, the owner may reclaim the animal 3 business days after receipt of the notice under subsection (1) if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(3.1)

Where the owner of an animal seized under paragraph 15(1)(b) is identified, the owner may reclaim the animal 15 days after the seizure if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(4)

The ownership of an animal seized under paragraph 15(1)(a) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 3 business days after receipt of the notice under subsection (1) and does not pay the costs incurred in respect of the care and treatment of the animal.

16(4.1)

The ownership of an animal seized under paragraph 15(1)(b) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 15 days after the seizure and does not pay the costs incurred in respect of the care and treatment of the animal.

16(5)

An animal protection officer may, before the 3 day period referred to in paragraph (4)(b) expires, release to the owner an animal seized under paragraph 15(1)(a) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(5.1)

An animal protection officer may, before the 15 day period referred to in paragraph (4.1)(b) expires, release to the owner an animal seized under paragraph 15(1)(b) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(6)

Any amount for which a person is liable for the costs incurred in respect of the care and treatment of a seized animal under this Act is a debt due by that person.

17

Where, in the opinion of an animal protection officer,

(a) it is unlikely that a seized animal will recover from its injuries, or

(b) it would be inhumane to allow the continued pain and suffering of the seized animal, an animal protection officer or a person authorized by an animal protection officer may destroy the animal.

24

A person who owns or has the possession or care and control of an animal while prohibited from doing so by reason of an order made under section 26 commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category C offence.

In addition to imposing sentence under the Provincial Offences Procedures Act in relation to a conviction of an offence under this Act, a judge

(a) may make an order prohibiting the defendant from owning or having any animal in his or her possession or care and control for such period as the judge prescribes,

(b) shall, in the case of a second or subsequent offence, make an order prohibiting the defendant from owning or having any animal in his or her possession or care and control

(i) for the lifetime of the defendant, or

(ii) for such period as the judge prescribes, or

(c) may make an order vesting in the society

(i) the ownership of all animals owned by the defendant, or

(ii) the ownership of the animal in respect of which the prosecution has been commenced.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

Society for the Prevention of Cruelty to Animals Act, R.S.N.B. 1973, c. S-12, ss. 11, 11.1, 12, 14 (2012)

11(1)

Every animal protection officer in carrying out his or her duties under this Act and the regulations is a person employed for the preservation and maintenance of the public peace and has and may exercise all the powers, authorities and immunities of a peace officer as defined in the Criminal Code (Canada).

11(2)

Every animal protection officer may exercise all the powers and authorities conferred upon an animal protection officer by this Act in any part of the Province.

11.1(1)

No person shall obstruct or hinder an animal protection officer or a person authorized by an animal protection officer in carrying out his or her duties under this Act and the regulations.

11.1(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category D offence.

12

Members of the Royal Canadian Mounted Police and police officers appointed under the Police Act shall aid and assist animal protection officers in the enforcement of this Act and have the powers of animal protection officers under sections 17, 27, 27.1, 28 and 29.

General Regulation, N.B. Reg. 2000-4, s. 3 (2012).

Appointment of animal protection officers

3(1)

No person shall be appointed as an animal protection officer under subsection 8(1) of the Act unless the person has met the requirements set out in subsection (2).

3(2)

Each person shall successfully pass, to the Minister's satisfaction, an examination illustrating the person's knowledge of

- (a) animal care, handling and behaviour,*
- (b) the powers, authorities and immunities of a peace officer,*
- (c) animal, search and seizure and enforcement laws of the Province, including*
 - (i) the Entry Warrants Act, and*
 - (ii) the Provincial Offences Procedure Act, and*
- (d) animal and criminal laws of Canada.*

12. SEXUAL ASSAULT

13. FIGHTING

General Regulation, N.B. Reg. 2000-4, s. 6 (2012).

Prohibited practices

6

No person shall in any manner conduct, promote or participate in any contest involving fighting between animals and all such contests are prohibited.

14. REFERENCED STATUTES & REGULATIONS

Society for the Prevention of Cruelty to Animals Act, R.S.N.B. 1973, c. S-12, s. 1-32 (2012)

0.1

In this Act

"animal" means animal as defined in the regulations;

"animal protection officer" means an officer, agent or employee of the society or any other person appointed by the Minister under section 8;

"business day" means a day on which the offices of the society are open for business;

"domestic animal" means domestic animal as defined in the regulations;

"Minister" means the Minister of the Environment and Local Government and includes any person designated by the Minister to act on the Minister's behalf;

"pet establishment" means pet establishment as defined in the regulations;

"public road" means public road as defined in the regulations;

"society" means The New Brunswick Society for the Prevention of Cruelty to Animals continued under section 1.

1

The New Brunswick Society for the Prevention of Cruelty incorporated by Chapter 58 of the Acts of 44 Victoria, (1881), is hereby continued under the name of The New Brunswick Society for the Prevention of Cruelty to Animals and shall consist of all persons who contribute to the funds thereof, according to the terms and conditions prescribed by the rules and regulations of the society.

* * * * *

11(1)

Every animal protection officer in carrying out his or her duties under this Act and the regulations is a person employed for the preservation and maintenance of the public peace and has and may exercise all the powers, authorities and immunities of a peace officer as defined in the Criminal Code (Canada).

11(2)

Every animal protection officer may exercise all the powers and authorities conferred upon an animal protection officer by this Act in any part of the Province.

11.1(1)

No person shall obstruct or hinder an animal protection officer or a person authorized by an animal protection officer in carrying out his or her duties under this Act and the regulations.

11.1(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category D offence.

12

Members of the Royal Canadian Mounted Police and police officers appointed under the Police Act shall aid and assist animal protection officers in the enforcement of this Act and have the powers of animal protection officers under sections 17, 27, 27.1, 28 and 29.

13

An agent of the society, or of any branch thereof, may lawfully examine, seize and destroy or cause to be destroyed, an animal found at large, abandoned or not properly cared for if, in the judgment of a veterinary surgeon called by such agent to view the same, the animal is injured, disabled, diseased past recovery, or unfit for any useful purpose.

14(1)

An animal protection officer may at any reasonable time enter and inspect

- (c) a licensed pet establishment, or
- (d) any building, place or premises, except a dwelling house, that the animal protection officer has reason to believe is being used for or in connection with a pet establishment.

14(2)

Before or after attempting to enter any place for the purposes of subsection (1), an animal protection officer may apply to a judge for an entry warrant under the Entry Warrants Act.

14(3)

An animal protection officer may at any time require a licensee

- (a) to produce an animal for inspection, or
- (b) to produce for inspection, or for the purpose of obtaining copies or extracts, any records, books, accounts or other documents, other than financial records, books, accounts or documents, relating to the establishment, operation or maintenance of a pet establishment.

14(4)

A licensee shall immediately on demand by an animal protection officer produce

- (a) the animal, or
- (b) the records, books, accounts and other documents relating to the pet establishment.

14(5)

An animal protection officer may seize an animal that is being kept in a pet establishment if the animal requires immediate attention.

15(1)

An animal protection officer may seize an animal

- (a) found running at large, or
- (b) otherwise, in accordance with this Act and the regulations.

15(2)

An animal protection officer may place a seized animal under care for a period not exceeding 15 days and for such additional periods as may be required for the prosecution of an offence respecting the animal.

16(1)

Where an animal has been seized under this Act, the animal protection officer shall within 3 business days notify the owner or make reasonable attempts to identify and notify the owner if the owner is not known,

(a) that the animal has been seized by the animal protection officer, and

(b) of the costs that have been incurred or will be incurred in the care and treatment of the animal.

16(2)

The owner of a seized animal is liable to pay the costs incurred in the care and treatment of the seized animal.

16(3)

Where the owner of an animal seized under paragraph 15(1)(a) is identified, the owner may reclaim the animal 3 business days after receipt of the notice under subsection (1) if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(3.1)

Where the owner of an animal seized under paragraph 15(1)(b) is identified, the owner may reclaim the animal 15 days after the seizure if the costs of the care and treatment of the animal are paid unless a prosecution is commenced in respect of the animal.

16(4)

The ownership of an animal seized under paragraph 15(1)(a) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 3 business days after receipt of the notice under subsection (1) and does not pay the costs incurred in respect of the care and treatment of the animal.

16(4.1)

The ownership of an animal seized under paragraph 15(1)(b) vests in the society if the owner (a) cannot be identified within 3 business days after the seizure, or (b) does not reclaim the animal 15 days after the seizure and does not pay the costs incurred in respect of the care and treatment of the animal.

16(5)

An animal protection officer may, before the 3 day period referred to in paragraph (4)(b) expires, release to the owner an animal seized under paragraph 15(1)(a) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(5.1)

An animal protection officer may, before the 15 day period referred to in paragraph (4.1)(b) expires, release to the owner an animal seized under paragraph 15(1)(b) that has been placed under care if, in the opinion of the animal protection officer, the animal will be properly cared for by the owner and if no prosecution is commenced in respect of the animal.

16(6)

Any amount for which a person is liable for the costs incurred in respect of the care and treatment of a seized animal under this Act is a debt due by that person.

16.1

The powers in section 16 may only be exercised

- (a) in emergencies, or
- (b) pursuant to an entry warrant.

17

Where, in the opinion of an animal protection officer,

- (a) it is unlikely that a seized animal will recover from its injuries, or
- (b) it would be inhumane to allow the continued pain and suffering of the seized animal, an animal protection officer or a person authorized by an animal protection officer may destroy the animal.

17.1

Before or after attempting to enter any place for the purposes of section 15, 16 or 17, an agent of the society may apply for an entry warrant in accordance with the Entry Warrants Act.

18(1)

A person who has ownership, possession or the care and control of an animal shall provide the animal with food, water, shelter and care in accordance with the regulations.

18(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category J offence.

18(3)

[Repealed 1997, c. 27, s. 5.]

18(4)

[Repealed 1997, c. 27, s. 5.]

19(1)

A person who destroys or assists in the destruction of an animal shall do so in a humane manner in accordance with the regulations.

19(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a category D offence.

19(3)

A person does not commit an offence under subsection (1) where, in an emergency situation or where the provision of veterinary services are impracticable, an animal is destroyed by use of a firearm in a manner that does not cause unnecessary pain or panic to the animal.

* * * * *

21(1)

A person operating a motor vehicle that strikes and injures a domestic animal shall stop and use reasonable diligence to notify the owner, a peace officer or an animal protection officer and take such other reasonable and appropriate action so that the animal may receive proper care.

21(2)

A person who violates or fails to comply with subsection (1) commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category C offence.

* * * * *

24

A person who owns or has the possession or care and control of an animal while prohibited from doing so by reason of an order made under section 26 commits an offence punishable under Part II of the Provincial Offences Procedure Act as a category C offence.

* * * * *

26

In addition to imposing sentence under the Provincial Offences Procedures Act in relation to a conviction of an offence under this Act, a judge

- (a) may make an order prohibiting the defendant from owning or having any animal in his or her possession or care and control for such period as the judge prescribes,
- (b) shall, in the case of a second or subsequent offence, make an order prohibiting the defendant from owning or having any animal in his or her possession or care and control
 - (i) for the lifetime of the defendant, or
 - (ii) for such period as the judge prescribes, or
- (c) may make an order vesting in the society
 - (i) the ownership of all animals owned by the defendant, or
 - (ii) the ownership of the animal in respect of which the prosecution has been commenced.

27(1)

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that an animal is confined, impounded or yarded without adequate food, water, shelter or care for more than twenty-four consecutive hours, an animal protection officer or a person authorized by an animal protection officer may enter the place or break and enter any enclosure, erection or building where the animal is confined, impounded or yarded, except a dwelling house, to provide the animal with food, water, shelter or care.

27(2)

An animal protection officer may seize an animal referred to in subsection (1) if the seizure is necessary to attend to the immediate needs of the animal.

27(3)

Before or after attempting to enter any place for the purpose of subsection (1), an animal protection officer may apply to a judge for an entry warrant under the Entry Warrants Act.

27.1(1)

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that an animal is confined in a motor vehicle and is in distress or is deprived of reasonable protection from injurious heat or cold, the animal protection officer or a person authorized by the animal protection officer may enter the motor vehicle, using the force the animal protection officer considers necessary, for the purposes of attending to the needs of the animal.

27.1(2)

An animal protection officer may seize an animal referred to in subsection (1) if the seizure is necessary to attend to the immediate needs of the animal.

27.1(3)

If the circumstances permit, an animal protection officer shall, before attempting to enter a motor vehicle under subsection (1), take reasonable steps to find the owner or person in charge of the motor vehicle.

28

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that an animal confined in a dwelling house requires immediate attention, the animal protection officer may apply to a judge for a entry warrant under the Entry Warrants Act to enter a dwelling house for the purposes of attending to the needs of the animal and to seize the animal if necessary to attend to the immediate needs of the animal.

29

Where an animal protection officer has, on reasonable and probable grounds, reason to believe that a person owns an animal or has an animal in his or her possession or care and control contrary to an order issued under section 26, the animal protection officer may apply to a judge for a entry warrant under the Entry Warrants Act to enter any place including a dwelling house for the purpose of seizing the animal.

* * * * *

Provincial Offences Procedure Act, S.N.B. 1987, c. P-22.1, ss. 56, 64 (2011)

* * * * *

56(2)

Where an Act makes an offence punishable as a category B offence, a judge shall impose a fine of not less than \$140 and not more than \$640.

56(3)

Where an Act makes an offence punishable as a category C offence, a judge shall impose a fine of not less than \$140 and not more than \$1,100.

56(4)

Where an Act makes an offence punishable as a category D offence, a judge shall impose a fine of not less than \$140 and not more than \$2,100.

* * * * *

56(10)

Where an Act makes an offence punishable as a category J offence, a judge shall impose a fine of not less than \$500 and not more than \$200,000.

* * * * *

64(3)

A judge may, in relation to a category J offence, sentence a defendant to a term of imprisonment of not more than eighteen months.

General Regulation, N.B. Reg. 2000-4, ss. 2-6 (2012).

Definitions

2(1)

In this Regulation

“Act” means the Society for the Prevention of Cruelty to Animals Act.

2(2)

In the Act and this Regulation

“animal” means a non-human living being with a developed nervous system;

“domestic animal” means any animal that is kept under human control or by habit or training lives in association with man;

“public road” means a highway as defined in the Motor Vehicle Act and does not include a private road or driveway as defined in the Motor Vehicle Act.

Appointment of animal protection officers

3(1)

No person shall be appointed as an animal protection officer under subsection 8(1) of the Act unless the person has met the requirements set out in subsection (2).

3(2)

Each person shall successfully pass, to the Minister's satisfaction, an examination illustrating the person's knowledge of

- (a) animal care, handling and behaviour,
- (b) the powers, authorities and immunities of a peace officer,
- (c) animal, search and seizure and enforcement laws of the Province, including
 - (i) the Entry Warrants Act, and
 - (ii) the Provincial Offences Procedure Act, and
- (d) animal and criminal laws of Canada.

Standards for animal care

4(1)

For the purpose of subsection 18(1) of the Act, a person who has ownership, possession or care and control of an animal

- (a) shall ensure that the animal has an adequate source of food and water;
- (b) shall provide the animal with adequate medical attention when the animal is wounded or ill;
- (c) shall provide the animal with reasonable protection from injurious heat or cold; and
- (d) shall not confine the animal to an enclosure, area or motor vehicle
 - (i) with inadequate space,
 - (ii) with unsanitary conditions,
 - (iii) with inadequate ventilation,
 - (iv) with inappropriate other occupants,
 - (v) without providing an opportunity for exercise, or

(vi) that is in a state of disrepair,

so as to significantly impair the animal's health or well-being.

* * * * *

4(2)

A person shall not be convicted of an offence under subsection 18(2) of the Act for treating an animal in a manner

- (a) consistent with a standard or code of conduct, practice or procedure specified in Schedule A,
- (b) consistent with generally accepted practices or procedures for such an activity, or
- (c) otherwise reasonable in the circumstances.

* * * * *

Prohibited practices

6

No person shall in any manner conduct, promote or participate in any contest involving fighting between animals and all such contests are prohibited.

ANIMAL PROTECTION LAWS OF NEW HAMPSHIRE

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains New Hampshire's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

New Hampshire may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEW HAMPSHIRE

1. GENERAL PROHIBITIONS*	(1) Cruelty to animals N.H. REV. STAT. ANN. § 644:8 (2) Causing serious harm to a confined animal through exposure to extreme temperatures N.H. REV. STAT. ANN. § 644:8-aa
<i>Animals Covered in Definition</i>	“[A]nimal means a domestic animal, a household pet or a wild animal in captivity” N.H. REV. STAT. ANN. § 644:8(II)
<i>Classification of Crimes</i>	(1) [1 st offense]: Class B or Class A misdemeanor [2 nd and subsequent offenses; or 1 st offense if offender purposely beat, cruelly whipped, tortured, or mutilated, or so caused]: Class B felony (2) Class B or Class A misdemeanor

NEW HAMPSHIRE*continued*

<p>2. MAXIMUM PENALTIES**</p>	<p>(1) [1st offense]: 1 year imprisonment N.H. REV. STAT. ANN. § 651:2(II)(c) <i>and/or</i> \$2,000 fine N.H. REV. STAT. ANN. § 651:2(IV)(a)</p> <p>[2nd and subsequent offenses; or 1st offense if offender purposely beat, cruelly whipped, tortured, or mutilated, or so caused]: 7 years imprisonment N.H. REV. STAT. ANN. § 651:2(II)(b) <i>and/or</i> \$4,000 fine N.H. REV. STAT. ANN. § 651:2(IV)(a)</p> <p>(2) 1 year imprisonment N.H. REV. STAT. ANN. § 651:2(II)(c) <i>and/or</i> \$2,000 fine N.H. REV. STAT. ANN. § 651:2(IV)(a)</p>
<p>3. EXEMPTIONS***</p>	<p>1, 9 N.H. REV. STAT. ANN. § 644:8</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>

NEW HAMPSHIRE*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>The costs of care and disposal of the animal shall be borne by person convicted. N.H. REV. STAT. ANN. § 644:8(IV)(a)</p> <p>If conviction is appealed, defendant must post bond for costs of care. N.H. REV. STAT. ANN. § 644:8(IV)(b)</p> <p>If court sentences offender to a conditional discharge, restitution may be ordered. N.H. REV. STAT. ANN. § 651:2(VI)(a)(3)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Arresting officer may seize animals. N.H. REV. STAT. ANN. §644:8(IV)(a)</p> <p>Law enforcement, animal control, or humane society agents may confiscate animals without a court order if the animal is in imminent danger; veterinarians are authorized agents for domestic animals and livestock; special requirements for animals at dog and horse racing tracks. N.H. REV. STAT. ANN. § 644:8(IV-a)(a)-(c)</p> <p>Law enforcement and humane agents may rescue confined animals endangered by extreme temperatures and are not liable for reasonable damages. N.H. REV. STAT. ANN. § 644:8-aa(III),(IV)</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>Upon conviction, the court may dispose of animals seized as it sees fit; the court may also prohibit future animal ownership. Seized but unclaimed animals may be humanely disposed of after a certain number of days. N.H. REV. STAT. ANN. § 644:8(IV)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>

NEW HAMPSHIRE*continued*

<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>Immunity from civil actions N.H. REV. STAT. ANN. § 332-B:16-a</p> <p>Veterinarians are protected from lawsuits for their part in cruelty investigations. N.H. REV. STAT. ANN. § 644:8(V)</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Any person found violating animal cruelty laws may be arrested without a warrant. N.H. REV. STAT. ANN. § 105:17</p> <p>State veterinarian has general charge of the enforcement of the animal cruelty laws and, upon request of law enforcement, shall assist in a secondary capacity in enforcing them. N.H. REV. STAT. ANN. § 436:8</p> <p>Courts shall give cases in which animals have been confiscated priority on the court calendar. N.H. REV. STAT. ANN. § 644:8(IV)</p>
<p>12. SEXUAL ASSAULT</p>	<p>-----</p>
<p>13. FIGHTING</p>	<p>Various animal fighting activities, including being a spectator at animal fights, are Class B felonies. Animals may be seized, and costs of their care shall be borne by offender upon conviction. Court has discretion on destroying animals upon conviction. Court may prohibit offender from owning or possessing certain animals. N.H. REV. STAT. ANN. § 644:8-a</p>
<p><i>Other Felony Provisions Affecting Animals¹</i></p>	<p>Killing law enforcement dog or horse is a Class B felony. N.H. REV. STAT. ANN. § 644:8-d</p>

NEW HAMPSHIRE*continued*

NOTES

Special provisions relating to horses, including seizure, liens, arrest powers and special deputies. *See* N.H. REV. STAT. ANN. §§ 105:14, 105:16, 105:18, 435:5.

N.H. REV. STAT. ANN. § 105:14 references § 441:4-a, which was recodified in 1985 as 435:5 (a provision about colts).

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

N.H. REV. STAT. ANN. § 644:8 (2012).Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

N.H. REV. STAT. ANN. § 644:8-aa (2012). Animals in Motor Vehicle.

I. It shall be cruelty to confine an animal in a motor vehicle or other enclosed space in which the temperature is either so high or so low as to cause serious harm to the animal. "Animal" means a domestic animal, household pet, or wild animal held in captivity.

II. Any person in violation of this section shall be guilty of a misdemeanor as set forth in RSA 644:8.

III. Any law enforcement officer or agent of a licensed humane organization may take action necessary to rescue a confined animal endangered by extreme temperatures, and to remove the threat of further serious harm.

IV. No officer or agent taking action under paragraph III shall be liable for damage reasonably necessary to rescue the confined animal.

2. PENALTIES

N.H. REV. STAT. ANN. § 625:9 (2012). Classification of Crimes.

I. The provisions of this section govern the classification of every offense, whether defined within this code or by any other statute.

II. Every offense is either a felony, misdemeanor or violation.

(a) Felonies and misdemeanors are crimes.

(b) A violation does not constitute a crime and conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

III. A felony is murder or a crime so designated by statute within or outside this code or a crime defined by statute outside of this code where the maximum penalty provided is imprisonment in excess of one year; provided, however, that a crime defined by statute outside of this code is a felony when committed by a corporation or an unincorporated association if the maximum fine therein provided is more than \$200.

(a) Felonies other than murder are either class A felonies or class B felonies when committed by an individual. Felonies committed by a corporation or an unincorporated association are unclassified.

(1) Class A felonies are crimes so designated by statute within or outside this code and any crime defined by statute outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of 7 years.

(2) Class B felonies are crimes so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of one year but not in excess of 7 years.

IV. Misdemeanors are either class A misdemeanors or class B misdemeanors when committed by an individual. Misdemeanors committed by a corporation or an unincorporated association are unclassified.

(a) A class A misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment not in excess of one year.

(b) A class B misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty does not include any term of imprisonment or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a).

(c) Any crime designated within or outside this code as a misdemeanor without specification of the classification shall be presumed to be a class B misdemeanor unless:

(1) An element of the offense involves an “act of violence” or “threat of violence” as defined in paragraph VII; or

(2) The state files a notice of intent to seek class A misdemeanor penalties on or before the date of arraignment. Such notice shall be on a form approved in accordance with RSA 490:26-d.

(d) Nothing in this paragraph shall prohibit the state from reducing any offense originally charged as a class A misdemeanor to a class B misdemeanor at any time with the agreement of the person charged.

V. A violation is an offense so designated by statute within or outside this code and, except as provided in this paragraph, any offense defined outside of this code for which there is no other penalty provided other than a fine or fine and forfeiture or other civil penalty. In the case of a corporation or an unincorporated association, offenses defined outside of this code are violations if the amount of any such fine provided does not exceed \$50.

V-a. The violation of any requirement created by statute or by municipal regulation enacted pursuant to an enabling statute, where the statute neither specifies the penalty or offense classification, shall be deemed a violation, and the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2.

VI. Prior to or at the time of arraignment, the state may, in its discretion, charge any offense designated a misdemeanor, as defined by paragraph IV, as a violation. At such time, the prosecutor shall make an affirmative statement to the court as to whether he intends to proceed under this paragraph. In such cases the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2. This paragraph shall not apply to any offense for which a statute prescribes an enhanced penalty for a subsequent conviction of the same offense.

VII. The state may change any offense designated or defined as a class A misdemeanor as defined by paragraph IV to a class B misdemeanor, so long as no element of the offense involves an act of violence or threat of violence. The term “act of violence” means attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon; and the term “threat of violence” means placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other. The state may change an offense pursuant to this paragraph if such change is in the interest of public safety and welfare and is not inconsistent with the societal goals of deterrence and prevention of recidivism, as follows:

- (a) In its own discretion prior to or at the time of arraignment in the district court;
- (b) In its own discretion following an entry of appeal in the superior court or within 20 days thereafter;
- (c) With the agreement of the person charged at any other time; or
- (d) In its own discretion, following entry of a complaint at a regional jury trial court or within 21 days thereafter.

VIII. If a person convicted of a class A misdemeanor has been sentenced and such sentence does not include any period of actual incarceration or a suspended or deferred jail sentence or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a), the court shall record such conviction and sentence as a class B misdemeanor.

N.H. REV. STAT. ANN. § 651:2 (2012).Sentences and Limitations.

I. A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine.

II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:

- (a) Fifteen years for a class A felony,
- (b) Seven years for a class B felony,
- (c) One year for a class A misdemeanor,
- (d) Life imprisonment for murder in the second degree, and, in the case of a felony only, a minimum which is not to exceed 2 of the maximum, or if the maximum is life imprisonment, such minimum term as the court may order.

II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1-a.

II-b. A person convicted of a second or subsequent offense for the felonious use of a firearm, as provided in RSA 650-A:1, shall, in addition to any punishment provided for the underlying felony, be given a minimum mandatory sentence of 3 years imprisonment. Neither the whole nor any part of the additional sentence of imprisonment hereby provided shall be served concurrently with any other term nor shall the whole or any part of such additional term of imprisonment be suspended. No action brought to enforce sentencing under this section shall be continued for sentencing, nor shall the provisions of RSA 651-A relative to parole apply to any sentence of imprisonment imposed.

II-c. [Repealed]

II-d. A person convicted of manslaughter shall be sentenced as provided in RSA 630:2, II.

II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22. There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.

II-f. A person convicted of violating RSA 159:3-a, I shall be sentenced as provided in RSA 159:3-a, II and III.

II-g. If a person is convicted of a felony, an element of which is the possession, use or attempted use of a deadly weapon, and the deadly weapon is a firearm, such person may be sentenced to a maximum term of 20 years' imprisonment in lieu of any other sentence prescribed for the crime.

III. A person convicted of a class B misdemeanor may be sentenced to conditional or unconditional discharge, a fine, or other sanctions, which shall not include incarceration or probation but may include monitoring by the department of corrections if deemed necessary and appropriate.

III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

(a) Any individual may not exceed \$4,000 for a felony, \$2,000 for a class A misdemeanor, \$1,200 for a class B misdemeanor, and \$1,000 for a violation.

(b) A corporation or unincorporated association may not exceed \$100,000 for a felony, \$20,000 for a misdemeanor and \$1,000 for a violation. A writ of execution may be issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.

(c) If a defendant has gained property through the commission of any felony, then in lieu of the amounts authorized in paragraphs (a) and (b), the fine may be an amount not to exceed double the amount of that gain.

V.

(a) A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.

(b) In cases of persons convicted of felonies or class A misdemeanors, or in cases of persons found to be habitual offenders within the meaning of RSA 259:39 and convicted of an offense under RSA 262:23, the sentence may include, as a condition of probation, confinement to a person's place of residence for not more than one year in case of a class A misdemeanor or more than 5 years in case of a felony. Such home confinement may be monitored by a probation officer and may be supplemented, as determined by the department of corrections or by the county department of corrections, by electronic monitoring to verify compliance.

(c) Upon recommendation by the department of corrections or by the county department of corrections, the court may, as a condition of probation, order an incarceration-bound offender placed in an intensive supervision program as an alternative to incarceration, under requirements and restrictions established by the department of corrections or by the county department of corrections.

(d) Upon recommendation by the department of corrections or by the county department of corrections, the court may sentence an incarceration-bound offender to a special alternative incarceration program involving short term confinement followed by intensive community supervision.

(e) The department of corrections and the various county departments of corrections shall adopt rules governing eligibility for home confinement, intensive supervision and special alternative incarceration programs.

(f) Any offender placed in a home confinement, intensive supervision or special alternative incarceration program who violates the conditions or restrictions of probation shall be subject to immediate arrest by a probation officer or any authorized law enforcement officer and brought before the court for an expeditious hearing pending further disposition.

(g) The court may include, as a condition of probation, restitution to the victim as provided in RSA 651:62 or performance of uncompensated public service as provided in RSA 651:68-70.

(h) In cases of a person convicted of a felony or class A misdemeanor, a court may sentence such person to 7 consecutive 24-hour periods to be served at the 7-day multiple DWI offender intervention program established under RSA 172-B:2-b, if the evidence demonstrates that alcohol was a contributing factor in the commission of the offense and provided that space is available in the program and such person pays the fees for the program in full prior to admission.

(i) The court may include, as a condition of probation for a felony offense, a jail sentence of one to 5 days that a probation/parole officer may impose in response to a violation of a condition of probation, in lieu of a violation of probation hearing. Such jail sanction shall be served at the county jail facility closest to or in reasonable proximity to where the probationer is under supervision.

VI.

(a) A person may be sentenced to a period of conditional discharge if such person is not imprisoned and the court is of the opinion that probationary supervision is unnecessary, but that the defendant's conduct should be according to conditions determined by the court. Such conditions may include:

(1) Restrictions on the defendant's travel, association, place of abode, such as will protect the victim of the crime or insure the public peace;

(2) An order requiring the defendant to attend counseling or any other mode of treatment the court deems appropriate;

(3) Restitution to the victim; and

(4) Performance of uncompensated public service as provided in RSA 651:68-70.

(b) The period of a conditional discharge shall be 3 years for a felony and one year for a misdemeanor or violation. However, if the court has required as a condition that the defendant make restitution or reparation to the victim of the defendant's offense or that the defendant perform uncompensated public service and that condition has not been satisfied, the court may, at any time prior to the termination of the above periods, extend the period for a felony by no more than 2 years and for a misdemeanor or violation by no more than one year in order to allow the defendant to satisfy the condition. During any period of conditional discharge the court may, upon its own motion or on petition of the defendant, discharge the defendant unconditionally if the conduct of the defendant warrants it. The court is not required to revoke a conditional discharge if the defendant commits an additional offense or violates a condition.

VI-a. [Repealed.]

VI-b. A person sentenced to conditional discharge under paragraph VI may apply for annulment of the criminal record under RSA 651:5.

VII. When a probation or a conditional discharge is revoked, the defendant may be fined, as authorized by paragraph IV, if a fine was not imposed in addition to the probation or conditional discharge. Otherwise the defendant shall be sentenced to imprisonment as authorized by paragraph II.

VIII. A person may be granted an unconditional discharge if the court is of the opinion that no proper purpose would be served by imposing any condition or supervision upon the defendant's release. A sentence of unconditional discharge is for all purposes a final judgment of conviction.

3. EXEMPTIONS

N.H. REV. STAT. ANN. § 644:8 (2012).Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) *Without lawful authority* negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

4. COUNSELING

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

N.H. REV. STAT. ANN. § 644:8 (2012).Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. *The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted.* In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

N.H. REV. STAT. ANN. § 651:2 (2012). Sentences and Limitations.

I. A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine.

II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:

(a) Fifteen years for a class A felony,

(b) Seven years for a class B felony,

(c) One year for a class A misdemeanor,

(d) Life imprisonment for murder in the second degree, and, in the case of a felony only, a minimum which is not to exceed 2 of the maximum, or if the maximum is life imprisonment, such minimum term as the court may order.

II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1-a.

II-b. A person convicted of a second or subsequent offense for the felonious use of a firearm, as provided in RSA 650-A:1, shall, in addition to any punishment provided for the underlying felony, be given a minimum mandatory sentence of 3 years imprisonment. Neither the whole nor any part of the additional sentence of imprisonment hereby provided shall be served concurrently with any other term nor shall the whole or any part of such additional term of imprisonment be suspended. No action brought to enforce sentencing under this section shall be continued for sentencing, nor shall the provisions of RSA 651-A relative to parole apply to any sentence of imprisonment imposed.

II-c. [Repealed]

II-d. A person convicted of manslaughter shall be sentenced as provided in RSA 630:2, II.

II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22. There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.

II-f. A person convicted of violating RSA 159:3-a, I shall be sentenced as provided in RSA 159:3-a, II and III.

II-g. If a person is convicted of a felony, an element of which is the possession, use or attempted use of a deadly weapon, and the deadly weapon is a firearm, such person may be sentenced to a maximum term of 20 years' imprisonment in lieu of any other sentence prescribed for the crime. The person shall be given a minimum mandatory sentence of not less than 3 years' imprisonment for a first offense and a minimum mandatory sentence of not less than 6 years' imprisonment if such person has been previously convicted of any state or federal offense for which the maximum penalty provided was imprisonment in excess of one year, and an element of which was the possession, use or attempted use of a firearm. Neither the whole nor any part of the minimum sentence imposed under this paragraph shall be suspended or reduced.

III. A person convicted of a class B misdemeanor may be sentenced to conditional or unconditional discharge, a fine, or other sanctions, which shall not include incarceration or probation but may include monitoring by the department of corrections if deemed necessary and appropriate.

III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

(a) Any individual may not exceed \$4,000 for a felony, \$2,000 for a class A misdemeanor, \$1,200 for a class B misdemeanor, and \$1,000 for a violation.

(b) A corporation or unincorporated association may not exceed \$100,000 for a felony, \$20,000 for a misdemeanor and \$1,000 for a violation. A writ of execution may be issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.

(c) If a defendant has gained property through the commission of any felony, then in lieu of the amounts authorized in paragraphs (a) and (b), the fine may be an amount not to exceed double the amount of that gain.

V.

(a) A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.

- (b) In cases of persons convicted of felonies or class A misdemeanors, or in cases of persons found to be habitual offenders within the meaning of RSA 259:39 and convicted of an offense under RSA 262:23, the sentence may include, as a condition of probation, confinement to a person's place of residence for not more than one year in case of a class A misdemeanor or more than 5 years in case of a felony. Such home confinement may be monitored by a probation officer and may be supplemented, as determined by the department of corrections or by the county department of corrections, by electronic monitoring to verify compliance.
- (c) Upon recommendation by the department of corrections or by the county department of corrections, the court may, as a condition of probation, order an incarceration-bound offender placed in an intensive supervision program as an alternative to incarceration, under requirements and restrictions established by the department of corrections or by the county department of corrections.
- (d) Upon recommendation by the department of corrections or by the county department of corrections, the court may sentence an incarceration-bound offender to a special alternative incarceration program involving short term confinement followed by intensive community supervision.
- (e) The department of corrections and the various county departments of corrections shall adopt rules governing eligibility for home confinement, intensive supervision and special alternative incarceration programs.
- (f) Any offender placed in a home confinement, intensive supervision or special alternative incarceration program who violates the conditions or restrictions of probation shall be subject to immediate arrest by a probation officer or any authorized law enforcement officer and brought before the court for an expeditious hearing pending further disposition.
- (g) The court may include, as a condition of probation, restitution to the victim as provided in RSA 651:62 or performance of uncompensated public service as provided in RSA 651:68-70.
- (h) In cases of a person convicted of a felony or class A misdemeanor, a court may sentence such person to 7 consecutive 24-hour periods to be served at the 7-day multiple DWI offender intervention program established under RSA 172-B:2-b, if the evidence demonstrates that alcohol was a contributing factor in the commission of the offense and provided that space is available in the program and such person pays the fees for the program in full prior to admission.
- (i) The court may include, as a condition of probation for a felony offense, a jail sentence of one to 5 days that a probation/parole officer may impose in response to a violation of a condition of probation, in lieu of a violation of probation hearing. Such jail sanction shall be served at the county jail facility closest to or in reasonable proximity to where the probationer is under supervision.

VI.

(a) A person may be sentenced to a period of conditional discharge if such person is not imprisoned and the court is of the opinion that probationary supervision is unnecessary, but that the defendant's conduct should be according to conditions determined by the court. Such conditions may include:

(1) Restrictions on the defendant's travel, association, place of abode, such as will protect the victim of the crime or insure the public peace;

(2) An order requiring the defendant to attend counseling or any other mode of treatment the court deems appropriate;

(3) *Restitution to the victim*; and

(4) Performance of uncompensated public service as provided in RSA 651:68-70.

(b) The period of a conditional discharge shall be 3 years for a felony and one year for a misdemeanor or violation. However, if the court has required as a condition that the defendant make restitution or reparation to the victim of the defendant's offense or that the defendant perform uncompensated public service and that condition has not been satisfied, the court may, at any time prior to the termination of the above periods, extend the period for a felony by no more than 2 years and for a misdemeanor or violation by no more than one year in order to allow the defendant to satisfy the condition. During any period of conditional discharge the court may, upon its own motion or on petition of the defendant, discharge the defendant unconditionally if the conduct of the defendant warrants it. The court is not required to revoke a conditional discharge if the defendant commits an additional offense or violates a condition.

VI-a. [Repealed.]

VI-b. A person sentenced to conditional discharge under paragraph VI may apply for annulment of the criminal record under RSA 651:5.

VII. When a probation or a conditional discharge is revoked, the defendant may be fined, as authorized by paragraph IV, if a fine was not imposed in addition to the probation or conditional discharge. Otherwise the defendant shall be sentenced to imprisonment as authorized by paragraph II.

VIII. A person may be granted an unconditional discharge if the court is of the opinion that no proper purpose would be served by imposing any condition or supervision upon the defendant's release. A sentence of unconditional discharge is for all purposes a final judgment of conviction.

7. SEIZURE / ON-SITE SUPERVISION

N.H. REV. STAT. ANN. § 644:8 (2012).Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

N.H. REV. STAT. ANN. § 644:8-aa (2012). Animals in Motor Vehicle.

I. It shall be cruelty to confine an animal in a motor vehicle or other enclosed space in which the temperature is either so high or so low as to cause serious harm to the animal. "Animal" means a domestic animal, household pet, or wild animal held in captivity.

II. Any person in violation of this section shall be guilty of a misdemeanor as set forth in RSA 644:8.

III. Any law enforcement officer or agent of a licensed humane organization may take action necessary to rescue a confined animal endangered by extreme temperatures, and to remove the threat of further serious harm.

IV. No officer or agent taking action under paragraph III shall be liable for damage reasonably necessary to rescue the confined animal.

8. FORFEITURE / POSSESSION

N.H. REV. STAT. ANN. § 644:8 (2012).Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

- (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
- (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
- (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
- (d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
- (e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or
- (f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. *If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.*

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

N.H. REV. STAT. ANN. § 332-B:16-a (2012). Immunity From Civil Action.

No civil action shall be maintained against the board or any member thereof, or any agent or employee of the board, with regard to any action or activity in the performance of any duty or authority established by this chapter. Nor shall any civil action be maintained against any other organization or individual for or by reason of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

N.H. REV. STAT. ANN. § 644:8 (2012).Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

- (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
- (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
- (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
- (d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was

taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

11. LAW ENFORCEMENT POLICIES

N.H. REV. STAT. ANN. § 105:17 (2012). Arrest.

If any person shall be found violating the laws in relation to cruelty to animals he may be arrested and held without warrant, in the same manner as in case of persons found breaking the peace.

N.H. REV. STAT. ANN. § 436:8 (2012). Powers.

The state veterinarian, under the direction of the commissioner, shall have all of the powers of the commissioner and shall have general charge of the enforcement of this chapter. Complaints under RSA 644:8, 644:8-a, 644:8-aa and any other law pertaining to the abuse of domestic animals, as defined under RSA 436:1, shall initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints. In the event the commissioner becomes incapacitated or a vacancy occurs in the office, the state veterinarian shall perform all the duties of that office during any such incapacity or until any such vacancy is filled. The commissioner may direct the state veterinarian to act for him or her in an official capacity whenever he or she may be absent from his or her duties.

N.H. REV. STAT. ANN. § 644:8 (2012). Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

- (a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;
- (b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;
- (c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;
- (d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;
- (e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or
- (f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

- (a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. *Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar.* The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.
- (b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

12. SEXUAL ASSAULT

13. FIGHTING

N.H. REV. STAT. ANN. § 644:8-a (2012). Exhibitions of Fighting Animals.

I. No person shall keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.

II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony.

III. All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6 and RSA 644:8. Upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.

IV. Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.

V. In addition to other penalties prescribed by law, the court may issue an order prohibiting a person who is convicted of a violation of this section from owning or possessing any animals within the species that is the subject of the conviction, or any animals kept for the purpose of training, fighting, or baiting, for a period of time determined by the court.

14. REFERENCED STATUTES

N.H. REV. STAT. ANN. § 105:17 (2012). Arrest.

If any person shall be found violating the laws in relation to cruelty to animals he may be arrested and held without warrant, in the same manner as in case of persons found breaking the peace.

N.H. REV. STAT. ANN. § 332-B:16-a (2012). Immunity From Civil Action.

No civil action shall be maintained against the board or any member thereof, or any agent or employee of the board, with regard to any action or activity in the performance of any duty or authority established by this chapter. Nor shall any civil action be maintained against any other organization or individual for or by reason of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

N.H. REV. STAT. ANN. § 436:8 (2012). Powers.

The state veterinarian, under the direction of the commissioner, shall have all of the powers of the commissioner and shall have general charge of the enforcement of this chapter. Complaints under RSA 644:8, 644:8-a, 644:8-aa and any other law pertaining to the abuse of domestic animals, as defined under RSA 436:1, shall initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints. In the event the commissioner becomes incapacitated or a vacancy occurs in the office, the state veterinarian shall perform all the duties of that office during any such incapacity or until any such vacancy is filled. The commissioner may direct the state veterinarian to act for him or her in an official capacity whenever he or she may be absent from his or her duties.

N.H. REV. STAT. ANN. §625:9 (2012).Classification of Crimes.

I. The provisions of this section govern the classification of every offense, whether defined within this code or by any other statute.

II. Every offense is either a felony, misdemeanor or violation.

(a) Felonies and misdemeanors are crimes.

(b) A violation does not constitute a crime and conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

III. A felony is murder or a crime so designated by statute within or outside this code or a crime defined by statute outside of this code where the maximum penalty provided is imprisonment in excess of one year; provided, however, that a crime defined by statute outside of this code is a felony when committed by a corporation or an unincorporated association if the maximum fine therein provided is more than \$200.

(a) Felonies other than murder are either class A felonies or class B felonies when committed by an individual. Felonies committed by a corporation or an unincorporated association are unclassified.

(1) Class A felonies are crimes so designated by statute within or outside this code and any crime defined by statute outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of 7 years.

(2) Class B felonies are crimes so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of one year but not in excess of 7 years.

IV. Misdemeanors are either class A misdemeanors or class B misdemeanors when committed by an individual. Misdemeanors committed by a corporation or an unincorporated association are unclassified.

(a) A class A misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment not in excess of one year.

(b) A class B misdemeanor is any crime so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty does not include any term of imprisonment or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a).

(c) Any crime designated within or outside this code as a misdemeanor without specification of the classification shall be presumed to be a class B misdemeanor unless:

(1) An element of the offense involves an “act of violence” or “threat of violence” as defined in paragraph VII; or

(2) The state files a notice of intent to seek class A misdemeanor penalties on or before the date of arraignment. Such notice shall be on a form approved in accordance with RSA 490:26-d.

(d) Nothing in this paragraph shall prohibit the state from reducing any offense originally charged as a class A misdemeanor to a class B misdemeanor at any time with the agreement of the person charged.

V. A violation is an offense so designated by statute within or outside this code and, except as provided in this paragraph, any offense defined outside of this code for which there is no other penalty provided other than a fine or fine and forfeiture or other civil penalty. In the case of a corporation or an unincorporated association, offenses defined outside of this code are violations if the amount of any such fine provided does not exceed \$50.

V-a. The violation of any requirement created by statute or by municipal regulation enacted pursuant to an enabling statute, where the statute neither specifies the penalty or offense classification, shall be deemed a violation, and the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2.

VI. Prior to or at the time of arraignment, the state may, in its discretion, charge any offense designated a misdemeanor, as defined by paragraph IV, as a violation. At such time, the prosecutor shall make an affirmative statement to the court as to whether he intends to proceed under this paragraph. In such cases the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2. This paragraph shall not apply to any offense for which a statute prescribes an enhanced penalty for a subsequent conviction of the same offense.

VII. The state may change any offense designated or defined as a class A misdemeanor as defined by paragraph IV to a class B misdemeanor, so long as no element of the offense involves an act of violence or threat of violence. The term “act of violence” means attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon; and the term “threat of violence” means placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other. The state may change an offense pursuant to this paragraph if such change is in the interest of public safety and welfare and is not inconsistent with the societal goals of deterrence and prevention of recidivism, as follows:

(a) In its own discretion prior to or at the time of arraignment in the district court;

(b) In its own discretion following an entry of appeal in the superior court or within 20 days thereafter;

(c) With the agreement of the person charged at any other time; or

(d) In its own discretion, following entry of a complaint at a regional jury trial court or within 21 days thereafter.

VIII. If a person convicted of a class A misdemeanor has been sentenced and such sentence does not include any period of actual incarceration or a suspended or deferred jail sentence or any fine in excess of the maximum provided for a class B misdemeanor in RSA 651:2, IV(a), the court shall record such conviction and sentence as a class B misdemeanor.

N.H. REV. STAT. ANN. §644:8 (2012).Cruelty to Animals.

I. In this section, “cruelty” shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, “animal” means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, “shelter” or “necessary shelter” for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV.

(a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a.

(a) Except as provided in subparagraphs (b) and (c) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not

been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

(c)

(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284, the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the racing and charitable gaming commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the racing and charitable gaming commission or such person designated by the director of the racing and charitable gaming commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the racing and charitable gaming commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

N.H. REV. STAT. ANN. §644:8-a (2012). Exhibitions of Fighting Animals.

I. No person shall keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.

II. Any person present at any place or building when preparations are being made for an exhibition of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony.

III. All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6 and RSA 644:8. Upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.

IV. Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.

V. In addition to other penalties prescribed by law, the court may issue an order prohibiting a person who is convicted of a violation of this section from owning or possessing any animals within the species that is the subject of the conviction, or any animals kept for the purpose of training, fighting, or baiting, for a period of time determined by the court.

N.H. REV. STAT. ANN. § 644:8-aa (2012). Animals in Motor Vehicle.

I. It shall be cruelty to confine an animal in a motor vehicle or other enclosed space in which the temperature is either so high or so low as to cause serious harm to the animal. "Animal" means a domestic animal, household pet, or wild animal held in captivity.

II. Any person in violation of this section shall be guilty of a misdemeanor as set forth in RSA 644:8.

III. Any law enforcement officer or agent of a licensed humane organization may take action necessary to rescue a confined animal endangered by extreme temperatures, and to remove the threat of further serious harm.

IV. No officer or agent taking action under paragraph III shall be liable for damage reasonably necessary to rescue the confined animal.

N.H. REV. STAT. ANN. § 651:2 (2012).Sentences and Limitations.

I. A person convicted of a felony or a Class A misdemeanor may be sentenced to imprisonment, probation, conditional or unconditional discharge, or a fine.

II. If a sentence of imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:

(a) Fifteen years for a class A felony,

(b) Seven years for a class B felony,

(c) One year for a class A misdemeanor,

(d) Life imprisonment for murder in the second degree, and, in the case of a felony only, a minimum which is not to exceed 2 of the maximum, or if the maximum is life imprisonment, such minimum term as the court may order.

II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1-a.

II-b. A person convicted of a second or subsequent offense for the felonious use of a firearm, as provided in RSA 650-A:1, shall, in addition to any punishment provided for the underlying felony, be given a minimum mandatory sentence of 3 years imprisonment. Neither the whole nor any part of the additional sentence of imprisonment hereby provided shall be served concurrently with any other term nor shall the whole or any part of such additional term of imprisonment be suspended. No action brought to enforce sentencing under this section shall be continued for sentencing, nor shall the provisions of RSA 651-A relative to parole apply to any sentence of imprisonment imposed.

II-c. [Repealed]

II-d. A person convicted of manslaughter shall be sentenced as provided in RSA 630:2, II.

II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22. There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.

II-f. A person convicted of violating RSA 159:3-a, I shall be sentenced as provided in RSA 159:3-a, II and III.

II-g. If a person is convicted of a felony, an element of which is the possession, use or attempted use of a deadly weapon, and the deadly weapon is a firearm, such person may be sentenced to a maximum term of 20 years' imprisonment in lieu of any other sentence prescribed for the crime. The person shall be given a minimum mandatory sentence of not less than 3 years' imprisonment for a first offense and a minimum mandatory sentence of not less than 6 years' imprisonment if such person has been previously convicted of any state or federal offense for which the maximum penalty provided was imprisonment in excess of one year, and an element of which was the possession, use or attempted use of a firearm. Neither the whole nor any part of the minimum sentence imposed under this paragraph shall be suspended or reduced.

III. A person convicted of a class B misdemeanor may be sentenced to conditional or unconditional discharge, a fine, or other sanctions, which shall not include incarceration or probation but may include monitoring by the department of corrections if deemed necessary and appropriate.

III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

(a) Any individual may not exceed \$4,000 for a felony, \$2,000 for a class A misdemeanor, \$1,200 for a class B misdemeanor, and \$1,000 for a violation.

(b) A corporation or unincorporated association may not exceed \$100,000 for a felony, \$20,000 for a misdemeanor and \$1,000 for a violation. A writ of execution may be issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.

(c) If a defendant has gained property through the commission of any felony, then in lieu of the amounts authorized in paragraphs (a) and (b), the fine may be an amount not to exceed double the amount of that gain.

V.

(a) A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.

(b) In cases of persons convicted of felonies or class A misdemeanors, or in cases of persons found to be habitual offenders within the meaning of RSA 259:39 and convicted of an offense under RSA 262:23, the sentence may include, as a condition of probation, confinement to a person's place of residence for not more than one year in case of a class A misdemeanor or more than 5 years in case of a felony. Such home confinement may be monitored by a probation officer and may be supplemented, as determined by the department of corrections or by the county department of corrections, by electronic monitoring to verify compliance.

(c) Upon recommendation by the department of corrections or by the county department of corrections, the court may, as a condition of probation, order an incarceration-bound offender placed in an intensive supervision program as an alternative to incarceration, under requirements and restrictions established by the department of corrections or by the county department of corrections.

(d) Upon recommendation by the department of corrections or by the county department of corrections, the court may sentence an incarceration-bound offender to a special alternative incarceration program involving short term confinement followed by intensive community supervision.

(e) The department of corrections and the various county departments of corrections shall adopt rules governing eligibility for home confinement, intensive supervision and special alternative incarceration programs.

(f) Any offender placed in a home confinement, intensive supervision or special alternative incarceration program who violates the conditions or restrictions of probation shall be subject to immediate arrest by a probation officer or any authorized law enforcement officer and brought before the court for an expeditious hearing pending further disposition.

(g) The court may include, as a condition of probation, restitution to the victim as provided in RSA 651:62 or performance of uncompensated public service as provided in RSA 651:68-70.

(h) In cases of a person convicted of a felony or class A misdemeanor, a court may sentence such person to 7 consecutive 24-hour periods to be served at the 7-day multiple DWI offender intervention program established under RSA 172-B:2-b, if the evidence demonstrates that alcohol was a contributing factor in the commission of the offense and provided that space is available in the program and such person pays the fees for the program in full prior to admission.

(i) The court may include, as a condition of probation for a felony offense, a jail sentence of one to 5 days that a probation/parole officer may impose in response to a violation of a condition of probation, in lieu of a violation of probation hearing. Such jail sanction shall be served at the county jail facility closest to or in reasonable proximity to where the probationer is under supervision.

VI. (a) A person may be sentenced to a period of conditional discharge if such person is not imprisoned and the court is of the opinion that probationary supervision is unnecessary, but that the defendant's conduct should be according to conditions determined by the court. Such conditions may include:

(1) Restrictions on the defendant's travel, association, place of abode, such as will protect the victim of the crime or insure the public peace;

(2) An order requiring the defendant to attend counseling or any other mode of treatment the court deems appropriate;

(3) Restitution to the victim; and

(4) Performance of uncompensated public service as provided in RSA 651:68-70.

(b) The period of a conditional discharge shall be 3 years for a felony and one year for a misdemeanor or violation. However, if the court has required as a condition that the defendant make restitution or reparation to the victim of the defendant's offense or that the defendant perform uncompensated public service and that condition has not been satisfied, the court may, at any time prior to the termination of the above periods, extend the period for a felony by no more than 2 years and for a misdemeanor or violation by no more than one year in order to allow the defendant to satisfy the condition. During any period of conditional discharge the court may, upon its own motion or on petition of the defendant, discharge the defendant unconditionally if the conduct of the defendant warrants it. The court is not required to revoke a conditional discharge if the defendant commits an additional offense or violates a condition.

VI-a. [Repealed.]

VI-b. A person sentenced to conditional discharge under paragraph VI may apply for annulment of the criminal record under RSA 651:5.

VII. When a probation or a conditional discharge is revoked, the defendant may be fined, as authorized by paragraph IV, if a fine was not imposed in addition to the probation or conditional discharge. Otherwise the defendant shall be sentenced to imprisonment as authorized by paragraph II.

VIII. A person may be granted an unconditional discharge if the court is of the opinion that no proper purpose would be served by imposing any condition or supervision upon the defendant's release. A sentence of unconditional discharge is for all purposes a final judgment of conviction.

ANIMAL PROTECTION LAWS OF NEW JERSEY

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
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9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains New Jersey's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

New Jersey may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEW JERSEY

1. GENERAL PROHIBITIONS*

(1)

Cruelty to animals

N.J. STAT. ANN. § 4:22-17(a)

(2)

Aggravated cruelty to animals

N.J. STAT. ANN. § 4:22-17(b)

(3)

Carrying animals cruelly

N.J. STAT. ANN. § 4:22-18

(4)

Failure to care for impounded animals

N.J. STAT. ANN. § 4:22-19

(5)

Abandonment of disabled and domestic animals

N.J. STAT. ANN. § 4:22-20

(6)

Acts constituting cruelty in general

N.J. STAT. ANN. § 4:22-26

(provision for civil remedy)

Animals Covered in Definition

“[T]he whole brute creation”

N.J. STAT. ANN. § 4:22-15

NEW JERSEY*continued*

<p><i>Classification of Crimes</i></p>	<p>(1), (3), (4), (5) Disorderly persons offense</p> <p>(2) [1st offense]: 4th degree crime</p> <p>[2nd and subsequent; or 1st offense when the victim is cruelly killed or dies as a result of the offense]: 3rd degree crime</p> <p>(6) Civil offense</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1), (3), (4), (5) 6 months imprisonment <i>and/or</i> \$1,000 fine <i>and</i> 30 days community service <i>and</i> other appropriate penalties N.J. STAT. ANN. § 4:22-17</p> <p>-----</p> <p>(2) [1st offense]: 18 months imprisonment <i>and</i> \$10,000 fine <i>and</i> 30 days community service <i>and</i> other appropriate penalties N.J. STAT. ANN. §2C:43-3 N.J. STAT. ANN. § 2C:43-6 N.J. STAT. ANN. § 4:22-17</p>

NEW JERSEY*continued*

<p>2. MAXIMUM PENALTIES<i>continued</i>**</p>	<p>[2nd and subsequent; or 1st offense when the victim is cruelly killed or dies as a result of the offense]: 5 years imprisonment <i>and</i> \$15,000 fine <i>and</i> 30 days community service <i>and</i> other appropriate penalties N.J. STAT. ANN. § 2C:43-3 N.J. STAT. ANN. § 2C:43-6 N.J. STAT. ANN. § 4:22-17</p> <p>-----</p> <p>(6) Various fines (depending upon violation) to be recovered in a civil suit N.J. STAT. ANN. § 4:22-26</p>
<p>3. EXEMPTIONS***</p>	<p>2, 3, 4, 6, 9 N.J. STAT. ANN. § 4:22-16</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>A juvenile offender shall be ordered to receive mental health counseling. N.J. STAT. ANN. § 4:22-17(d)</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>The court may require violator to pay restitution and costs of care. N.J. STAT. ANN. §§ 4:22-17(c)</p>

NEW JERSEY*continued*

7. SEIZURE / ON-SITE SUPERVISION	Humane agents may petition court for seizure upon conviction. N.J. STAT. ANN. § 4:22-26.1 Any court with jurisdiction may issue search warrants for reasonable cause. N.J. STAT. ANN. § 4:22-46 Person making arrest may seize the animals if there is no one available to provide care. N.J. STAT. ANN. § 4:22-50
8. FORFEITURE / POSSESSION^H	Upon conviction, court may order seized animals forfeited. N.J. STAT. ANN. § 4:22-26.1
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	SPCAs are authorized to enforce all laws or ordinances enacted for the protection of animals, and may make arrests. N.J. STAT. ANN. §§ 4:22-11.4, 4:22-11.7 Training courses are required for humane agents. N.J. STAT. ANN. § 4:22-11.8 Law enforcement and health agencies shall assist humane agents in enforcing cruelty laws. N.J. STAT. ANN. § 4:22-11.12 Any humane agent of the NJ-SPCA or any county SPCA, or any police officer or certified and authorized animal control officer, may make arrests for animal cruelty. N.J. STAT. ANN. § 4:22-44

NEW JERSEY*continued*

12. SEXUAL ASSAULT	-----
13. FIGHTING	<p>Various animal fighting activities, including spectatorship, are 3rd degree crimes. N.J. STAT. ANN. § 4:22-24</p> <p>Civil fines are authorized for various animal fighting activities. N.J. STAT. ANN. § 4:22-26</p> <p>Any humane agent of the NJ-SPCA or any county SPCA, or any police officer or certified and authorized animal control officer, may enter any place of animal fighting; arrest without warrant all persons present; and seize all animals and implements used for fighting. N.J. STAT. ANN. § 4:22-47</p> <p>Procedures for forfeiture of animals seized in animal fighting exhibitions and recovery of the costs of their care N.J. STAT. ANN. § 4:22-48</p> <p>Owner shall bear expenses for animals seized in animal fighting exhibitions. N.J. STAT. ANN. §§ 4:22-48.1, 4:22-48.2</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

N.J. STAT. ANN. § 4:22-15 (2012). Definitions.

As used in this article:

“Animal” or “creature” includes the whole brute creation.

“Owner” or “person” includes a corporation, and the knowledge and acts of an agent or employee of a corporation in regard to animals transported, owned, employed or in the custody of the corporation shall be imputed to the corporation.

N.J. STAT. ANN. § 4:22-17 (2012).Cruelty; disorderly persons offense.

a. A person who shall:

(1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature;

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done; or

(3) Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature--

Shall be guilty of a disorderly persons offense, and notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every such offense shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court. A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

b. A person who shall purposely, knowingly, or recklessly:

(1) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature; or

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done--

Shall be guilty of a crime of the fourth degree.

If the animal or creature is cruelly killed or dies as a result of a violation of this subsection, or the person has a prior conviction for a violation of this subsection, the person shall be guilty of a crime of the third degree.

A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

c. For a violation of subsection a. or b. of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation, including but not limited to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or a local or State governmental entity.

d. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense pursuant to subsection a. of this section or a crime of the third degree or crime of the fourth degree pursuant to subsection b. of this section, the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.

N.J. STAT. ANN. §4:22-18 (2012). Carrying animal in cruel, inhumane manner; disorderly persons offense.

A person who shall carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner, shall be guilty of a disorderly persons offense and punished as provided in subsection a. of R.S.4:22-17.

N.J. STAT. ANN. §4:22-19 (2012). Failure to care for or destruction of impounded animals; penalties; collection.

A person who shall:

a. Impound or confine, or cause to be impounded or confined, in a pound or other place, a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water; or

b. Destroy or cause to be destroyed any such animal by hypoxia induced by decompression or in any other manner, by the administration of a lethal gas other than an inhalant anesthetic, or in any other manner except by a method of euthanasia generally accepted by the veterinary medical profession as being reliable, appropriate to the type of animal upon which it is to be employed, and capable of producing loss of consciousness and death as rapidly and painlessly as possible for such animal shall, in the case of a violation of subsection a., be guilty of a disorderly persons offense and shall be punished as provided in subsection a. of R.S.4:22-17; or, in the case of a violation of subsection b., be subject to a penalty of \$25 for the first offense and \$50 for each subsequent offense. Each animal destroyed in violation of subsection b. shall constitute a separate offense. The penalty shall be collected in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.) and all money collected shall be remitted to the State.

This section shall apply to kennels, pet shops, shelters and pounds as defined and licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); to pounds and places of confinement owned and operated by municipalities, counties or regional governmental authorities; and to every contractual warden or impounding service, any provision to the contrary in this title notwithstanding.

N.J. STAT. ANN. §4:22-20 (2012). Abandoning disabled animal to die in public place; abandoning domesticated animal; disorderly persons offense.

a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a disorderly persons offense.

b. A person who shall abandon a domesticated animal shall be guilty of a disorderly persons offense. The violator shall be subject to the maximum \$1,000 penalty.

N.J. STAT. ANN. § 4:22-26 (2012).Acts constituting cruelty in general; penalty.

A person who shall:

a.

(1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(3) Cruelly kill, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the cruel killing of, a living animal or creature, or otherwise cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the death of a living animal or creature from commission of any act described in paragraph (2) of this subsection;

b. (Deleted by amendment, P.L.2003, c. 232).

c. Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;

d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P. L.2002, c. 102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

bb. Shoot at a bird used as described in subsection aa. of this section, or is a party to such shooting; or

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section --

Shall forfeit and pay a sum according to the following schedule, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals or a county society for the prevention of cruelty to animals, as appropriate, or, in the name of the municipality if brought by a certified animal control officer or animal cruelty investigator:

For a violation of subsection e., f., g., u., v., w., or z. of this section or of paragraph (3) of subsection a. of this section, or for a second or subsequent violation of paragraph (2) of subsection a. of this section, a sum of not less than \$3,000 nor more than \$5,000;

For a violation of subsection l. of this section or for a first violation of paragraph (2) of subsection a. of this section, a sum of not less than \$1,000 nor more than \$3,000;

For a violation of subsection x. or y. of this section, a sum of not less than \$500 nor more than \$1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product;

For a violation of subsection t. of this section, a sum of not less than \$500 nor more than \$1,000, but if the violation occurs on or near a highway, a mandatory sum of \$1,000;

For a violation of subsection c., d., h., j., k., aa., bb., or cc. of this section or of paragraph (1) of subsection a. of this section, a sum of not less than \$250 nor more than \$1,000; and

For a violation of subsection i., m., n., o., p., q., r., or s. of this section, a sum of not less than \$250 nor more than \$500.

2. PENALTIES

N.J. STAT. ANN. § 2C:43-3 (2012). Fines and Restitutions.

A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:

a.

(1) \$200,000.00 when the conviction is of a crime of the first degree;

(2) \$150,000.00 when the conviction is of a crime of the second degree;

b.

(1) \$15,000.00 when the conviction is of a crime of the third degree;

(2) \$10,000.00 when the conviction is of a crime of the fourth degree;

c. \$1,000.00, when the conviction is of a disorderly persons offense;

d. \$500.00, when the conviction is of a petty disorderly persons offense;

e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this section the term “gain” means the amount of money or the value of property derived by the offender and “loss” means the amount of value separated from the victim or the amount of any payment owed to the victim and avoided or evaded and includes any reasonable and necessary expense incurred by the owner in recovering or replacing lost, stolen or damaged property or recovering any payment avoided or evaded, and, with respect to property of a research facility, includes the cost of repeating an interrupted or invalidated experiment or loss of profits. The term “victim” shall mean a person who suffers a personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the victim. The terms “gain” and “loss” shall also mean, where appropriate, the amount of any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid or improperly retained or disposed of;

f. Any higher amount specifically authorized by another section of this code or any other statute;

g. Up to twice the amounts authorized in subsection a., b., c. or d. of this section, in the case of a second or subsequent conviction of any tax offense defined in Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, as amended and supplemented, or of any offense defined in chapter 20 or 21 of this code;

h. In the case of violations of chapter 35, any higher amount equal to three times the street value of the controlled dangerous substance or controlled substance analog. The street value for purposes of this section shall be determined pursuant to subsection e. of N.J.S.2C:44-2.

The restitution ordered paid to the victim shall not exceed the victim's loss, except that in any case involving the failure to pay any State tax, the amount of restitution to the State shall be the full amount of the tax avoided or evaded, including full civil penalties and interest as provided by law. In any case where the victim of the offense is any department or division of State government, the court shall order restitution to the victim. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.

N.J. STAT. ANN. § 2C:43-6 (2012). Sentence of imprisonment for crime; ordinary terms; mandatory terms.

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

(1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;

(2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years;

(3) *In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years;*

(4) *In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.*

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b. or c. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: 2C:11-3, 2C:11-4, 2C:12-1 b., 2C:13-1, 2C:14-2 a., 2C:14-3 a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1 f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44-1 f.(1) except in cases of crimes of the fourth degree.

A person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44-3 d., shall be sentenced by the court to an extended term as authorized by 2C:43-7 c., notwithstanding that extended terms are ordinarily discretionary with the court.

d. The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43-7 c. or 2C:44-3 d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

e. A person convicted of a third or subsequent offense involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any other provision of this code, or under any of the provisions of Title 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes, as amended and supplemented, shall be sentenced to a term of imprisonment by the court. This shall not preclude an application for and imposition of an extended term of imprisonment under N.J.S.2C:44-3 if the provisions of that section are applicable to the offender.

f. A person convicted of manufacturing, distributing, dispensing or possessing with intent to distribute any dangerous substance or controlled substance analog under N.J.S.2C:35-5, of maintaining or operating a controlled dangerous substance production facility under N.J.S.2C:35-4, of employing a juvenile in a drug distribution scheme under N.J.S.2C:35-6, leader of a narcotics trafficking network under N.J.S.2C:35-3, or of distributing, dispensing or possessing with intent to distribute on or near school property or buses under section 1 of P.L.1987, c.101 (C.2C:35-7), who has been previously convicted of manufacturing, distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog, shall upon application of the prosecuting attorney be sentenced by the court to an extended term as authorized by subsection c. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court. The term of imprisonment shall, except as may be provided in N.J.S.2C:35-12, include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, not less than seven years if the person is convicted of a violation of N.J.S.2C:35-6, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The court shall not impose an extended term pursuant to this subsection unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish the ground therefor by a preponderance of the evidence. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

For the purpose of this subsection, a previous conviction exists where the actor has at any time been convicted under chapter 35 of this title or Title 24 of the Revised Statutes or under any similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to N.J.S.2C:35-3, N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of P.L.1987, c.101 (C.2C:35-7).

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1 b., N.J.S.2C:13-1, N.J.S.2C:14-2 a., N.J.S.2C:14-3 a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for crimes of the first degree.

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an extended term as authorized by subsection d. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court.

h. The court shall not impose a mandatory sentence pursuant to subsection g. of this section, subsection d. of N.J.S.2C:43-7 or N.J.S.2C:44-3, unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a machine gun or assault firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

i. A person who has been convicted under paragraph (6) of subsection b. of 2C:12-1 of causing bodily injury while eluding shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between one-third and one-half of the sentence imposed by the court. The minimum term established by this subsection shall not prevent the court from imposing a presumptive term of imprisonment pursuant to paragraph (1) of subsection f. of 2C:44-1.

N.J. STAT. ANN. § 4:22-17 (2012).Cruelty; disorderly persons offense.

a. A person who shall:

- (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature;
- (2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done; or
- (3) Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature--

Shall be guilty of a disorderly persons offense, and notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, *for every such offense shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court. A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.*

b. A person who shall purposely, knowingly, or recklessly:

(1) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature; or

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done--

Shall be guilty of a crime of the fourth degree.

If the animal or creature is cruelly killed or dies as a result of a violation of this subsection, or the person has a prior conviction for a violation of this subsection, the person shall be guilty of a crime of the third degree.

A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

c. For a violation of subsection a. or b. of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation, including but not limited to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or a local or State governmental entity.

d. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense pursuant to subsection a. of this section or a crime of the third degree or crime of the fourth degree pursuant to subsection b. of this section, the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.

N.J. STAT. ANN.§4:22-18 (2012).Carrying animal in cruel, inhumane manner; disorderly persons offense.

A person who shall carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner, *shall be guilty of a disorderly persons offense and punished as provided in subsection a. of R.S.4:22-17.*

N.J. STAT. ANN.§4:22-19 (2012). Failure to care for or destruction of impounded animals; penalties; collection.

A person who shall:

a. Impound or confine, or cause to be impounded or confined, in a pound or other place, a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water; or

b. Destroy or cause to be destroyed any such animal by hypoxia induced by decompression or in any other manner, by the administration of a lethal gas other than an inhalant anesthetic, or in any other manner except by a method of euthanasia generally accepted by the veterinary medical profession as being reliable, appropriate to the type of animal upon which it is to be employed, and capable of producing loss of consciousness and death as rapidly and painlessly as possible for such animal shall, in the case of a violation of subsection a., *be guilty of a disorderly persons offense and shall be punished as provided in subsection a. of R.S.4:22-17; or, in the case of a violation of subsection b., be subject to a penalty of \$25 for the first offense and \$50 for each subsequent offense. Each animal destroyed in violation of subsection b. shall constitute a separate offense. The penalty shall be collected in accordance with the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.) and all money collected shall be remitted to the State.*

This section shall apply to kennels, pet shops, shelters and pounds as defined and licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); to pounds and places of confinement owned and operated by municipalities, counties or regional governmental authorities; and to every contractual warden or impounding service, any provision to the contrary in this title notwithstanding.

N.J. STAT. ANN. § 4:22-19.4 (2012). Penalty.

A person who violates this act shall be subject to a penalty of \$25.00 for the first offense and \$50.00 for each subsequent offense, to be collected in a civil action by a summary proceeding under “the penalty enforcement law” (N.J. STAT. § 2A:58-1 et seq.). Each animal destroyed in violation of this act shall constitute a separate offense. The Superior Court shall have jurisdiction to enforce “the penalty enforcement law.”

N.J. STAT. ANN. § 4:22-20 (2012). Abandoning disabled animal to die in public place; abandoning domesticated animal; disorderly persons offense.

- a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a disorderly persons offense.
- b. A person who shall abandon a domesticated animal shall be guilty of a disorderly persons offense. *The violator shall be subject to the maximum \$1,000 penalty.*

N.J. STAT. ANN. § 4:22-26 (2012). Acts constituting cruelty in general; penalty.

A person who shall:

- a.
 - (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;
 - (2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;
 - (3) Cruelly kill, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the cruel killing of, a living animal or creature, or otherwise cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the death of a living animal or creature from commission of any act described in paragraph (2) of this subsection;
- b. (Deleted by amendment, P.L.2003, c. 232).

- c. Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;
- d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;
- e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;
- f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;
- g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;
- h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;
- i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;
- j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;
- k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;
- l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P. L.2002, c. 102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

bb. Shoot at a bird used as described in subsection aa. of this section, or is a party to such shooting; or

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section --

Shall forfeit and pay a sum according to the following schedule, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals or a county society for the prevention of cruelty to animals, as appropriate, or, in the name of the municipality if brought by a certified animal control officer or animal cruelty investigator:

For a violation of subsection e., f., g., u., v., w., or z. of this section or of paragraph (3) of subsection a. of this section, or for a second or subsequent violation of paragraph (2) of subsection a. of this section, a sum of not less than \$3,000 nor more than \$5,000;

For a violation of subsection l. of this section or for a first violation of paragraph (2) of subsection a. of this section, a sum of not less than \$1,000 nor more than \$3,000;

For a violation of subsection x. or y. of this section, a sum of not less than \$500 nor more than \$1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product;

For a violation of subsection t. of this section, a sum of not less than \$500 nor more than \$1,000, but if the violation occurs on or near a highway, a mandatory sum of \$1,000;

For a violation of subsection c., d., h., j., k., aa., bb., or cc. of this section or of paragraph (1) of subsection a. of this section, a sum of not less than \$250 nor more than \$1,000; and

For a violation of subsection i., m., n., o., p., q., r., or s. of this section, a sum of not less than \$250 nor more than \$500.

3. EXEMPTIONS

N.J. STAT. ANN. § 4:22-16 (2012). Construction of article.

Nothing contained in this article shall be construed to prohibit or interfere with:

a. Properly conducted scientific experiments performed under the authority of the Department of Health or the United States Department of Agriculture. Those departments may authorize the conduct of such experiments or investigations by agricultural stations and schools maintained by the State or federal government, or by medical societies, universities, colleges and institutions incorporated or authorized to do business in this State and having among their corporate purposes investigation into the causes, nature, prevention and cure of diseases in men and animals; and may for cause revoke such authority;

b. The killing or disposing of an animal or creature by virtue of the order of a constituted authority of the State;

c. The shooting or taking of game or game fish in such manner and at such times as is allowed or provided by the laws of this State;

d. The training or engaging of a dog to accomplish a task or participate in an activity or exhibition designed to develop the physical or mental characteristics of that dog. These activities shall be carried out in accordance with the practices, guidelines or rules established by an organization founded for the purpose of promoting and enhancing working dog activities or exhibitions; in a manner which does not adversely affect the health or safety of the dog; and may include avalanche warning, guide work, obedience work, carting, dispatching, freight racing, packing, sled dog racing, sledding, tracking, and weight pull demonstrations;

e. The raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards developed and adopted therefor pursuant to subsection a. of section 1 of P.L.1995, c. 311 (C. 4:22-16.1); and

*f. The killing or disposing, by a reasonable or commercially acceptable method or means, of a Norway or brown rat (*Rattus norvegicus*), black rat (*Rattus rattus*), or house mouse (*Mus musculus*) by any person, or with the permission or at the direction of that person, while the animal is on property either owned or leased by, or otherwise under the control of, that person, provided that the animal is not a pet.*

4. COUNSELING / EVALUATIONS

N.J. STAT. ANN. § 4:22-17 (2012).Cruelty; disorderly persons offense.

a. A person who shall:

- (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature;
- (2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done; or
- (3) Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature--

Shall be guilty of a disorderly persons offense, and notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every such offense shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court. A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

b. A person who shall purposely, knowingly, or recklessly:

- (1) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature; or
- (2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done--

Shall be guilty of a crime of the fourth degree.

If the animal or creature is cruelly killed or dies as a result of a violation of this subsection, or the person has a prior conviction for a violation of this subsection, the person shall be guilty of a crime of the third degree.

A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

c. For a violation of subsection a. or b. of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation, including but not limited to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or a local or State governmental entity.

d. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense pursuant to subsection a. of this section or a crime of the third degree or crime of the fourth degree pursuant to subsection b. of this section, the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

N.J. STAT. ANN. § 4:22-17 (2012).Cruelty; disorderly persons offense.

a. A person who shall:

- (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature;
- (2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done; or
- (3) Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature--

Shall be guilty of a disorderly persons offense, and notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every such offense shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court. A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

b. A person who shall purposely, knowingly, or recklessly:

- (1) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature; or
- (2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done--

Shall be guilty of a crime of the fourth degree.

If the animal or creature is cruelly killed or dies as a result of a violation of this subsection, or the person has a prior conviction for a violation of this subsection, the person shall be guilty of a crime of the third degree.

A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

c. For a violation of subsection a. or b. of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. *The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation, including but not limited to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or a local or State governmental entity.*

d. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense pursuant to subsection a. of this section or a crime of the third degree or crime of the fourth degree pursuant to subsection b. of this section, the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.

7. SEIZURE / ON-SITE SUPERVISION

N.J. STAT. ANN. § 4:22-26.1 (2012). Confiscation, forfeiture of animal.

An officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals, or a certified animal control officer, may petition a court of competent jurisdiction to have any animal confiscated and forfeited that is owned or possessed by a person at the time the person is found to be guilty of violating R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23. Upon a finding that the continued possession by that person poses a threat to the animal's welfare, the court may, in addition to any other penalty that may be imposed for a violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23, adjudge an animal forfeited for such disposition as the court deems appropriate.

N.J. STAT. ANN. § 4:22-46(2012). Search warrants; issuance.

Any court having jurisdiction of violations of the law in relation to cruelty to animals may issue search warrants to enter and search buildings or places wherein it is reasonably believed that such law is being violated.

N.J. STAT. ANN. § 4:22-50 (2012). Care of animal when person in charge arrested.

When a person arrested under the provisions of this article, is in charge of an animal at the time of the arrest, with or without a vehicle attached, and there is no one then present, other than the person arrested, to take charge of the property as owner or employee, the person making the arrest may take charge thereof or request a proper person to do so.

The person making the arrest shall promptly notify the owner of the taking of the property and its place of custody, either in person, by telephone or by mailing a notice to his last known post-office address, and a person in charge of the property at the time of the arrest, with permission of the owner, shall be deemed the agent of the owner to receive such notice.

8. FORFEITURE / POSSESSION

N.J. STAT. ANN. § 4:22-26.1 (2012). Confiscation, forfeiture of animal.

An officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals, or a certified animal control officer, may petition a court of competent jurisdiction to have any animal confiscated and forfeited that is owned or possessed by a person at the time the person is found to be guilty of violating R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23. Upon a finding that the continued possession by that person poses a threat to the animal's welfare, the court may, in addition to any other penalty that may be imposed for a violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23, adjudge an animal forfeited for such disposition as the court deems appropriate.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

N.J. STAT. ANN. § 4:22-11.4 (2012). Powers and duties of board of trustees.

The board of trustees of the New Jersey Society for the Prevention of Cruelty to Animals shall:

a. Establish any bylaws or regulations as may be deemed necessary for governance and operation of the New Jersey Society for the Prevention of Cruelty to Animals;

b. Promote the interests of, and protect and care for, animals within the State;

c. Have the authority to grant county society for the prevention of cruelty to animals charters for the formation of county societies for the prevention of cruelty to animals in a county;

d. Have the authority, upon a majority vote of the board of trustees, to revoke, cancel, or suspend the charter of a county society for the prevention of cruelty to animals for the cause of failing to comply with any requirement of this act pertaining to the establishment or operation of a county society;

e. Appoint agents for enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State; appoint agents for commission as humane law enforcement officers in accordance with the provisions of sections 9 and 10 of P.L.2005, c. 372 (C.4:22-11.9 and C.4:22-11.10) for the purpose of enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State; appoint a Chief Humane Law Enforcement Officer from among the appointed humane law enforcement officers; and adopt a badge which shall be authority for making arrests;

f. Establish, or make arrangements for the provision of, mandatory annual training courses for all humane law enforcement officers and agents of the New Jersey Society for the Prevention of Cruelty to Animals and of the county societies, which courses shall be subject to the approval of the Police Training Commission;

g. Make, alter, and use a common seal;

h. Have the authority to sue and be sued in all courts, and all actions brought by or against the New Jersey Society for the Prevention of Cruelty to Animals shall be in its corporate name;

i. Purchase and hold any real estate as may be expedient for the advancement of the purposes of the New Jersey Society for the Prevention of Cruelty to Animals, and take by devise or gift all real estate or personal property that is devised or given to it, or to a county society in a county where a chartered county society does not exist, without regard to value. The title to any real estate shall be taken in the corporate name of the society;

j. Hold in escrow any assets, after payment of any outstanding debts, of a county society that dissolves or has its charter revoked, canceled, or suspended for any reason until a new county society for that county is formed and chartered or the revoked, canceled, or suspended charter for the county is restored, at which time the board of trustees shall transfer those assets to the newly formed and chartered county society or the county society whose revoked, canceled, or suspended charter has been restored, as the case may be; and

k. Assist persons in counties without a chartered county society to obtain a charter.

N.J. STAT. ANN. § 4:22-11.7 (2012). Powers and duties of county society.

A county society for the prevention of cruelty to animals continued or established in accordance with section 6 of P.L.2005, c. 372 (C.4:22-11.6) shall:

a. Elect its own board of trustees from the members of the county society for the prevention of cruelty to animals who reside within the county or who choose to be affiliated with that county society;

b. Establish bylaws or regulations necessary for the governance and operation of the county society;

c. Enforce all laws and ordinances enacted for the protection of animals;

d. Promote the interests of, and protect and care for, animals within the State;

e. Appoint agents for enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State; appoint up to, but not more than, three agents for commission as humane law enforcement officers in accordance with the provisions of sections 9 and 10 of P.L.2005, c. 372 (C.4:22-11.9 and C.4:22-11.10) for the purpose of enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State, and, with the concurrence of the county prosecutor, authorize the commission of such additional humane law enforcement officers over that established maximum as may be necessary based upon population or the number, degree, or complexity of animal cruelty complaints; and appoint a Chief Humane Law Enforcement Officer from among the appointed humane law enforcement officers.

f. Investigate alleged acts of cruelty to animals and, when necessary, request legal assistance from the office of the appropriate county or municipal prosecutor, which the county or municipal prosecutor, as the case may be, shall make every reasonable effort to provide;

g. Adopt a badge, which shall be authority for making arrests and which shall be easily distinguishable from the badge adopted by the New Jersey Society for the Prevention of Cruelty to Animals;

h. Have the authority to sue and be sued in all courts, and all actions brought by or against the county society shall be in its corporate name; and

i. Purchase and hold any real estate as may be expedient for the advancement of the purposes of the county society, and take by devise or gift all real estate or personal property that is devised or given to it, without regard to value. The title to any real estate shall be taken in the corporate name of the county society.

N.J. STAT. ANN. § 4:22-11.8 (2012). Training courses for humane law enforcement officers and agents.

a. Each county society for the prevention of cruelty to animals shall require that its humane law enforcement officers and agents satisfactorily complete the training courses established pursuant to P.L.2005, c. 372 (C.4:22-11.1 et al.).

b. Each county society shall establish training programs for the operation of the county society in accordance with mandatory uniform standards, guidelines, and procedures established for the operation of all county societies.

c. The board of trustees of a county society shall appoint officers who shall be responsible for direction of the daily operation of the county society.

N.J. STAT. ANN. § 4:22-11.12 (2012). Assistance by governmental entities to humane law enforcement officers and agents.

All State, county, and municipal law enforcement agencies and all county and municipal health agencies shall, upon request, make every reasonable effort to assist the humane law enforcement officers and agents of a county society for the prevention of cruelty to animals or the New Jersey Society for the Prevention of Cruelty to Animals in the enforcement of all laws and ordinances enacted for the protection of animals.

N.J. STAT. ANN. § 4:22-44 (2012). Arrests with, without warrant.

Any humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, or any sheriff, undersheriff, constable, certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b), or police officer may:

a. Make arrests for violations of this article;

b. Arrest without warrant any person found violating the provisions of this article in the presence of such humane law enforcement officer, sheriff, undersheriff, constable, police officer or a certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b), and take such person before the nearest judge or magistrate as provided in this article.

12. SEXUAL ASSAULT

13. FIGHTING

N.J. STAT. ANN. §4:22-24 (2012). Fighting or baiting animals or creatures and related offenses.

A person who shall:

a. Keep, use, be connected with or interested in the management of, or receive money for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

b. Be present and witness, pay admission to, encourage or assist therein;

c. Permit or suffer a place owned or controlled by him to be so used;

d. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

e. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature; or

f. Gamble on the outcome of a fight involving a living animal or creature--

Shall be guilty of a crime of the third degree.

N.J. STAT. ANN. §4:22-26 (2012). Acts constituting cruelty in general; penalty.

A person who shall:

a.

(1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature, or cause or procure any such acts to be done;

(2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature, or cause or procure any such acts to be done;

(3) Cruelly kill, or cause or procure the cruel killing of, a living animal or creature, or otherwise cause or procure the death of a living animal or creature from commission of any act described in paragraph (2) of this subsection;

b. (Deleted by amendment, P.L.2003, c. 232).

c. Inflict unnecessary cruelty upon a living animal or creature, or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather, or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;

d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P. L.2002, c. 102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

bb. Shoot at a bird used as described in subsection aa. of this section, or is a party to such shooting; or

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section--

Shall forfeit and pay a sum according to the following schedule, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals:

For a violation of subsections e., f., g., u., v., w., or z. of this section or of paragraph (3) of subsection a. of this section, or for a second or subsequent violation of paragraph (2) of subsection a. of this section, a sum of up to \$5,000;

For a violation of subsection l. of this section or for a first violation of paragraph (2) of subsection a. of this section, a sum of up to \$3,000;

For a violation of subsections x. or y. of this section, a sum of up to \$1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product;

For a violation of subsection t. of this section, a sum of not less than \$500 nor more than \$1,000, but if the violation occurs on or near a highway, a mandatory sum of \$1,000;

For a violation of subsections c., d., h., j., k., aa., bb., or cc. of this section or of paragraph (1) of subsection a. of this section, a sum of up to \$1,000; and

For a violation of subsections i., m., n., o., p., q., r., or s. of this section, a sum of up to \$500.

N.J. STAT. ANN. §4:22-47 (2012). Entry, arrests and seizures in building where violations of § 4:22-24 exist.

A sheriff, undersheriff, constable, police officer, certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b), or humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, may enter any building or place where there is an exhibition of the fighting or baiting of a living animal or creature, where preparations are being made for such an exhibition, or where a violation otherwise of R.S. 4:22-24 is occurring, arrest without warrant all persons there present, and take possession of all living animals or creatures engaged in fighting or there found and all implements or appliances used or to be used in such exhibition.

N.J. STAT. ANN. §4:22-48 (2012). Forfeiture of creatures and articles seized under § 4:22-47; costs payable by owner.

The person seizing animals, creatures, implements or appliances as authorized in section 4:22-47 of this Title, shall, within 24 hours thereafter, apply to a court of competent jurisdiction to have the same forfeited and sold.

If, upon the hearing of the application, it is found and adjudged that at the time of the seizure the animals, creatures, implements or appliances were engaged or used in violation of section 4:22-47 or paragraphs “e,” “f,” “g,” “u,” “v,” or “w” of section 4:22-26 of this Title, or were owned, possessed or kept with the intent that they should be so engaged or used, they shall be adjudged forfeited, and the court shall order the same sold in such manner as it shall deem proper, and after deducting the costs and expenses, shall dispose of the proceeds as provided in section 4:22-55 of this Title.

A bird or animal found or adjudged to be of no use or value may be liberated or disposed of as directed by the court.

The costs of sheltering, caring for, treating, and if necessary, destroying an animal or creature, including veterinary expenses therefor, until the animal or creature is adjudged forfeited and sold, liberated, or disposed of pursuant to this section shall be borne by the owner of the animal or creature.

A creature or property which is adjudged not forfeited shall be returned to the owner, and the person making the seizure shall pay all costs and expenses thereof.

N.J. STAT. ANN. §4:22-48.1 (2012). Owner to bear expenses.

a. A person authorized to take possession of a living animal or creature pursuant to R.S. 4:22-47 may provide such shelter, care, and treatment therefor, including veterinary care and treatment, that is reasonably necessary, the costs of which shall be borne by the owner of the seized animal or creature.

b. Notwithstanding the provisions of R.S. 4:22-48 to the contrary, a person seizing a living animal or creature pursuant to R.S. 4:22-47 may destroy it before it is adjudged forfeited if the animal or creature is thought to be beyond reasonable hope of recovery, the cost of which destruction shall be borne by the owner of the seized animal or creature. A person destroying an animal or creature pursuant to the authority of this subsection shall not be liable therefor to the owner of the animal or creature.

N.J. STAT. ANN. §4:22-48.2 (2012). Confiscated animals; costs of care and treatment.

The costs of sheltering, caring for, or treating any animal that has been confiscated from a person arrested pursuant to the provisions of R.S. 4:22-47 by an agent of the New Jersey Society for the Prevention of Cruelty to Animals, or any other person authorized to make an arrest pursuant to article 2 of chapter 22 of Title 4 of the Revised Statutes, until the animal is adjudged forfeited or until the animal is returned to the owner, shall be borne by the owner of the animal.

14. REFERENCED STATUTES

N.J. STAT. ANN. § 2C:43-3 (2012). Fines and Restitutions.

A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:

- a.
 - (1) \$200,000.00 when the conviction is of a crime of the first degree;
 - (2) \$150,000.00 when the conviction is of a crime of the second degree;
- b.
 - (1) \$15,000.00 when the conviction is of a crime of the third degree;
 - (2) \$10,000.00 when the conviction is of a crime of the fourth degree;
- c. \$1,000.00, when the conviction is of a disorderly persons offense;
- d. \$500.00, when the conviction is of a petty disorderly persons offense;
- e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this section the term “gain” means the amount of money or the value of property derived by the offender and “loss” means the amount of value separated from the victim or the amount of any payment owed to the victim and avoided or evaded and includes any reasonable and necessary expense incurred by the owner in recovering or replacing lost, stolen or damaged property or recovering any payment avoided or evaded, and, with respect to property of a research facility, includes the cost of repeating an interrupted or invalidated experiment or loss of profits. The term “victim” shall mean a person who suffers a personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the victim. The terms “gain” and “loss” shall also mean, where appropriate, the amount of any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid or improperly retained or disposed of;
- f. Any higher amount specifically authorized by another section of this code or any other statute;
- g. Up to twice the amounts authorized in subsection a., b., c. or d. of this section, in the case of a second or subsequent conviction of any tax offense defined in Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, as amended and supplemented, or of any offense defined in chapter 20 or 21 of this code;

h. In the case of violations of chapter 35, any higher amount equal to three times the street value of the controlled dangerous substance or controlled substance analog. The street value for purposes of this section shall be determined pursuant to subsection e. of N.J.S.2C:44-2.

The restitution ordered paid to the victim shall not exceed the victim's loss, except that in any case involving the failure to pay any State tax, the amount of restitution to the State shall be the full amount of the tax avoided or evaded, including full civil penalties and interest as provided by law. In any case where the victim of the offense is any department or division of State government, the court shall order restitution to the victim. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.

N.J. STAT. ANN. § 2C:43-6 (2012). Sentence of imprisonment for crime; ordinary terms; mandatory terms.

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

- (1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;
- (2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years;
- (3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years;
- (4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b. or c. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: 2C:11-3, 2C:11-4, 2C:12-1 b., 2C:13-1, 2C:14-2 a., 2C:14-3 a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1 f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44-1 f.(1) except in cases of crimes of the fourth degree.

A person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44-3 d., shall be sentenced by the court to an extended term as authorized by 2C:43-7 c., notwithstanding that extended terms are ordinarily discretionary with the court.

d. The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43-7 c. or 2C:44-3 d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

e. A person convicted of a third or subsequent offense involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any other provision of this code, or under any of the provisions of Title 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes, as amended and supplemented, shall be sentenced to a term of imprisonment by the court. This shall not preclude an application for and imposition of an extended term of imprisonment under N.J.S.2C:44-3 if the provisions of that section are applicable to the offender.

f. A person convicted of manufacturing, distributing, dispensing or possessing with intent to distribute any dangerous substance or controlled substance analog under N.J.S.2C:35-5, of maintaining or operating a controlled dangerous substance production facility under N.J.S.2C:35-4, of employing a juvenile in a drug distribution scheme under N.J.S.2C:35-6, leader of a narcotics trafficking network under N.J.S.2C:35-3, or of distributing, dispensing or possessing with intent to distribute on or near school property or buses under section 1 of P.L.1987, c.101 (C.2C:35-7), who has been previously convicted of manufacturing, distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog, shall upon application of the prosecuting attorney be sentenced by the court to an extended term as authorized by subsection c. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court. The term of imprisonment shall, except as may be provided in N.J.S.2C:35-12, include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, not less than seven years if the person is convicted of a violation of N.J.S.2C:35-6, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The court shall not impose an extended term pursuant to this subsection unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish the ground therefor by a preponderance of the evidence. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

For the purpose of this subsection, a previous conviction exists where the actor has at any time been convicted under chapter 35 of this title or Title 24 of the Revised Statutes or under any similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to N.J.S.2C:35-3, N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of P.L.1987, c.101 (C.2C:35-7).

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1 b., N.J.S.2C:13-1, N.J.S.2C:14-2 a., N.J.S.2C:14-3 a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for crimes of the first degree.

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an extended term as authorized by subsection d. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court.

h. The court shall not impose a mandatory sentence pursuant to subsection g. of this section, subsection d. of N.J.S.2C:43-7 or N.J.S.2C:44-3, unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a machine gun or assault firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

i. A person who has been convicted under paragraph (6) of subsection b. of 2C:12-1 of causing bodily injury while eluding shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between one-third and one-half of the sentence imposed by the court. The minimum term established by this subsection shall not prevent the court from imposing a presumptive term of imprisonment pursuant to paragraph (1) of subsection f. of 2C:44-1.

N.J. STAT. ANN. § 4:22-11.4 (2012). Powers and duties of board of trustees.

The board of trustees of the New Jersey Society for the Prevention of Cruelty to Animals shall:

- a. Establish any bylaws or regulations as may be deemed necessary for governance and operation of the New Jersey Society for the Prevention of Cruelty to Animals;
- b. Promote the interests of, and protect and care for, animals within the State;
- c. Have the authority to grant county society for the prevention of cruelty to animals charters for the formation of county societies for the prevention of cruelty to animals in a county;
- d. Have the authority, upon a majority vote of the board of trustees, to revoke, cancel, or suspend the charter of a county society for the prevention of cruelty to animals for the cause of failing to comply with any requirement of this act pertaining to the establishment or operation of a county society;

- e. Appoint agents for enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State; appoint agents for commission as humane law enforcement officers in accordance with the provisions of sections 9 and 10 of P.L.2005, c. 372 (C.4:22-11.9 and C.4:22-11.10) for the purpose of enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State; appoint a Chief Humane Law Enforcement Officer from among the appointed humane law enforcement officers; and adopt a badge which shall be authority for making arrests;
- f. Establish, or make arrangements for the provision of, mandatory annual training courses for all humane law enforcement officers and agents of the New Jersey Society for the Prevention of Cruelty to Animals and of the county societies, which courses shall be subject to the approval of the Police Training Commission;
- g. Make, alter, and use a common seal;
- h. Have the authority to sue and be sued in all courts, and all actions brought by or against the New Jersey Society for the Prevention of Cruelty to Animals shall be in its corporate name;
- i. Purchase and hold any real estate as may be expedient for the advancement of the purposes of the New Jersey Society for the Prevention of Cruelty to Animals, and take by devise or gift all real estate or personal property that is devised or given to it, or to a county society in a county where a chartered county society does not exist, without regard to value. The title to any real estate shall be taken in the corporate name of the society;
- j. Hold in escrow any assets, after payment of any outstanding debts, of a county society that dissolves or has its charter revoked, canceled, or suspended for any reason until a new county society for that county is formed and chartered or the revoked, canceled, or suspended charter for the county is restored, at which time the board of trustees shall transfer those assets to the newly formed and chartered county society or the county society whose revoked, canceled, or suspended charter has been restored, as the case may be; and
- k. Assist persons in counties without a chartered county society to obtain a charter.

N.J. STAT. ANN. § 4:22-11.7 (2012). Powers and duties of county society.

A county society for the prevention of cruelty to animals continued or established in accordance with section 6 of P.L.2005, c. 372 (C.4:22-11.6) shall:

- a. Elect its own board of trustees from the members of the county society for the prevention of cruelty to animals who reside within the county or who choose to be affiliated with that county society;

- b. Establish bylaws or regulations necessary for the governance and operation of the county society;
- c. Enforce all laws and ordinances enacted for the protection of animals;
- d. Promote the interests of, and protect and care for, animals within the State;
- e. Appoint agents for enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State; appoint up to, but not more than, three agents for commission as humane law enforcement officers in accordance with the provisions of sections 9 and 10 of P.L.2005, c. 372 (C.4:22-11.9 and C.4:22-11.10) for the purpose of enforcing all laws and ordinances enacted for the protection of animals and for the investigation of alleged acts of cruelty to animals within the State, and, with the concurrence of the county prosecutor, authorize the commission of such additional humane law enforcement officers over that established maximum as may be necessary based upon population or the number, degree, or complexity of animal cruelty complaints; and appoint a Chief Humane Law Enforcement Officer from among the appointed humane law enforcement officers.
- f. Investigate alleged acts of cruelty to animals and, when necessary, request legal assistance from the office of the appropriate county or municipal prosecutor, which the county or municipal prosecutor, as the case may be, shall make every reasonable effort to provide;
- g. Adopt a badge, which shall be authority for making arrests and which shall be easily distinguishable from the badge adopted by the New Jersey Society for the Prevention of Cruelty to Animals;
- h. Have the authority to sue and be sued in all courts, and all actions brought by or against the county society shall be in its corporate name; and
- i. Purchase and hold any real estate as may be expedient for the advancement of the purposes of the county society, and take by devise or gift all real estate or personal property that is devised or given to it, without regard to value. The title to any real estate shall be taken in the corporate name of the county society.

N.J. STAT. ANN. § 4:22-11.8 (2012). Training courses for humane law enforcement officers and agents.

- a. Each county society for the prevention of cruelty to animals shall require that its humane law enforcement officers and agents satisfactorily complete the training courses established pursuant to P.L.2005, c. 372 (C.4:22-11.1 et al.).
- b. Each county society shall establish training programs for the operation of the county society in accordance with mandatory uniform standards, guidelines, and procedures established for the operation of all county societies.

c. The board of trustees of a county society shall appoint officers who shall be responsible for direction of the daily operation of the county society.

N.J. STAT. ANN. § 4:22-11.12 (2012). Assistance by governmental entities to humane law enforcement officers and agents.

All State, county, and municipal law enforcement agencies and all county and municipal health agencies shall, upon request, make every reasonable effort to assist the humane law enforcement officers and agents of a county society for the prevention of cruelty to animals or the New Jersey Society for the Prevention of Cruelty to Animals in the enforcement of all laws and ordinances enacted for the protection of animals.

N.J. STAT. ANN. § 4:22-15 (2012). Definitions.

As used in this article:

“Animal” or “creature” includes the whole brute creation.

“Owner” or “person” includes a corporation, and the knowledge and acts of an agent or employee of a corporation in regard to animals transported, owned, employed or in the custody of the corporation shall be imputed to the corporation.

N.J. STAT. ANN. § 4:22-16 (2012). Construction of article.

Nothing contained in this article shall be construed to prohibit or interfere with:

a. Properly conducted scientific experiments performed under the authority of the Department of Health or the United States Department of Agriculture. Those departments may authorize the conduct of such experiments or investigations by agricultural stations and schools maintained by the State or federal government, or by medical societies, universities, colleges and institutions incorporated or authorized to do business in this State and having among their corporate purposes investigation into the causes, nature, prevention and cure of diseases in men and animals; and may for cause revoke such authority;

b. The killing or disposing of an animal or creature by virtue of the order of a constituted authority of the State;

c. The shooting or taking of game or game fish in such manner and at such times as is allowed or provided by the laws of this State;

d. The training or engaging of a dog to accomplish a task or participate in an activity or exhibition designed to develop the physical or mental characteristics of that dog. These activities shall be carried out in accordance with the practices, guidelines or rules established by an organization founded for the purpose of promoting and enhancing working dog activities or exhibitions; in a manner which does not adversely affect the health or safety of the dog; and may include avalanche warning, guide work, obedience work, carting, dispatching, freight racing, packing, sled dog racing, sledding, tracking, and weight pull demonstrations;

e. The raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards developed and adopted therefor pursuant to subsection a. of section 1 of P.L.1995, c. 311 (C. 4:22-16.1); and

f. The killing or disposing, by a reasonable or commercially acceptable method or means, of a Norway or brown rat (*Rattusnorvegicus*), black rat (*Rattusrattus*), or house mouse (*Musmusculus*) by any person, or with the permission or at the direction of that person, while the animal is on property either owned or leased by, or otherwise under the control of, that person, provided that the animal is not a pet.

N.J. STAT. ANN. §4:22-17 (2012). Cruelty; disorderly persons offense.

a. A person who shall:

(1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature;

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done; or

(3) Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature--

Shall be guilty of a disorderly persons offense, and notwithstanding the provisions of N.J.S.2C:43-3 to the contrary, for every such offense shall be fined not less than \$250 nor more than \$1,000, or be imprisoned for a term of not more than six months, or both, in the discretion of the court. A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

b. A person who shall purposely, knowingly, or recklessly:

(1) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature; or

(2) Cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done--

Shall be guilty of a crime of the fourth degree.

If the animal or creature is cruelly killed or dies as a result of a violation of this subsection, or the person has a prior conviction for a violation of this subsection, the person shall be guilty of a crime of the third degree.

A violator of this subsection shall also be subject to the provisions of subsection c. and, if appropriate, subsection d. of this section.

c. For a violation of subsection a. or b. of this section, in addition to imposing any other appropriate penalties established for a crime of the third degree, crime of the fourth degree, or disorderly persons offense, as the case may be, pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, or any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation, including but not limited to the New Jersey Society for the Prevention of Cruelty to Animals, a district (county) society for the prevention of cruelty to animals, any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or a local or State governmental entity.

d. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute a disorderly persons offense pursuant to subsection a. of this section or a crime of the third degree or crime of the fourth degree pursuant to subsection b. of this section, the court also shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.

N.J. STAT. ANN. §4:22-18 (2012). Carrying animal in cruel, inhumane manner; disorderly persons offense.

A person who shall carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner, shall be guilty of a disorderly persons offense and punished as provided in subsection a. of R.S.4:22-17.

N.J. STAT. ANN. §4:22-19 (2012). Failure to care for or destruction of impounded animals; penalties; collection.

A person who shall:

- a. Impound or confine, or cause to be impounded or confined, in a pound or other place, a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water; or
- b. Destroy or cause to be destroyed any such animal by hypoxia induced by decompression or in any other manner, by the administration of a lethal gas other than an inhalant anesthetic, or in any other manner except by a method of euthanasia generally accepted by the veterinary medical profession as being reliable, appropriate to the type of animal upon which it is to be employed, and capable of producing loss of consciousness and death as rapidly and painlessly as possible for such animal shall, in the case of a violation of subsection a., be guilty of a disorderly persons offense and shall be punished as provided in subsection a. of R.S.4:22-17; or, in the case of a violation of subsection b., be subject to a penalty of \$25 for the first offense and \$50 for each subsequent offense. Each animal destroyed in violation of subsection b. shall constitute a separate offense. The penalty shall be collected in accordance with the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.) and all money collected shall be remitted to the State.

This section shall apply to kennels, pet shops, shelters and pounds as defined and licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); to pounds and places of confinement owned and operated by municipalities, counties or regional governmental authorities; and to every contractual warden or impounding service, any provision to the contrary in this title notwithstanding.

N.J. STAT. ANN. § 4:22-19.4 (2012). Penalty.

A person who violates this act shall be subject to a penalty of \$25.00 for the first offense and \$50.00 for each subsequent offense, to be collected in a civil action by a summary proceeding under “the penalty enforcement law” (N.J. STAT. § 2A:58-1 et seq.). Each animal destroyed in violation of this act shall constitute a separate offense. The Superior Court shall have jurisdiction to enforce “the penalty enforcement law.”

N.J. STAT. ANN. §4:22-20 (2012). Abandoning disabled animal to die in public place; abandoning domesticated animal; disorderly persons offense.

- a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a disorderly persons offense.

b. A person who shall abandon a domesticated animal shall be guilty of a disorderly persons offense. The violator shall be subject to the maximum \$1,000 penalty.

N.J. STAT. ANN. §4:22-24 (2012). Fighting or baiting animals or creatures and related offenses.

A person who shall:

a. Keep, use, be connected with or interested in the management of, or receive money for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

b. Be present and witness, pay admission to, encourage or assist therein;

c. Permit or suffer a place owned or controlled by him to be so used;

d. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

e. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature; or

f. Gamble on the outcome of a fight involving a living animal or creature--

Shall be guilty of a crime of the third degree.

N.J. STAT. ANN. §4:22-26 (2012). Acts constituting cruelty in general; penalty.

A person who shall:

a.

(1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any such acts to be done;

(3) Cruelly kill, or cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the cruel killing of, a living animal or creature, or otherwise cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, the death of a living animal or creature from commission of any act described in paragraph (2) of this subsection;

b. (Deleted by amendment, P.L.2003, c. 232).

c. Inflict unnecessary cruelty upon a living animal or creature, by any direct or indirect means, including but not limited to through the use of another living animal or creature; or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather; or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;

d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;

l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders' association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person's possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal;

u. For amusement or gain, cause, allow, or permit the fighting or baiting of a living animal or creature;

v. Own, possess, keep, train, promote, purchase, or knowingly sell a living animal or creature for the purpose of fighting or baiting that animal or creature;

w. Gamble on the outcome of a fight involving a living animal or creature;

x. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, the fur or hair of a domestic dog or cat or any product made in whole or in part from the fur or hair of a domestic dog or cat, unless such fur or hair for sale or barter is from a commercial grooming establishment or a veterinary office or clinic or is for use for scientific research;

y. Knowingly sell or barter or offer for sale or barter, at wholesale or retail, for human consumption, the flesh of a domestic dog or cat or any product made in whole or in part from the flesh of a domestic dog or cat;

z. Surgically debark or silence a dog in violation of section 1 or 2 of P. L.2002, c. 102 (C.4:19-38 or C.4:19-39);

aa. Use a live pigeon, fowl or other bird for the purpose of a target, or to be shot at either for amusement or as a test of skill in marksmanship, except that this subsection and subsections bb. and cc. shall not apply to the shooting of game;

bb. Shoot at a bird used as described in subsection aa. of this section, or is a party to such shooting; or

cc. Lease a building, room, field or premises, or knowingly permit the use thereof for the purposes of subsection aa. or bb. of this section --

Shall forfeit and pay a sum according to the following schedule, to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals or a county society for the prevention of cruelty to animals, as appropriate, or, in the name of the municipality if brought by a certified animal control officer or animal cruelty investigator:

For a violation of subsection e., f., g., u., v., w., or z. of this section or of paragraph (3) of subsection a. of this section, or for a second or subsequent violation of paragraph (2) of subsection a. of this section, a sum of not less than \$3,000 nor more than \$5,000;

For a violation of subsection l. of this section or for a first violation of paragraph (2) of subsection a. of this section, a sum of not less than \$1,000 nor more than \$3,000;

For a violation of subsection x. or y. of this section, a sum of not less than \$500 nor more than \$1,000 for each domestic dog or cat fur or fur or hair product or domestic dog or cat carcass or meat product;

For a violation of subsection t. of this section, a sum of not less than \$500 nor more than \$1,000, but if the violation occurs on or near a highway, a mandatory sum of \$1,000;

For a violation of subsection c., d., h., j., k., aa., bb., or cc. of this section or of paragraph (1) of subsection a. of this section, a sum of not less than \$250 nor more than \$1,000; and

For a violation of subsection i., m., n., o., p., q., r., or s. of this section, a sum of not less than \$250 nor more than \$500.

N.J. STAT. ANN. § 4:22-26.1 (2012). Confiscation, forfeiture of animal.

An officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals, or a certified animal control officer, may petition a court of competent jurisdiction to have any animal confiscated and forfeited that is owned or possessed by a person at the time the person is found to be guilty of violating R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23. Upon a finding that the continued possession by that person poses a threat to the animal's welfare, the court may, in addition to any other penalty that may be imposed for a violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23, adjudge an animal forfeited for such disposition as the court deems appropriate.

N.J. STAT. ANN. § 4:22-44 (2012). Arrests with, without warrant.

Any humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, or any sheriff, undersheriff, constable, certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b), or police officer may:

- a. Make arrests for violations of this article;
- b. Arrest without warrant any person found violating the provisions of this article in the presence of such humane law enforcement officer, sheriff, undersheriff, constable, police officer or a certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b), and take such person before the nearest judge or magistrate as provided in this article.

N.J. STAT. ANN. § 4:22-46 (2012). Search warrants; issuance.

Any court having jurisdiction of violations of the law in relation to cruelty to animals may issue search warrants to enter and search buildings or places wherein it is reasonably believed that such law is being violated.

N.J. STAT. ANN. §4:22-47 (2012). Entry, arrests and seizures in building where violations of § 4:22- 24 exist.

A sheriff, undersheriff, constable, police officer, certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b), or humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, may enter any building or place where there is an exhibition of the fighting or baiting of a living animal or creature, where preparations are being made for such an exhibition, or where a violation otherwise of R.S. 4:22-24 is occurring, arrest without warrant all persons there present, and take possession of all living animals or creatures engaged in fighting or there found and all implements or appliances used or to be used in such exhibition.

N.J. STAT. ANN. §4:22-48 (2012). Forfeiture of creatures and articles seized under § 4:22-47; costs payable by owner.

The person seizing animals, creatures, implements or appliances as authorized in section 4:22-47 of this Title, shall, within 24 hours thereafter, apply to a court of competent jurisdiction to have the same forfeited and sold.

If, upon the hearing of the application, it is found and adjudged that at the time of the seizure the animals, creatures, implements or appliances were engaged or used in violation of section 4:22-47 or paragraphs “e,” “f,” “g,” “u,” “v,” or “w” of section 4:22-26 of this Title, or were owned, possessed or kept with the intent that they should be so engaged or used, they shall be adjudged forfeited, and the court shall order the same sold in such manner as it shall deem proper, and after deducting the costs and expenses, shall dispose of the proceeds as provided in section 4:22-55 of this Title.

A bird or animal found or adjudged to be of no use or value may be liberated or disposed of as directed by the court.

The costs of sheltering, caring for, treating, and if necessary, destroying an animal or creature, including veterinary expenses therefor, until the animal or creature is adjudged forfeited and sold, liberated, or disposed of pursuant to this section shall be borne by the owner of the animal or creature.

A creature or property which is adjudged not forfeited shall be returned to the owner, and the person making the seizure shall pay all costs and expenses thereof.

N.J. STAT. ANN. §4:22-48.1 (2012). Owner to bear expenses.

a. A person authorized to take possession of a living animal or creature pursuant to R.S. 4:22-47 may provide such shelter, care, and treatment therefor, including veterinary care and treatment, that is reasonably necessary, the costs of which shall be borne by the owner of the seized animal or creature.

b. Notwithstanding the provisions of R.S. 4:22-48 to the contrary, a person seizing a living animal or creature pursuant to R.S. 4:22-47 may destroy it before it is adjudged forfeited if the animal or creature is thought to be beyond reasonable hope of recovery, the cost of which destruction shall be borne by the owner of the seized animal or creature. A person destroying an animal or creature pursuant to the authority of this subsection shall not be liable therefor to the owner of the animal or creature.

N.J. STAT. ANN. §4:22-48.2 (2012). Confiscated animals; costs of care and treatment.

The costs of sheltering, caring for, or treating any animal that has been confiscated from a person arrested pursuant to the provisions of R.S. 4:22-47 by an agent of the New Jersey Society for the Prevention of Cruelty to Animals, or any other person authorized to make an arrest pursuant to article 2 of chapter 22 of Title 4 of the Revised Statutes, until the animal is adjudged forfeited or until the animal is returned to the owner, shall be borne by the owner of the animal.

N.J. STAT. ANN. § 4:22-50 (2012). Care of animal when person in charge arrested.

When a person arrested under the provisions of this article, is in charge of an animal at the time of the arrest, with or without a vehicle attached, and there is no one then present, other than the person arrested, to take charge of the property as owner or employee, the person making the arrest may take charge thereof or request a proper person to do so.

The person making the arrest shall promptly notify the owner of the taking of the property and its place of custody, either in person, by telephone or by mailing a notice to his last known post-office address, and a person in charge of the property at the time of the arrest, with permission of the owner, shall be deemed the agent of the owner to receive such notice.

ANIMAL PROTECTION LAWS OF NEW MEXICO

1. GENERAL PROHIBITIONS
2. PENALTIES
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10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains New Mexico's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

New Mexico may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEW MEXICO

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Cruelty to animals N.M. STAT. ANN.§§ 30-18-1(A)-(D)</p> <p>(2) Extreme cruelty to animals N.M. STAT. ANN.§§ 30-18-1(E)-(F)</p> <p>(3) Injury to livestock N.M. STAT. ANN.§ 30-18-12</p>
<p><i>Animals Covered in Definition</i></p>	<p>“‘Animal’ does not include insect or reptiles” N.M. STAT. ANN.§ 30-18-1</p>
<p><i>Classification of Crimes</i></p>	<p>(1) [1st offense]: Misdemeanor</p> <p>[4th and subsequent offenses]: 4th degree felony</p> <p>-----</p> <p>(2) 4th degree felony</p> <p>-----</p> <p>(3) 4th degree felony</p>

NEW MEXICO*continued*

<p>2. MAXIMUM PENALTIES^{**}</p>	<p>(1) [1st offense]: 1 year county jail <i>and/or</i> \$1000 fine N.M. STAT. ANN.§ 31-19-1</p> <p>[4th and subsequent offenses]: 18 months imprisonment <i>and</i> \$5,000 fine N.M. STAT. ANN.§ 31-18-15</p> <p>-----</p> <p>(2), (3) 18 months imprisonment <i>and</i> \$5,000 fine N.M. STAT. ANN.§ 31-18-15</p>
<p>3. EXEMPTIONS^{***}</p>	<p>1, 2, 3, 4, 6, 7, 9 N.M. STAT. ANN.§ 30-18-1(A),(I)-(J)</p> <p>3 N.M. STAT. ANN.§ 30-18-10</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>Court may order adult violators to participate in counseling; treatment is mandatory for child violators. N.M. STAT. ANN.§§ 30-18-1(G),(H)</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>

NEW MEXICO*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Upon petition, the court may order defendant to post security for costs of care for seized animals. N.M. STAT. ANN. § 30-18-1.2</p> <p>Upon conviction, court may order defendant to pay costs of care for seized animal, offset by any posted security. However, in the absence of a conviction, the seizing agency shall bear the costs of care of the animal during the pendency of the proceedings, and return all of the security posted. N.M. STAT. ANN. § 30-18-1.3</p> <p>Court shall pay costs of care for seized livestock paid from proceeds of sale of cruelly treated livestock; former owner is liable for any deficiency. N.M. STAT. ANN. § 77-18-2</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Peace officer who believes an animal is endangered due to cruel treatment may apply and receive a warrant allowing seizure. N.M. STAT. ANN. § 30-18-1.1</p> <p>Special seizure procedures for livestock N.M. STAT. ANN. § 77-18-2</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>If the defendant fails to post an ordered security within 15 days after issuance, the animal may be deemed abandoned and relinquished for adoption or humane destruction. Upon conviction, the court shall order the mistreated animal forfeited. N.M. STAT. ANN. § 30-18-1.2</p> <p>If the court does not order a security to be posted and, at a post-seizure hearing, determines that an owner has cruelly treated livestock, the court shall order their sale. N.M. STAT. ANN. § 77-18-2</p>

NEW MEXICO*continued*

9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	<p>Peace officers and livestock inspectors may be issued warrants to seize mistreated animals. N.M. STAT. ANN.§§ 30-18-1.1(A), 77-18-2(A)</p> <p>Each municipality and county shall designate an animal control officer who shall be deputized to enforce animal control laws. N.M. STAT. ANN.§ 77-1-15.1(B)</p>
12. SEXUAL ASSAULT	-----
13. FIGHTING	<p>Various dogfighting activities are fourth degree felonies; various cockfighting activities are petty misdemeanors on 1st offense, misdemeanors on 2nd offense, and fourth degree felonies on subsequent offenses. N.M. STAT. ANN.§ 30-18-9</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
*** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
1 This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

N.M. STAT. ANN. § 30-18-1 (2012). Cruelty to animals; extreme cruelty to animals; penalties; exceptions.

A. *As used in this section, “animal” does not include insects or reptiles.*

B. *Cruelty to animals consists of a person:*

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control.

C. *As used in Subsection B of this section, “lawful justification” means:*

(1) humanely destroying a sick or injured animal; or

(2) protecting a person or animal from death or injury due to an attack by another animal.

D. *Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.*

E. *Extreme cruelty to animals consists of a person:*

(1) intentionally or maliciously torturing, mutilating, injuring or poisoning an animal; or

(2) maliciously killing an animal.

F. *Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.*

G. *The court may order a person convicted for committing cruelty to animals to participate in an animal cruelty prevention program or an animal cruelty education program. The court may also order a person convicted for committing cruelty to animals or extreme cruelty to animals to obtain psychological counseling for treatment of a mental health disorder if, in the court’s judgment, the mental health disorder contributed to the commission of the criminal offense. The offender shall bear the expense of participating in an animal cruelty prevention program, animal cruelty education program or psychological counseling ordered by the court.*

H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.

I. The provisions of this section do not apply to:

(1) fishing, hunting, falconry, taking and trapping, as provided in Chapter 17 NMSA 1978;

(2) the practice of veterinary medicine, as provided in Chapter 61, Article 14 NMSA 1978;

(3) rodent or pest control, as provided in Chapter 77, Article 15 NMSA 1978;

(4) the treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;

(5) the use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;

(6) research facilities licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or

(7) other similar activities not otherwise prohibited by law.

J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice.

N.M. STAT. ANN. § 30-18-12 (2012). Injury to livestock.

A. Injury to livestock consists of willfully and maliciously poisoning, killing or injuring livestock that is the property of another.

B. As used in this section, "livestock" means cattle, sheep, buffalo, horses, mules, goats, swine and ratites.

C. Whoever commits injury to livestock is guilty of a fourth degree felony.

2. PENALTIES

N.M. STAT. ANN. § 30-18-1 (2012). Cruelty to animals; extreme cruelty to animals; penalties; exceptions.

A. As used in this section, “animal” does not include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control.

C. As used in Subsection B of this section, “lawful justification” means:

(1) humanely destroying a sick or injured animal; or

(2) protecting a person or animal from death or injury due to an attack by another animal.

D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. Extreme cruelty to animals consists of a person:

(1) intentionally or maliciously torturing, mutilating, injuring or poisoning an animal; or

(2) maliciously killing an animal.

F. Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. The court may order a person convicted for committing cruelty to animals to participate in an animal cruelty prevention program or an animal cruelty education program. The court may also order a person convicted for committing cruelty to animals or extreme cruelty to animals to obtain psychological counseling for treatment of a mental health disorder if, in the court’s judgment, the mental health disorder contributed to the commission of the criminal offense. The offender shall bear the expense of participating in an animal cruelty prevention program, animal cruelty education program or psychological counseling ordered by the court.

H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.

I. The provisions of this section do not apply to:

(1) fishing, hunting, falconry, taking and trapping, as provided in Chapter 17 NMSA 1978;

(2) the practice of veterinary medicine, as provided in Chapter 61, Article 14 NMSA 1978;

(3) rodent or pest control, as provided in Chapter 77, Article 15 NMSA 1978;

(4) the treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;

(5) the use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;

(6) research facilities licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or

(7) other similar activities not otherwise prohibited by law.

J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice.

K. The provisions of this section shall not be interpreted to prohibit cockfighting in New Mexico.

N.M. STAT. ANN. § 31-18-15 (2012). Sentencing authority; noncapital felonies; basic sentences and fines; parole authority; meritorious deductions.

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

- (1) for a first degree felony resulting in the death of a child, life imprisonment;
- (2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;
- (3) for a first degree felony, eighteen years imprisonment;
- (4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;
- (5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;
- (6) for a second degree felony, nine years imprisonment;
- (7) for a third degree felony resulting in the death of a human being, six years imprisonment;
- (8) for a third degree felony for a sexual offense against a child, six years imprisonment;
- (9) for a third degree felony, three years imprisonment; or
- (10) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. The court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. The period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

- (1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars (\$17,500);
- (2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars (\$17,500);
- (3) for a first degree felony, fifteen thousand dollars (\$15,000);
- (4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars (\$12,500);
- (5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars (\$12,500);
- (6) for a second degree felony, ten thousand dollars (\$10,000);
- (7) for a third degree felony resulting in the death of a human being, five thousand dollars (\$5,000);
- (8) for a third degree felony for a sexual offense against a child, five thousand dollars (\$5,000); or
- (9) for a third or fourth degree felony, five thousand dollars (\$5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense, as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners.

N.M. STAT. ANN. § 31-19-1 (2012). Sentencing authority; misdemeanors; imprisonment and fines; probation.

A. Where the defendant has been convicted of a crime constituting a misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or to both such imprisonment and fine in the discretion of the judge.

B. Where the defendant has been convicted of a crime constituting a petty misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term not to exceed six months or to the payment of a fine of not more than five hundred dollars (\$500) or to both such imprisonment and fine in the discretion of the judge.

C. When the court has deferred or suspended sentence, it shall order the defendant placed on supervised or unsupervised probation for all or some portion of the period of deferment or suspension.

3. EXEMPTIONS

N.M. STAT. ANN. § 30-18-1 (2012). Cruelty to animals; extreme cruelty to animals; penalties; exceptions.

A. *As used in this section, “animal” does not include insects or reptiles.*

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control.

C. *As used in Subsection B of this section, “lawful justification” means:*

(1) *humanely destroying a sick or injured animal; or*

(2) *protecting a person or animal from death or injury due to an attack by another animal.*

D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. Extreme cruelty to animals consists of a person:

(1) intentionally or maliciously torturing, mutilating, injuring or poisoning an animal; or

(2) maliciously killing an animal.

F. Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. The court may order a person convicted for committing cruelty to animals to participate in an animal cruelty prevention program or an animal cruelty education program. The court may also order a person convicted for committing cruelty to animals or extreme cruelty to animals to obtain psychological counseling for treatment of a mental health disorder if, in the court’s judgment, the mental health disorder contributed to the commission of the criminal offense. The offender shall bear the expense of participating in an animal cruelty prevention program, animal cruelty education program or psychological counseling ordered by the court.

H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.

I. The provisions of this section do not apply to:

(1) fishing, hunting, falconry, taking and trapping, as provided in Chapter 17 NMSA 1978;

(2) the practice of veterinary medicine, as provided in Chapter 61, Article 14 NMSA 1978;

(3) rodent or pest control, as provided in Chapter 77, Article 15 NMSA 1978;

(4) the treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;

(5) the use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;

(6) research facilities licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or

(7) other similar activities not otherwise prohibited by law.

J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice.

N.M. STAT. ANN. § 30-18-10(2012). Exclusion.

Nothing in this act [30-18-9, 30-18-10 NMSA 1978] shall be construed to prohibit or make unlawful the taking of game animals, game birds or game fish by the use of dogs, provided the person so doing is licensed as provided by law and is using such dogs in a lawful manner.

4. COUNSELING / EVALUATIONS

N.M. STAT. ANN. § 30-18-1 (2012). Cruelty to animals; extreme cruelty to animals; penalties; exceptions.

A. As used in this section, “animal” does not include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control.

C. As used in Subsection B of this section, “lawful justification” means:

(1) humanely destroying a sick or injured animal; or

(2) protecting a person or animal from death or injury due to an attack by another animal.

D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. Extreme cruelty to animals consists of a person:

(1) intentionally or maliciously torturing, mutilating, injuring or poisoning an animal; or

(2) maliciously killing an animal.

F. Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. The court may order a person convicted for committing cruelty to animals to participate in an animal cruelty prevention program or an animal cruelty education program. The court may also order a person convicted for committing cruelty to animals or extreme cruelty to animals to obtain psychological counseling for treatment of a mental health disorder if, in the court’s judgment, the mental health disorder contributed to the commission of the criminal offense. The offender shall bear the expense of participating in an animal cruelty prevention program, animal cruelty education program or psychological counseling ordered by the court.

H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.

I. The provisions of this section do not apply to:

(1) fishing, hunting, falconry, taking and trapping, as provided in Chapter 17 NMSA 1978;

(2) the practice of veterinary medicine, as provided in Chapter 61, Article 14 NMSA 1978;

(3) rodent or pest control, as provided in Chapter 77, Article 15 NMSA 1978;

(4) the treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;

(5) the use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;

(6) research facilities licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or

(7) other similar activities not otherwise prohibited by law.

J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

N.M. STAT. ANN. § 30-18-1.2 (2012).Disposition of seized animals.

A. If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall return the animal to its owner.

B. If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.

C. An agent of the New Mexico livestock board, an animal control agency operated by the state, a county or a municipality, or an animal shelter or other animal welfare organization designated by an animal control agency or an animal shelter, in the custody of which an animal that has been cruelly treated has been placed may petition the court to request that the animal's owner may be ordered to post security with the court to indemnify the costs incurred to care and provide for the seized animal pending the disposition of any criminal charges of committing cruelty to animals pending against the animal's owner.

D. The court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay, and may conduct periodic reviews of its order. If the posting of security is ordered, the animal control agency, animal shelter or animal welfare organization may, with permission of the court, draw from the security to indemnify the costs incurred to care and provide for the seized animal pending disposition of the criminal charges.

E. If the owner of the animal does not post security within fifteen days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, animal shelter or animal welfare organization for adoption or humane destruction; provided that if the animal is livestock other than poultry associated with cockfighting, the animal may be sold pursuant to the procedures set forth in Section 77-18-2 NMSA 1978.

F. Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed felony cruelty to animals.

G. Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.

H. As used in this section, “livestock” means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

N.M. STAT. ANN. § 30-18-1.3 (2012).Costs.

A. Upon conviction, a defendant shall be liable for the reasonable cost of boarding the animal and all necessary veterinary examinations and care provided to the animal. The amount of these costs shall be offset by the security posted pursuant to Section 30-18-1.2 NMSA 1978.

Unexpended security funds shall be returned to the defendant.

B. In the absence of a conviction, the seizing agency shall bear the costs of boarding the animal and all necessary veterinary examinations and care of the animal during the pendency of the proceedings, return the animal, if not previously relinquished, and all of the security posted pursuant to Section 30-18-1.2 NMSA 1978.

N.M. STAT. ANN. § 77-18-2 (2012).Seizure and disposition of cruelly treated livestock.

A. If a livestock inspector or other peace officer has reason to believe that livestock is being cruelly treated, the inspector or peace officer may apply to a court in the county where the livestock is located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock is being cruelly treated, the court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. If criminal charges are filed against the owner, the court shall, upon proper petition, proceed to determine if security is required to be posted pursuant to Section 30-18-1.2 NMSA 1978.

Otherwise, the judge or magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of a hearing to determine disposition of the livestock.

D. All interested parties, including the district attorney, shall be given an opportunity to present evidence at the hearing, and if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction. If the livestock is ordered sold, the sale shall occur within ten days of the order. If the court does not find that the owner has cruelly treated the livestock, the court shall order the livestock returned to the owner.

E. If the court orders the sale of the livestock, the board shall take proper action to ensure the livestock is sold at fair market value, including acceptance of reasonable bids or sale at auction. A bid by the owner of the livestock or the owner's representative shall not be accepted.

F. Proceeds from the sale of the livestock shall be forwarded to the court ordering the sale. From these proceeds, the court shall pay all expenses incurred in caring for the livestock while it was impounded and any expenses involved in its sale. Any excess proceeds of the sale shall be forwarded to the former owner. If the expenses incurred in caring for and selling the livestock exceed the amount received from the sale, the court shall order the former owner to pay the additional cost.

7. SEIZURE / ON-SITE SUPERVISION

N.M. STAT. ANN. § 30-18-1.1 (2012). Seizure of animals; notice.

A. A peace officer who reasonably believes that the life or health of an animal is endangered due to cruel treatment may apply to the district court, magistrate court or the metropolitan court in the county where the animal is located for a warrant to seize the animal.

B. If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible within thirty days unless good cause is demonstrated by the state for a later time.

C. Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.

D. If the owner of the animal cannot be determined, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.

E. At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice.

F. If the animal is a type of livestock, seizure shall be pursuant to Chapter 77, Article 18 NMSA 1978.

N.M. STAT. ANN. § 77-18-2 (2012). Seizure and disposition of cruelly treated livestock.

A. If a livestock inspector or other peace officer has reason to believe that livestock is being cruelly treated, the inspector or peace officer may apply to a court in the county where the livestock is located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock is being cruelly treated, the court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. If criminal charges are filed against the owner, the court shall, upon proper petition, proceed to determine if security is required to be posted pursuant to Section 30-18-1.2 NMSA 1978. *Otherwise, the judge or magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of a hearing to determine disposition of the livestock.*

D. All interested parties, including the district attorney, shall be given an opportunity to present evidence at the hearing, and if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction. If the livestock is ordered sold, the sale shall occur within ten days of the order. If the court does not find that the owner has cruelly treated the livestock, the court shall order the livestock returned to the owner.

E. If the court orders the sale of the livestock, the board shall take proper action to ensure the livestock is sold at fair market value, including acceptance of reasonable bids or sale at auction. A bid by the owner of the livestock or the owner's representative shall not be accepted.

F. Proceeds from the sale of the livestock shall be forwarded to the court ordering the sale. From these proceeds, the court shall pay all expenses incurred in caring for the livestock while it was impounded and any expenses involved in its sale. Any excess proceeds of the sale shall be forwarded to the former owner. If the expenses incurred in caring for and selling the livestock exceed the amount received from the sale, the court shall order the former owner to pay the additional cost.

8. FORFEITURE / POSSESSION

N.M. STAT. ANN. § 30-18-1.2 (2012).Disposition of seized animals.

A. If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall return the animal to its owner.

B. If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.

C. An agent of the New Mexico livestock board, an animal control agency operated by the state, a county or a municipality, or an animal shelter or other animal welfare organization designated by an animal control agency or an animal shelter, in the custody of which an animal that has been cruelly treated has been placed may petition the court to request that the animal's owner may be ordered to post security with the court to indemnify the costs incurred to care and provide for the seized animal pending the disposition of any criminal charges of committing cruelty to animals pending against the animal's owner.

D. The court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay, and may conduct periodic reviews of its order. If the posting of security is ordered, the animal control agency, animal shelter or animal welfare organization may, with permission of the court, draw from the security to indemnify the costs incurred to care and provide for the seized animal pending disposition of the criminal charges.

E. If the owner of the animal does not post security within fifteen days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, animal shelter or animal welfare organization for adoption or humane destruction; provided that if the animal is livestock other than poultry associated with cockfighting, the animal may be sold pursuant to the procedures set forth in Section 77-18-2 NMSA 1978.

F. Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed felony cruelty to animals.

G. Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.

H. As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules,

cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

N.M. STAT. ANN. § 77-18-2 (2012). Seizure and disposition of cruelly treated livestock.

A. If a livestock inspector or other peace officer has reason to believe that livestock is being cruelly treated, the inspector or peace officer may apply to a court in the county where the livestock is located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock is being cruelly treated, the court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. If criminal charges are filed against the owner, the court shall, upon proper petition, proceed to determine if security is required to be posted pursuant to Section 30-18-1.2 NMSA 1978. *Otherwise, the judge or magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of a hearing to determine disposition of the livestock.*

D. All interested parties, including the district attorney, shall be given an opportunity to present evidence at the hearing, and if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction. If the livestock is ordered sold, the sale shall occur within ten days of the order. If the court does not find that the owner has cruelly treated the livestock, the court shall order the livestock returned to the owner.

E. If the court orders the sale of the livestock, the board shall take proper action to ensure the livestock is sold at fair market value, including acceptance of reasonable bids or sale at auction. A bid by the owner of the livestock or the owner's representative shall not be accepted.

F. Proceeds from the sale of the livestock shall be forwarded to the court ordering the sale. From these proceeds, the court shall pay all expenses incurred in caring for the livestock while it was impounded and any expenses involved in its sale. Any excess proceeds of the sale shall be forwarded to the former owner. If the expenses incurred in caring for and selling the livestock exceed the amount received from the sale, the court shall order the former owner to pay the additional cost.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

N.M. STAT. ANN. § 30-18-1.1 (2012). Seizure of animals; notice.

A. A peace officer who reasonably believes that the life or health of an animal is endangered due to cruel treatment may apply to the district court, magistrate court or the metropolitan court in the county where the animal is located for a warrant to seize the animal.

B. If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible within thirty days unless good cause is demonstrated by the state for a later time.

C. Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.

D. If the owner of the animal cannot be determined, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.

E. At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice.

F. If the animal is a type of livestock, seizure shall be pursuant to Chapter 77, Article 18 NMSA 1978.

N.M. STAT. ANN. § 77-1-15.1 (2012). Regulation and licensure of dogs; impoundment of animals; qualified service animals exempt.

A. Every municipality and each county may provide by ordinance for the mandatory licensure of dogs over the age of three months. License fees shall be fixed by the responsible municipality or county. Proof of vaccination against rabies shall be provided by the owner or keeper before a license is issued. A combined rabies vaccination certificate and license may be provided by ordinance.

B. Every municipality and each county shall provide for the impoundment of rabies-suspect animals and shall designate a part-time or full-time animal control officer who shall be deputized to enforce animal control laws, orders, ordinances and regulations.

C. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.

N.M. STAT. ANN. § 77-18-2 (2012). Seizure and disposition of cruelly treated livestock.

A. If a livestock inspector or other peace officer has reason to believe that livestock is being cruelly treated, the inspector or peace officer may apply to a court in the county where the livestock is located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock is being cruelly treated, the court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. If criminal charges are filed against the owner, the court shall, upon proper petition, proceed to determine if security is required to be posted pursuant to Section 30-18-1.2 NMSA 1978. Otherwise, the judge or magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of a hearing to determine disposition of the livestock.

D. All interested parties, including the district attorney, shall be given an opportunity to present evidence at the hearing, and if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction. If the livestock is ordered sold, the sale shall occur within ten days of the order. If the court does not find that the owner has cruelly treated the livestock, the court shall order the livestock returned to the owner.

E. If the court orders the sale of the livestock, the board shall take proper action to ensure the livestock is sold at fair market value, including acceptance of reasonable bids or sale at auction. A bid by the owner of the livestock or the owner's representative shall not be accepted.

F. Proceeds from the sale of the livestock shall be forwarded to the court ordering the sale. From these proceeds, the court shall pay all expenses incurred in caring for the livestock while it was impounded and any expenses involved in its sale. Any excess proceeds of the sale shall be forwarded to the former owner. If the expenses incurred in caring for and selling the livestock exceed the amount received from the sale, the court shall order the former owner to pay the additional cost.

12. SEXUAL ASSAULT

13. FIGHTING

N.M. STAT. ANN. § 30-18-9 (2012).Dog fighting and cockfighting; penalty.

A. It is unlawful for any person to cause, sponsor, arrange, hold or participate in a fight between dogs or cocks for the purpose of monetary gain or entertainment. Participation in a fight between dogs or cocks for the purpose of monetary gain or entertainment consists of an adult knowingly:

(1) being present at a dog fight without attempting to interfere with or stop the contest; or

(2) owning or equipping one of the participating dogs or cocks with knowledge of the contest.

B. It is unlawful to train, equip or sponsor a dog or cock for the purpose of having it participate in a fight with another dog or cock, respectively, for monetary gain or entertainment.

C. Any person violating the provisions of Subsection A or B of this section, as it pertains to dogs, is guilty of a fourth degree felony.

D. Any person violating the provisions of Subsection A or B of this section as it pertains to cocks:

(1) upon a first conviction, is guilty of a petty misdemeanor;

(2) upon a second conviction, is guilty of a misdemeanor; and

(3) upon a third or subsequent conviction, is guilty of a fourth degree felony.

14. REFERENCED STATUTES

N.M. STAT. ANN. § 30-18-1 (2012). Cruelty to animals; extreme cruelty to animals; penalties; exceptions.

A. As used in this section, “animal” does not include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control.

C. As used in Subsection B of this section, “lawful justification” means:

(1) humanely destroying a sick or injured animal; or

(2) protecting a person or animal from death or injury due to an attack by another animal.

D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. Extreme cruelty to animals consists of a person:

(1) intentionally or maliciously torturing, mutilating, injuring or poisoning an animal; or

(2) maliciously killing an animal.

F. Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. The court may order a person convicted for committing cruelty to animals to participate in an animal cruelty prevention program or an animal cruelty education program. The court may also order a person convicted for committing cruelty to animals or extreme cruelty to animals to obtain psychological counseling for treatment of a mental health disorder if, in the court’s judgment, the mental health disorder contributed to the commission of the criminal offense. The offender shall bear the expense of participating in an animal cruelty prevention program, animal cruelty education program or psychological counseling ordered by the court.

H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.

I. The provisions of this section do not apply to:

(1) fishing, hunting, falconry, taking and trapping, as provided in Chapter 17 NMSA 1978;

(2) the practice of veterinary medicine, as provided in Chapter 61, Article 14 NMSA 1978;

(3) rodent or pest control, as provided in Chapter 77, Article 15 NMSA 1978;

(4) the treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;

(5) the use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;

(6) research facilities licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or

(7) other similar activities not otherwise prohibited by law.

J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice.

N.M. STAT. ANN. § 30-18-1.1 (2012). Seizure of animals; notice.

A. A peace officer who reasonably believes that the life or health of an animal is endangered due to cruel treatment may apply to the district court, magistrate court or the metropolitan court in the county where the animal is located for a warrant to seize the animal.

B. If the court finds probable cause that the animal is being cruelly treated, the court shall issue a warrant for the seizure of the animal. The court shall also schedule a hearing on the matter as expeditiously as possible within thirty days unless good cause is demonstrated by the state for a later time.

C. Written notice regarding the time and location of the hearing shall be provided to the owner of the seized animal. The court may order publication of a notice of the hearing in a newspaper closest to the location of the seizure.

D. If the owner of the animal cannot be determined, a written notice regarding the circumstances of the seizure shall be conspicuously posted where the animal is seized at the time the seizure occurs.

E. At the option and expense of the owner, the seized animal may be examined by a veterinarian of the owner's choice.

F. If the animal is a type of livestock, seizure shall be pursuant to Chapter 77, Article 18 NMSA 1978.

N.M. STAT. ANN. § 30-18-1.2 (2012). Disposition of seized animals.

A. If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall return the animal to its owner.

B. If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.

C. An agent of the New Mexico livestock board, an animal control agency operated by the state, a county or a municipality, or an animal shelter or other animal welfare organization designated by an animal control agency or an animal shelter, in the custody of which an animal that has been cruelly treated has been placed may petition the court to request that the animal's owner may be ordered to post security with the court to indemnify the costs incurred to care and provide for the seized animal pending the disposition of any criminal charges of committing cruelty to animals pending against the animal's owner.

D. The court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay, and may conduct periodic reviews of its order. If the posting of security is ordered, the animal control agency, animal shelter or animal welfare organization may, with permission of the court, draw from the security to indemnify the costs incurred to care and provide for the seized animal pending disposition of the criminal charges.

E. If the owner of the animal does not post security within fifteen days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the animal control agency, animal shelter or animal welfare organization for adoption or humane destruction; provided that if the animal is livestock other than poultry associated with cockfighting, the animal may be sold pursuant to the procedures set forth in Section 77-18-2 NMSA 1978.

F. Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed felony cruelty to animals.

G. Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.

H. As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

N.M. STAT. ANN. § 30-18-1.3 (2012). Costs.

A. Upon conviction, a defendant shall be liable for the reasonable cost of boarding the animal and all necessary veterinary examinations and care provided to the animal. The amount of these costs shall be offset by the security posted pursuant to Section 30-18-1.2 NMSA 1978. Unexpended security funds shall be returned to the defendant.

B. In the absence of a conviction, the seizing agency shall bear the costs of boarding the animal and all necessary veterinary examinations and care of the animal during the pendency of the proceedings, return the animal, if not previously relinquished, and all of the security posted pursuant to Section 30-18-1.2 NMSA 1978.

N.M. STAT. ANN. § 30-18-9 (2012). Dog fighting and cockfighting; penalty.

A. It is unlawful for any person to cause, sponsor, arrange, hold or participate in a fight between dogs or cocks for the purpose of monetary gain or entertainment. Participation in a fight between dogs or cocks for the purpose of monetary gain or entertainment consists of an adult knowingly:

- (1) being present at a dog fight without attempting to interfere with or stop the contest; or
- (2) owning or equipping one of the participating dogs or cocks with knowledge of the contest.

B. It is unlawful to train, equip or sponsor a dog or cock for the purpose of having it participate in a fight with another dog or cock, respectively, for monetary gain or entertainment.

C. Any person violating the provisions of Subsection A or B of this section, as it pertains to dogs, is guilty of a fourth degree felony.

D. Any person violating the provisions of Subsection A or B of this section as it pertains to cocks:

(1) upon a first conviction, is guilty of a petty misdemeanor;

(2) upon a second conviction, is guilty of a misdemeanor; and

(3) upon a third or subsequent conviction, is guilty of a fourth degree felony.

N.M. STAT. ANN. § 30-18-10(2012). Exclusion.

Nothing in this act [30-18-9, 30-18-10 NMSA 1978] shall be construed to prohibit or make unlawful the taking of game animals, game birds or game fish by the use of dogs, provided the person so doing is licensed as provided by law and is using such dogs in a lawful manner.

N.M. STAT. ANN. § 30-18-12 (2012). Injury to livestock.

A. Injury to livestock consists of willfully and maliciously poisoning, killing or injuring livestock that is the property of another.

B. As used in this section, "livestock" means cattle, sheep, buffalo, horses, mules, goats, swine and ratites.

C. Whoever commits injury to livestock is guilty of a fourth degree felony.

N.M. STAT. ANN. § 31-18-15 (2012). Sentencing authority; noncapital felonies; basic sentences and fines; parole authority; meritorious deductions.

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

(1) for a first degree felony resulting in the death of a child, life imprisonment;

(2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;

- (3) for a first degree felony, eighteen years imprisonment;
- (4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;
- (5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;
- (6) for a second degree felony, nine years imprisonment;
- (7) for a third degree felony resulting in the death of a human being, six years imprisonment;
- (8) for a third degree felony for a sexual offense against a child, six years imprisonment;
- (9) for a third degree felony, three years imprisonment; or
- (10) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. The court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. The period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

- (1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars (\$17,500);
- (2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars (\$17,500);
- (3) for a first degree felony, fifteen thousand dollars (\$15,000);
- (4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars (\$12,500);
- (5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars (\$12,500);
- (6) for a second degree felony, ten thousand dollars (\$10,000);
- (7) for a third degree felony resulting in the death of a human being, five thousand dollars (\$5,000);
- (8) for a third degree felony for a sexual offense against a child, five thousand dollars (\$5,000); or
- (9) for a third or fourth degree felony, five thousand dollars (\$5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense, as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners.

N.M. STAT. ANN. § 31-19-1 (2012). Sentencing authority; misdemeanors; imprisonment and fines; probation.

A. Where the defendant has been convicted of a crime constituting a misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or to both such imprisonment and fine in the discretion of the judge.

B. Where the defendant has been convicted of a crime constituting a petty misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term not to exceed six months or to the payment of a fine of not more than five hundred dollars (\$500) or to both such imprisonment and fine in the discretion of the judge.

C. When the court has deferred or suspended sentence, it shall order the defendant placed on supervised or unsupervised probation for all or some portion of the period of deferment or suspension.

N.M. STAT. ANN. § 77-1-15.1 (2012). Regulation and licensure of dogs; impoundment of animals; qualified service animals exempt.

A. Every municipality and each county may provide by ordinance for the mandatory licensure of dogs over the age of three months. License fees shall be fixed by the responsible municipality or county. Proof of vaccination against rabies shall be provided by the owner or keeper before a license is issued. A combined rabies vaccination certificate and license may be provided by ordinance.

B. Every municipality and each county shall provide for the impoundment of rabies-suspect animals and shall designate a part-time or full-time animal control officer who shall be deputized to enforce animal control laws, orders, ordinances and regulations.

C. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.

N.M. STAT. ANN. § 77-18-2 (2012). Seizure and disposition of cruelly treated livestock

A. If a livestock inspector or other peace officer has reason to believe that livestock is being cruelly treated, the inspector or peace officer may apply to a court in the county where the livestock is located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock is being cruelly treated, the court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. If criminal charges are filed against the owner, the court shall, upon proper petition, proceed to determine if security is required to be posted pursuant to Section 30-18-1.2 NMSA 1978. Otherwise, the judge or magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of a hearing to determine disposition of the livestock.

D. All interested parties, including the district attorney, shall be given an opportunity to present evidence at the hearing, and if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction. If the livestock is ordered sold, the sale shall occur within ten days of the order. If the court does not find that the owner has cruelly treated the livestock, the court shall order the livestock returned to the owner.

E. If the court orders the sale of the livestock, the board shall take proper action to ensure the livestock is sold at fair market value, including acceptance of reasonable bids or sale at auction. A bid by the owner of the livestock or the owner's representative shall not be accepted.

F. Proceeds from the sale of the livestock shall be forwarded to the court ordering the sale. From these proceeds, the court shall pay all expenses incurred in caring for the livestock while it was impounded and any expenses involved in its sale. Any excess proceeds of the sale shall be forwarded to the former owner. If the expenses incurred in caring for and selling the livestock exceed the amount received from the sale, the court shall order the former owner to pay the additional cost.

ANIMAL PROTECTION LAWS OF NEW YORK

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains New York's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

New York may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEW YORK

1. GENERAL PROHIBITIONS*

- (1)
Overdriving, torturing and injuring animals
N.Y. AGRIC. & MKTS. LAW § 353
- (2)
Aggravated cruelty to animals
N.Y. AGRIC. & MKTS. LAW § 353-a
- (3)
Abandonment of animals
N.Y. AGRIC. & MKTS. LAW § 355
- (4)
Failure to provide proper food and drink to impounded animals
N.Y. AGRIC. & MKTS. LAW § 356
- (5)
Carrying animal in a cruel manner
N.Y. AGRIC. & MKTS. LAW § 359
- (6)
Poisoning or attempting to poison animals
N.Y. AGRIC. & MKTS. LAW § 360
- (7)
Throwing substance injurious to animals in public places
N.Y. AGRIC. & MKTS. LAW § 362
- (8)
Failure to provide appropriate shelter for dogs left outdoors
N.Y. AGRIC. & MKTS. LAW § 353-b
- (9)
Confinement of companion animals in vehicles during extreme temperatures
N.Y. AGRIC. & MKTS. LAW § 353-d

NEW YORK*continued*

<p><i>Animals Covered in Definition</i></p>	<p>“[E]very living creature except a human being” N.Y. AGRIC. & MKTS. LAW § 350(1)</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (3), (4), (5), (7) Class A misdemeanor ----- (2) Class E felony ----- (6) [Any animal other than a horse, mule, or cattle]: Class A misdemeanor [Horse, mule or cattle]: Class E felony ----- (8), (9) Violation</p>

NEW YORK*continued*

2. MAXIMUM PENALTIES**

(1)
1 year imprisonment
N.Y. PENAL LAW§ 70.15
and
\$1,000 fine
N.Y. PENAL LAW§80.05

(2)
2 years imprisonment
N.Y. AGRIC. &MKTS. LAW§ 353-a(3)
and
\$5,000 fine
N.Y. PENAL LAW§ 80.00(1)(a)

(3)
1 year imprisonment
and/or
\$1,000 fine
N.Y. AGRIC. &MKTS. LAW§ 355

(4)
1 year imprisonment
and/or
\$1,000 fine
N.Y. AGRIC. &MKTS. LAW§ 356

(5)
1 year imprisonment
and/or
\$1,000 fine
N.Y. AGRIC. &MKTS. LAW§ 359(1)

NEW YORK*continued*

<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(6) [Any animal other than a horse, mule or cattle]: 1 year imprisonment <i>and/or</i> \$1,000 fine N.Y. AGRIC. & MKTS. LAW § 360</p> <p>[Horse, mule or cattle]: 4 years imprisonment N.Y. PENAL LAW § 70.00(2)(e) <i>and</i> \$5,000 fine N.Y. PENAL LAW § 80.00(1)(a)</p> <p>(7) 1 year imprisonment <i>and/or</i> \$1,000 fine N.Y. AGRIC. & MKTS. LAW § 362</p> <p>(8), (9) \$100 fine on 1st offense \$250 fine for subsequent offenses N.Y. AGRIC. & MKTS. LAW §§ 353-b, 353-d</p>
<p>3. EXEMPTIONS^{***}</p>	<p>2 N.Y. AGRIC. & MKTS. LAW § 353</p> <p>2, 3, 9 N.Y. AGRIC. & MKTS. LAW § 353-a(1),(2)</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>N.Y. CRIM. PRO. LAW §§ 530.12, 530.13 N.Y. FAM. CT. LAW §§ 656, 842, 1056</p>

NEW YORK*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Costs of care may be collected from owner. N.Y. AGRIC. & MKTS. LAW § 356</p> <p>Court may authorize petition filed by impounding organization requiring owner to post a security bond for the costs of care. N.Y. AGRIC. & MKTS. LAW § 373(6)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Search warrants shall be issued for reasonable cause of violations of laws affecting animals. N.Y. AGRIC. & MKTS. LAW § 372</p> <p>Any police officer or agent or ASPCA officer may seize animals not properly cared for. N.Y. AGRIC. & MKTS. LAW § 373</p> <p>Law enforcement officers and humane agents may be authorized to supervise care of animals on owner's property prior to trial date. N.Y. AGRIC. & MKTS. LAW § 373(7)</p>

NEW YORK*continued*

<p>8. FORFEITURE / POSSESSION^H</p>	<p>The court may order pre-conviction forfeiture if owner fails to post a security. N.Y. AGRIC. & MKTS. LAW §§ 373(5), (6)(b)(3),(c)</p> <p>In lieu of destruction or redemption, a society may in its discretion lawfully and without liability deliver an animal for adoption to an individual other than the owner after the time for redemption has expired. N.Y. AGRIC. & MKTS. LAW § 374(6)</p> <p>The court may order post-conviction forfeiture of non-farm animals. N.Y. AGRIC. & MKTS. LAW § 374(8)(a), (e),(f)</p> <p>The court may order post-conviction forfeiture or sale of farm animals. N.Y. AGRIC. & MKTS. LAW § 374(8)(d-g)</p> <p>Court may prohibit those convicted and certain others from owning, harboring or having custody or control of non-farm animals. N.Y. AGRIC. & MKTS. LAW § 374(8)(c)</p> <p>Abused farm animals may not be redeemed by those convicted and certain others. N.Y. AGRIC. & MKTS. LAW § 374(8)(d)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>A veterinarian may report suspected animal cruelty and is immune from civil or criminal liability for such reports made reasonably and with good faith. N.Y. EDUC. LAW § 6714</p>

NEW YORK*continued*

<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Police officers and humane society agents and officers may arrest offenders and intervene to prevent cruelty. N.Y. AGRIC. & MKTS. LAW § 371</p> <p>Humane society agents and officers may be issued search warrants. N.Y. AGRIC. & MKTS. LAW § 372</p>
<p>12. SEXUAL ASSAULT</p>	<p>Engaging in sexual conduct with an animal is a Class A misdemeanor. N.Y. PENAL LAW § 130.20</p>
<p>13. FIGHTING</p>	<p>Various animal fighting activities are felonies, including breeding, selling, or offering for sale, an animal used for fighting. Owning or possessing an animal used for fighting is a misdemeanor. Being a spectator at an animal fight is a misdemeanor. N.Y. AGRIC. & MKTS. LAW § 351</p> <p>Authorized officers may seize animal and implements used for fighting. N.Y. AGRIC. & MKTS. LAW § 375</p> <p>Upon conviction, seized animals and implements shall be forfeited. N.Y. AGRIC. & MKTS. LAW § 376</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>Interfering with or injuring an animal used for racing or breeding N.Y. AGRIC. & MKTS. LAW § 361</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

N.Y. AGRIC. & MKTS. LAW § 350 (2012). Definitions.

1. *“Animal,” as used in this article, includes every living creature except a human being;*
2. *“Torture” or “cruelty” includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.*
3. *“Adoption” means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, seized or surrendered.*
4. *“Farm animal”, as used in this article, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in section 11-1907 of the environmental conservation law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.*
5. *“Companion animal” or “pet” means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. “Pet” or “companion animal” shall not include a “farm animal” as defined in this section.*

N.Y. AGRIC. & MKTS. LAW § 353 (2012). Overdriving, torturing and injuring animals; failure to provide proper sustenance.

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law.

Nothing herein contained shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The state commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The state commissioner of health or his duly authorized

representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

N.Y. AGRIC. & MKTS. LAW § 353-a (2012). Aggravated cruelty to animals.

1. *A person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, "aggravated cruelty" shall mean conduct which:*

(i) is intended to cause extreme physical pain; or

(ii) is done or carried out in an especially depraved or sadistic manner.

2. Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.

3. *Aggravated cruelty to animals is a felony.* A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years.

N.Y. AGRIC. & MKTS. LAW § 353-b (2012). Appropriate shelter for dogs left outdoors.

1. *For purposes of this section:*

(a) "Physical condition" shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.

(b) "Inclement weather" shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.

(c) “Dogs that are left outdoors” shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.

2.

(a) Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate. Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.

(b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. *Minimum standards for determining whether shelter is appropriate to a dog’s breed, physical condition and the climate shall include:*

(a) For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.

(b) For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material; dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

4. *Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.*

5. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.

6. Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.

N.Y. AGRIC. & MKTS. LAW § 353-d (2012). Confinement of companion animals in vehicles: extreme temperatures.

1. A person shall not confine a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

2. Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, or peace officer acting as an agent of a duly incorporated humane society may take necessary steps to remove the animal or animals from the vehicle.

3. Police officers, peace officers or peace officers acting as agents of a duly incorporated humane society removing an animal or animals from a vehicle pursuant to this section shall place a written notice on or in the vehicle, bearing the name of the officer or agent, and the department or agency and address where the animal or animals will be taken.

4. An animal or animals removed from a vehicle pursuant to this section shall, after receipt of any necessary emergency veterinary treatment, be delivered to the duly incorporated humane society or society for the prevention of cruelty to animals, or designated agent thereof, in the jurisdiction where the animal or animals were seized.

5. Any person who knowingly violates the provisions of subdivision one of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for a second and subsequent offenses.

6. Officers shall not be held criminally or civilly liable for actions taken reasonably and in good faith in carrying out the provisions of this section.

7. Nothing contained in this section shall be construed to affect any other protections afforded to companion animals under any other provisions of this article.

N.Y. AGRIC. & MKTS. LAW § 355 (2012). Abandonment of animals.

A person being the owner or possessor, or having charge or custody of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it become disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

N.Y. AGRIC. & MKTS. LAW § 356 (2012). Failure to provide proper food and drink to impounded animal.

A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

N.Y. AGRIC. & MKTS. LAW § 359 (2012). Carrying animal in a cruel manner.

1. *A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*

2. *A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-eight consecutive hours, or thirty-six consecutive hours where consent is given in the manner hereinafter provided, without unloading for rest, water and feeding, during five consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. The consent which will extend the period from twenty-eight to thirty-six hours shall be given by the owner, or by person in custody of a particular shipment, by a writing separate and apart from any printed bill of lading or other railroad form. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed.*

N.Y. AGRIC. & MKTS. LAW § 360 (2012). Poisoning or attempting to poison animals.

A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle or unjustifiably exposes any such drug or substance with intent that the same shall be taken by horse, mule or by domestic cattle, whether such horse, mule or domestic cattle be the property of himself or another, is guilty of a felony. A person who unjustifiably administers any poisonous or noxious drug or substance to an animal, other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule or domestic cattle, whether such animal be the property of himself or another, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

N.Y. AGRIC. & MKTS. LAW § 362 (2012). Throwing substance injurious to animals in public place.

A person who wilfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

2. PENALTIES

N.Y. AGRIC. & MKTS. LAW § 353-a (2012). Aggravated cruelty to animals.

1. A person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, “aggravated cruelty” shall mean conduct which:

(i) is intended to cause extreme physical pain; or

(ii) is done or carried out in an especially depraved or sadistic manner.

2. Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.

3. Aggravated cruelty to animals is a felony. *A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years.*

N.Y. AGRIC. & MKTS. LAW § 353-b (2012). Appropriate shelter for dogs left outdoors.

1. For purposes of this section:

(a) “Physical condition” shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.

(b) “Inclement weather” shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.

(c) “Dogs that are left outdoors” shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.

2.

(a) Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate. *Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.*

(b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. Minimum standards for determining whether shelter is appropriate to a dog's breed, physical condition and the climate shall include:

(a) For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.

(b) For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material; dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

4. Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.

5. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.

6. Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.

N.Y. AGRIC. & MKTS. LAW § 353-d (2012). Confinement of companion animals in vehicles: extreme temperatures.

1. A person shall not confine a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

2. Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, or peace officer acting as an agent of a duly incorporated humane society may take necessary steps to remove the animal or animals from the vehicle.

3. Police officers, peace officers or peace officers acting as agents of a duly incorporated humane society removing an animal or animals from a vehicle pursuant to this section shall place a written notice on or in the vehicle, bearing the name of the officer or agent, and the department or agency and address where the animal or animals will be taken.

4. An animal or animals removed from a vehicle pursuant to this section shall, after receipt of any necessary emergency veterinary treatment, be delivered to the duly incorporated humane society or society for the prevention of cruelty to animals, or designated agent thereof, in the jurisdiction where the animal or animals were seized.

5. Any person who knowingly violates the provisions of subdivision one of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for a second and subsequent offenses.

6. Officers shall not be held criminally or civilly liable for actions taken reasonably and in good faith in carrying out the provisions of this section.

7. Nothing contained in this section shall be construed to affect any other protections afforded to companion animals under any other provisions of this article.

N.Y. AGRIC. & MKTS. LAW § 355 (2012). Abandonment of animals.

A person being the owner or possessor, or having charge or custody of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it become disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, *punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*

N.Y. AGRIC. & MKTS. LAW § 356 (2012). Failure to provide proper food and drink to impounded animal.

A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor, *punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.* In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

N.Y. AGRIC. & MKTS. LAW § 359 (2012). Carrying animal in a cruel manner.

1. A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor, *punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*

2. A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-eight consecutive hours, or thirty-six consecutive hours where consent is given in the manner hereinafter provided, without unloading for rest, water and feeding, during five consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. The consent which will extend the period from twenty-eight to thirty-six hours shall be given by the owner, or by person in custody of a particular shipment, by a writing separate and apart from any printed bill of lading or other railroad form. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed.

N.Y. AGRIC. & MKTS. LAW § 360 (2012). Poisoning or attempting to poison animals.

A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle or unjustifiably exposes any such drug or substance with intent that the same shall be taken by horse, mule or by domestic cattle, whether such horse, mule or domestic cattle be the property of himself or another, is guilty of a felony. A person who unjustifiably administers any poisonous or noxious drug or substance to an animal, other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule or domestic cattle, whether such animal be the property of himself or another, is guilty of a misdemeanor, *punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*

N.Y. AGRIC. & MKTS. LAW § 362 (2012). Throwing substance injurious to animals in public place.

A person who wilfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal is guilty of a misdemeanor, *punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*

N.Y. PENAL LAW § 55.10 (2012). Designation of offenses.

1. Felonies.

(a) The particular classification or subclassification of each felony defined in this chapter is expressly designated in the section or article defining it.

(b) Any offense defined outside this chapter which is declared by law to be a felony without specification of the classification thereof, or for which a law outside this chapter provides a sentence to a term of imprisonment in excess of one year, shall be deemed a class E felony.

2. Misdemeanors.

(a) Each misdemeanor defined in this chapter is either a class A misdemeanor or a class B misdemeanor, as expressly designated in the section or article defining it.

(b) Any offense defined outside this chapter which is declared by law to be a misdemeanor without specification of the classification thereof or of the sentence therefor shall be deemed a class A misdemeanor.

(c) Except as provided in paragraph (b) of subdivision three, where an offense is defined outside this chapter and a sentence to a term of imprisonment in excess of fifteen days but not in excess of one year is provided in the law or ordinance defining it, such offense shall be deemed an unclassified misdemeanor.

3. Violations. Every violation defined in this chapter is expressly designated as such. Any offense defined outside this chapter which is not expressly designated a violation shall be deemed a violation if:

(a) Notwithstanding any other designation specified in the law or ordinance defining it, a sentence to a term of imprisonment which is not in excess of fifteen days is provided therein, or the only sentence provided therein is a fine; or

(b) A sentence to a term of imprisonment in excess of fifteen days is provided for such offense in a law or ordinance enacted prior to the effective date of this chapter but the offense was not a crime prior to that date.

4. Traffic infraction. Notwithstanding any other provision of this section, an offense which is defined as a “traffic infraction” shall not be deemed a violation or a misdemeanor by virtue of the sentence prescribed therefor.

N.Y. PENAL LAW § 70.00 (2012). Sentence of imprisonment for felony

1. Indeterminate sentence. Except as provided in subdivisions four and five of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:

(a) For a class A felony, the term shall be life imprisonment;

(b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years;

(c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;

(d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and

(e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years.

3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:

(a) In the case of a class A felony, the minimum period shall be fixed by the court and specified in the sentence.

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) For any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed.

4. Alternative definite sentence for class D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

5. Life imprisonment without parole. Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony; the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter; or the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

N.Y. PENAL LAW § 70.15 (2012). Sentences of imprisonment for misdemeanors and violation.

1. *Class A misdemeanor.* A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed one year; provided, however, that a sentence of imprisonment imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 must be for a period of no less than one year when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.

2. *Class B misdemeanor.* A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months.

3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime.

4. Violation. A sentence of imprisonment for a violation shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed fifteen days.

In the case of a violation defined outside this chapter, if the sentence is expressly specified in the law or ordinance that defines the offense and consists solely of a fine, no term of imprisonment shall be imposed.

N.Y. PENAL LAW § 80.00 (2012). Fine for felony.

1. *A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding the higher of*

a. five thousand dollars; or

b. double the amount of the defendant's gain from the commission of the crime; or

c. if the conviction is for any felony defined in article two hundred twenty or two hundredtwenty-one of this chapter, according to the following schedule:

(i) for A-I felonies, one hundred thousand dollars;

(ii) for A-II felonies, fifty thousand dollars;

(iii) for B felonies, thirty thousand dollars;

(iv) for C felonies, fifteen thousand dollars.

When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support.

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.

3. When the court imposes a fine for a felony pursuant to paragraph b of subdivision one of this section, the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support such a finding or to permit adequate consideration of the matters specified in paragraph c of subdivision one of this section, the court may conduct a hearing upon such issues.

4. Exception. The provisions of this section shall not apply to a corporation.

5. All moneys in excess of five thousand dollars received or collected in payment of a fine imposed pursuant to paragraph c of subdivision one of this section are the property of the state and the state comptroller shall deposit all such fines to the rehabilitative alcohol and substance treatment fund established pursuant to section ninety-seven-cc of the state finance law.

6. Notwithstanding any inconsistent provision of subdivision one of this section a sentence to pay a fine for a felony set forth in the vehicle and traffic law shall be a sentence to pay an amount fixed by the court in accordance with the provisions of the law that defines the crime.

7. When the court imposes a fine pursuant to section 145.22 or 145.23 of this chapter, the court shall direct that no less than ten percent of such fine be credited to the state cemetery vandalism restoration and administration fund created pursuant to section ninety-seven-r of the state finance law.

N.Y. PENAL LAW § 80.05 (2012).Fines for misdemeanors and violation.

1. *Class A misdemeanor.* A sentence to pay a fine for a class A misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding one thousand dollars, provided, however, that a sentence imposed for a violation of section 215.80 of this chapter may include a fine in an amount equivalent to double the value of the property unlawfully disposed of in the commission of the crime.

2. *Class B misdemeanor.* A sentence to pay a fine for a class B misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding five hundred dollars.

3. *Unclassified misdemeanor.* A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, in accordance with the provisions of the law or ordinance that defines the crime.

4. *Violation.* A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding two hundred fifty dollars.

In the case of a violation defined outside this chapter, if the amount of the fine is expressly specified in the law or ordinance that defines the offense, the amount of the fine shall be fixed in accordance with that law or ordinance.

5. Alternative sentence. If a person has gained money or property through the commission of any misdemeanor or violation then upon conviction thereof, the court, in lieu of imposing the fine authorized for the offense under one of the above subdivisions, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense; provided, however, that the amount fixed by the court pursuant to this subdivision upon a conviction under section 11-1904 of the environmental conservation law shall not exceed five thousand dollars. In such event the provisions of subdivisions two and three of section 80.00 shall be applicable to the sentence.

6. Exception. The provisions of this section shall not apply to a corporation.

3. EXEMPTIONS

N.Y. AGRIC. & MKTS. LAW § 353 (2012). Overdriving, torturing and injuring animals; failure to provide proper sustenance.

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

Nothing herein contained shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The state commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The state commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

N.Y. AGRIC. & MKTS. LAW § 353-a (2012). Aggravated cruelty to animals.

1. A person is guilty of aggravated cruelty to animals when, *with no justifiable purpose*, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, “aggravated cruelty” shall mean conduct which:

- (i) is intended to cause extreme physical pain; or
- (ii) is done or carried out in an especially depraved or sadistic manner.

2. Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.

3. Aggravated cruelty to animals is a felony. A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

N.Y. CRIM. PRO.LAW § 530.12 (2012).Protection for victims of family offenses.

1. When a criminal action is pending involving a complaint charging any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household, as members of the same family or household are defined in subdivision one of section 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of any order of recognizance or bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require the defendant:

(a) to stay away from the home, school, business or place of employment of the family or household member or of any designated witness, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such temporary order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the temporary order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, past or present injury, threats, drug or alcohol abuse, and access to weapons;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;

(d) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;

(e) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law;

(f)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by the victim or a minor child residing in the household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

(g) The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

2. Notwithstanding any other provision of law, a temporary order of protection issued or continued by a family court pursuant to section eight hundred thirteen of the family court act shall continue in effect, absent action by the appropriate criminal court pursuant to subdivision three of this section, until the defendant is arraigned upon an accusatory instrument filed pursuant to section eight hundred thirteen of the family court act in such criminal court.

3. The court may issue a temporary order of protection ex parte upon the filing of an accusatory instrument and for good cause shown. When a family court order of protection is modified, the criminal court shall forward a copy of such modified order to the family court issuing the original order of protection; provided, however, that where a copy of the modified order is transmitted to the family court by facsimile or other electronic means, the original copy of such modified order and accompanying affidavit shall be forwarded immediately thereafter.

3-a. Emergency powers when family court not in session; issuance of temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis issue a temporary order of protection pending a hearing in family court, provided that a sworn affidavit, verified in accordance with subdivision one of section 100.30 of this chapter, is submitted: (i) alleging that the family court is not in session; (ii) alleging that a family offense, as defined in subdivision one of section eight hundred twelve of the family court act and subdivision one of section 530.11 of this article, has been committed; (iii) alleging that a family offense petition has been filed or will be filed in family court on the next day the court is in session; and (iv) showing good cause. Upon appearance in a local criminal court, the petitioner shall be advised that he or she may continue with the proceeding either in family court or upon the filing of a local criminal court accusatory instrument in criminal court or both. Upon issuance of a temporary order of protection where petitioner requests that it be returnable in family court, the local criminal court shall transfer the matter forthwith to the family court and shall make the matter returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the order. The local criminal court, upon issuing a temporary order of protection returnable in family court pursuant to this subdivision, shall immediately forward, in a manner designed to insure arrival

before the return date set in the order, a copy of the temporary order of protection and sworn affidavit to the family court and shall provide a copy of such temporary order of protection to the petitioner; provided, however, that where a copy of the temporary order of protection and affidavit are transmitted to the family court by facsimile or other electronic means, the original order and affidavit shall be forwarded to the family court immediately thereafter. Any temporary order of protection issued pursuant to this subdivision shall be issued to the respondent, and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section. Any temporary order of protection issued pursuant to this subdivision shall plainly state the date that such order expires which, in the case of an order returnable in family court, shall be not more than four calendar days after its issuance, unless sooner vacated or modified by the family court. A petitioner requesting a temporary order of protection returnable in family court pursuant to this subdivision in a case in which a family court petition has not been filed shall be informed that such temporary order of protection shall expire as provided for herein, unless the petitioner files a petition pursuant to subdivision one of section eight hundred twenty-one of the family court act on or before the return date in family court and the family court issues a temporary order of protection or order of protection as authorized under article eight of the family court act. Nothing in this subdivision shall limit or restrict the petitioner's right to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of the family court act and section 100.07 of this chapter.

3-b. Emergency powers when family court not in session; modifications of orders of protection or temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis modify a temporary order of protection or order of protection which has been issued under article four, five, six or eight of the family court act pending a hearing in family court, provided that a sworn affidavit verified in accordance with subdivision one of section 100.30 of this chapter is submitted: (i) alleging that the family court is not in session and (ii) showing good cause, including a showing that the existing order is insufficient for the purposes of protection of the petitioner, the petitioner's child or children or other members of the petitioner's family or household. The local criminal court shall make the matter regarding the modification of the order returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the modified order. The court shall immediately forward a copy of the modified order, if any, and sworn affidavit to the family court and shall provide a copy of such modified order, if any, and affidavit to the petitioner; provided, however, that where copies of such modified order and affidavit are transmitted to the family court by facsimile or other electronic means, the original copies of such modified order and affidavit shall be forwarded to the family court immediately thereafter. Any modified temporary order of protection or order of protection issued pursuant to this subdivision shall be issued to the respondent and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section.

4. The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant for the arrest of defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.

5. Upon sentencing on a conviction for any crime or violation between spouses, between a parent and child, or between members of the same family or household as defined in subdivision one of section 530.11 of this article, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:

(a) to stay away from the home, school, business or place of employment of the family or household member, the other spouse or the child, or of any witness designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons; or

(d) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;

(e) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law.

6. An order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, four or five of this section shall bear in a conspicuous manner the term “order of protection” or “temporary order of protection” as the case may be and a copy shall be filed by the clerk of the court with the sheriff’s office in the county in which the complainant resides, or, if the complainant resides within a city, with the police department of such city. The absence of such language shall not affect the validity of such order. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff’s office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the complainant at the appropriate police department or sheriff’s office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

Such order of protection shall plainly state the date that such order expires.

6-a. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought.

7. A family offense subject to the provisions of this section which occurs subsequent to the issuance of an order of protection under this chapter shall be deemed a new offense for which the complainant may seek to file a new accusatory instrument and may file a family court petition under article eight of the family court act as provided for in section 100.07 of this chapter.

8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to his or her special duties or police officer shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford.

9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him or her for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter.

10. Punishment for contempt based on a violation of an order of protection or temporary order of protection shall not affect the original criminal action, nor reduce or diminish a sentence upon conviction for the original crime or violation alleged therein or for a lesser included offense thereof.

11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:

(a) revoke an order of recognizance or revoke an order of bail or order forfeiture of such bail and commit the defendant to custody; or

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or

(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.

[(e) Repealed.]

12. The chief administrator of the courts shall promulgate appropriate uniform temporary orders of protection and orders of protection forms to be used throughout the state. Such forms shall be promulgated and developed in a manner to ensure the compatibility[compatibility] of such forms with the statewide computerized registry established pursuant to section two hundred twenty-one-a of the executive law.

13. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection when applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section 530.11 of this article.

14. The people shall make reasonable efforts to notify the complainant alleging a crime constituting a family offense when the people have decided to decline prosecution of such crime, to dismiss the criminal charges against the defendant or to enter into a plea agreement. The people shall advise the complainant of the right to file a petition in the family court pursuant to section 100.07 of this chapter and section one hundred fifteen of the family court act.

In any case where allegations of criminal conduct are transferred from the family court to the criminal court pursuant to paragraph (ii) of subdivision (b) of section eight hundred forty-six of the family court act, the people shall advise the family court making the transfer of any decision to file an accusatory instrument against the family court respondent and shall notify such court of the disposition of such instrument and the sentence, if any, imposed upon such respondent.

Release of a defendant from custody shall not be delayed because of the requirements of this subdivision.

15. Any motion to vacate or modify an order of protection or temporary order of protection shall be on notice to the non-moving party, except as provided in subdivision three-b of this section.

N.Y. CRIM. PRO.LAW § 530.13 (2012).Protection of victims of crimes, other than family offenses.

1. When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require that the defendant:

(a) stay away from the home, school, business or place of employment of the victims of, or designated witnesses to, the alleged offense;

(b) refrain from harassing, intimidating, threatening or otherwise interfering with the victims of the alleged offense and such members of the family or household of such victims or designated witnesses as shall be specifically named by the court in such order [fig 1] ;

(c)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

2. The court may issue a temporary order of protection under this section ex parte upon the filing of an accusatory instrument and for good cause shown.

3. The court may issue or extend a temporary order of protection under this section ex parte simultaneously with the issuance of a warrant for the arrest of the defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.

4. Upon sentencing on a conviction for any offense, where the court has not issued an order of protection pursuant to section 530.12 of this article, the court may, in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions such an order may require that the defendant:

(a) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense;

(b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order;

(c)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

5. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought. An order of protection issued under this section shall plainly state the date that such order expires. Orders of protection issued to protect victims of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, shall be on uniform statewide forms that shall be promulgated by the chief administrator of the courts in a manner to ensure the compatibility of such forms with the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law. A copy of an order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, or four of this section shall be filed by the clerk of the court with the sheriff's office in the county in which such victim or victims reside, or, if the victim or victims reside within a city, with the police department of such city. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the victim or victims at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

6. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the victim and the defendant and defense counsel and to any other person affected by the order, a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any police officer or peace officer acting pursuant to his or her special duties shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford.

7. Punishment for contempt based upon a violation of an order or [of] protection or temporary order of protection issued under this section shall not affect a pending criminal action, nor reduce or diminish a sentence upon conviction for any other crimes or offenses.

8. If a defendant is brought before the court for failure to obey any lawful order issued under this section and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:

(a) revoke an order of recognizance or bail and commit the defendant to custody; or

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody or impose or increase bail pending a trial of the original crime or violation; or

(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.

9. The chief administrator of the courts shall promulgate appropriate uniform temporary order of protection and order of protection forms to be used throughout the state.

N.Y. FAM. CT. LAW § 656 (2012).Order of protection.

The court may make an order of protection and an order of probation in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions of behavior to be observed for a specific time by any petitioner or any respondent, and shall specify if an order of probation is in effect. No order of protection may direct any party to observe conditions of behavior unless the party requesting the order of protection has served and filed a petition or counter-claim in accordance with section one hundred fifty-four-b of this act. Such an order may require the petitioner or the respondent:

(a) to stay away from the home, school, business or place of employment of any other party, the other spouse or parent, or the child, and to stay away from any other specific location designated by the court;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;

(d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;

(e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety or welfare of a child;

(f) to participate in an educational program and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the state or any political subdivision thereof;

(g) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order;

(h) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced.

(i)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

(j) to observe such other conditions as are necessary to further the purposes of protection.

The court shall not require anyone seeking an order of protection under this section to first request that child protective services investigate the allegations or to first request permission to file a petition under article ten of this act.

Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this act.

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

N.Y. FAM. CT. LAW § 842 (2012).Order of protection.

An order of protection under section eight hundred forty-one of this part shall set forth reasonable conditions of behavior to be observed for a period not in excess of two years by the petitioner or respondent or for a period not in excess of five years upon (i) a finding by the court on the record of the existence of aggravating circumstances as defined in paragraph (vii) of subdivision (a) of section eight hundred twenty-seven of this article; or (ii) a finding by the court on the record that the conduct alleged in the petition is in violation of a valid order of protection. Any finding of aggravating circumstances pursuant to this section shall be stated on the record and upon the order of protection. Any order of protection issued pursuant to this section shall specify if an order of probation is in effect. Any order of protection issued pursuant to this section may require the petitioner or the respondent:

- (a) to stay away from the home, school, business or place of employment of any other party, the other spouse, the other parent, or the child, and to stay away from any other specific location designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this subdivision, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons;
- (b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;
- (c) to refrain from committing a family offense, as defined in subdivision one of section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;
- (d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;
- (e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety or welfare of a child;
- (f) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced;

(g) to require the respondent to participate in a batterer's education program designed to help end violent behavior, which may include referral to drug and alcohol counselling [counseling], and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the petitioner, the state or any political subdivision thereof; and

(h) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order.

(i)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

(j) to observe such other conditions as are necessary to further the purposes of protection.

The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. The court may also upon the showing of special circumstances extend the order of protection for a reasonable period of time.

Notwithstanding the provisions of section eight hundred seventeen of this article, where a temporary order of child support has not already been issued, the court may in addition to the issuance of an order of protection pursuant to this section, issue an order for temporary child support in an amount sufficient to meet the needs of the child, without a showing of immediate or emergency need. The court shall make an order for temporary child support notwithstanding that information with respect to income and assets of the respondent may be unavailable. Where such information is available, the court may make an award for temporary child support pursuant to the formula set forth in subdivision one of section four hundred thirteen of this act. Temporary orders of support issued pursuant to this article shall be deemed to have been issued pursuant to section four hundred thirteen of this act.

Upon making an order for temporary child support pursuant to this subdivision, the court shall advise the petitioner of the availability of child support enforcement services by the support collection unit of the local department of social services, to enforce the temporary order and to assist in securing continued child support, and shall set the support matter down for further proceedings in accordance with article four of this act.

Where the court determines that the respondent has employer-provided medical insurance, the court may further direct, as part of an order of temporary support under this subdivision, that a medical support execution be issued and served upon the respondent's employer as provided for in section fifty-two hundred forty-one of the civil practice law and rules.

In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the petitioner and respondent and his counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or the department of corrections and community supervision where the individual is under probation or parole supervision.

Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this article.

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

N.Y. FAM. CT. LAW § 1056 (2012).Order of protection.

1. The court may make an order of protection in assistance or as a condition of any other order made under this part. Such order of protection shall remain in effect concurrently with, shall expire no later than the expiration date of, and may be extended concurrently with, such other order made under this part, except as provided in subdivision four of this section. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent or a person legally responsible for the child's care or the spouse of the parent or other person legally responsible for the child's care, or both. Such an order may require any such person

(a) to stay away from the home, school, business or place of employment of the other spouse, parent or person legally responsible for the child's care or the child, and to stay away from any other specific location designated by the court;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of the

section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;

(d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;

(e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child;

(f) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order.

(g)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the person protected by the order or a minor child residing in such person's household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

(h) to observe such other conditions as are necessary to further the purposes of protection.

2. The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. In making orders of protection, the court shall so act as to insure that in the care, protection, discipline and guardianship of the child his religious faith shall be preserved and protected.

3. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this act.

4. The court may enter an order of protection independently of any other order made under this part, against a person who was a member of the child's household or a person legally responsible as defined in section one thousand twelve of this chapter, and who is no longer a member of such household at the time of the disposition and who is not related by blood or marriage to the child or a member of the child's household. An order of protection entered pursuant to this subdivision

may be for any period of time up to the child's eighteenth birthday and upon such conditions as the court deems necessary and proper to protect the health and safety of the child and the child's caretaker.

5. The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

N.Y. AGRIC. & MKTS. LAW § 356 (2012). Failure to provide proper food and drink to impounded animal.

A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and *the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.*

N.Y. AGRIC. & MKTS. LAW § 373 (2012). Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept.

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.

1-a. Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.

2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.

3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.

4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.

5. Nothing herein contained shall restrict the rights and powers derived from section one hundred eighteen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.

6.

a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the "impounding organization", may file a petition with the court requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

b.

(1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.

(2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred eighteen of this chapter or section three hundred seventy-four of this article.

(3) In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.

(4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.

7. SEIZURE / ON-SITE SUPERVISION

N.Y. AGRIC. & MKTS. LAW § 372 (2012). Issuance of warrants upon complaint.

Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.

N.Y. AGRIC. & MKTS. LAW § 373 (2012). Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept.

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.

1-a. Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.

2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.

3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.

4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.

5. Nothing herein contained shall restrict the rights and powers derived from section one hundred seventeen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.

6.

a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the “impounding organization”, may file a petition with the court requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

b.

(1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.

(2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred seventeen of this chapter or section three hundred seventy-four of this article.

(3) In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.

(4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.

8. FORFEITURE / POSSESSION OF ANIMALS

N.Y. AGRIC. & MKTS. LAW § 373 (2012). Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept.

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.

1-a. Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.

2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.

3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.

4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.

5. Nothing herein contained shall restrict the rights and powers derived from section one hundred eighteen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.

6.

a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the “impounding organization”, may file a petition with the court requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

b.

(1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.

(2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred eighteen of this chapter or section three hundred seventy-four of this article.

(3) *In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal.* The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.

(4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.

N.Y. AGRIC. & MKTS. LAW § 374 (2012). Humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept.

1. Any agent or officer of a duly incorporated society for the prevention of cruelty to animals, any dog control officer, or any police officer, may lawfully cause to be humanely destroyed (by means provided for in paragraph a of subdivision three of this section) any animal found abandoned and not properly cared for, or any lost, strayed, homeless or unwanted animal, if upon examination a licensed veterinarian shall certify in writing, or if two reputable citizens called upon by such agent, officer or police officer to view the same in his or her presence find that the animal is so maimed, diseased, disabled, or infirm so as to be unfit for any useful purpose and that humane euthanasia is warranted; or after such agent, officer or police officer has obtained in writing from the owner of such animal his or her consent to such destruction.
2. In the absence of such findings or certification a duly incorporated society for the prevention of cruelty to animals, or any pound maintained by or under contract or agreement with any county, city, town or village may after five days make available for adoption or have humanely destroyed in accordance with the provisions of this section and subject to subdivisions six, eight and nine of section one hundred eighteen of this chapter, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its owner.
3.
 - a. Except as provided in subdivision four of this section, euthanasia of animals pursuant to this section shall be accomplished solely by means of injection of sodium pentobarbital or sodium pentobarbital solution administered by a certified euthanasia technician, a licensed veterinarian or a licensed veterinary technician. Euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution shall be performed only upon animals that are heavily sedated, anesthetized, or comatose. However, only a licensed veterinarian may perform euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution upon animals that are not heavily sedated, anesthetized or comatose and only when such licensed veterinarian determines that such intracardiac injection is the most humane option available. Whenever a cardiac injection

of sodium pentobarbital or sodium pentobarbital solution is administered by a licensed veterinarian upon an animal that is not heavily sedated, anesthetized or comatose, such veterinarian must document, in writing, the administration of such injection and the reason for its administration. Such documentation shall be retained for at least three years. Under no circumstances shall intracardiac injection be performed on animals that are not heavily sedated, anesthetized or comatose where such animals are under the care of any duly incorporated society for the prevention of cruelty to animals, animal shelter, humane society or pound.

b. No animal shall be left unattended between the time that the euthanasia procedure begins and the time when death is confirmed. The body of a euthanized animal shall not be disposed of in any manner until death is confirmed by a licensed veterinarian, a certified euthanasia technician or a licensed veterinary technician. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.

The department of health shall promulgate regulations deemed necessary for implementation of the provisions of this subdivision, including regulations governing the training and certification of certified euthanasia technicians.

4.

a. Any method of euthanasia other than that provided for in subdivision three of this section is prohibited except that euthanasia of an animal by gunshot is permissible as an emergency measure for an animal that is posing an imminent threat of serious physical injury to a person or to another animal as provided in section one hundred twenty-one-a of this chapter and where the use of a humane method of euthanasia prescribed in this section is rendered impossible or where a severely injured animal is suffering and cannot otherwise be aided.

b. Within ninety days of the effective date of this subdivision, any chamber used to induce hypoxia by means of a lethal gas shall be dismantled, rendered inoperable and beyond repair, and removed from the premises. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.

5. No person shall release any dog or cat from the custody or control of any pound, shelter, society for the prevention of cruelty to animals, humane society, dog protective association, dog control officer, peace officer or any agent thereof, for any purpose except adoption or redemption by its owner, provided, however, that after the time for redemption has expired, release may be made to another such pound, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated animal protective association for the sole purpose of placing such animal in an adoptive home when such action is reasonably believed to improve the opportunity for adoption. Notwithstanding the penalties set forth in paragraph b of subdivision three of this section and paragraph b of subdivision four of this section, any violation of this subdivision, subdivision two, three or four of this section, shall constitute a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

6. *In lieu of such destruction, redemption or other disposition pursuant to this section, such pound, shelter, or society may in its discretion lawfully and without liability deliver such animal for adoption to an individual other than the owner after the time for redemption has expired.*

7. Prior to such destruction or other disposition, the owner of the animal may redeem the same upon proving title to the satisfaction of such society and paying such society such amount, approved by a magistrate, as may have been reasonably expended by such society in connection with the care and maintenance thereof.

8.

a. In addition to any other penalty provided by law, upon conviction for any violation of section three hundred fifty-one, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-three-b, three hundred fifty-five, three hundred fifty-six, three hundred fifty-nine, three hundred sixty, three hundred sixty-one, three hundred sixty-five or three hundred sixty-eight of this article, the convicted person may, after a duly held hearing pursuant to paragraph f of this subdivision, be ordered by the court to forfeit, to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, the animal or animals which are the basis of the conviction. Upon such an order of forfeiture, the convicted person shall be deemed to have relinquished all rights to the animals which are the basis of the conviction, except those granted in paragraph d of this subdivision.

b. Pursuant to the provisions of subdivisions two, three, four and five of this section, no dog or cat in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society or its authorized agents thereof, or a pound or shelter, shall be sold, transferred or otherwise made available to any person for the purpose of research, experimentation or testing. No authorized agent of a duly incorporated society for the prevention of cruelty to animals, nor of a duly incorporated humane society, shall use any animal placed in its custody by the duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society for the purpose of research, experimentation or testing.

c. The court may additionally order that the convicted person or any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, shall not own, harbor, or have custody or control of any other animals, other than farm animals, for a period of time which the court deems reasonable.

d. In the case of farm animals, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person dwelling in the same household who

conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act. The court shall reimburse the convicted person and any duly determined interested persons, pursuant to paragraph f of this subdivision, any money earned by the sale of the farm animals less any costs including, but not limited to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to paragraph e of this subdivision.

e. A duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society in charge of animals forfeited pursuant to paragraph a of this subdivision may, in its discretion, lawfully and without liability, adopt them to individuals other than the convicted person or person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely dispose of them according to the provisions of subdivisions two, three, four and five of this section.

f. (1) Prior to an order of forfeiture of farm animals, a hearing shall be held within thirty days of conviction, to determine the pecuniary interests of any other person in the farm animals which were the basis of the conviction. Written notice shall be served at least five days prior to the hearing upon all interested persons. In addition, notice shall be made by publication in a local newspaper at least seven days prior to the hearing. For the purposes of this subdivision, interested persons shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity who the court determines may have a pecuniary interest in the farm animals which are the subject of the forfeiture action.

(2) All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person shall be entitled to be reimbursed his interest in the farm animals, less any costs, fines or penalties imposed by the court, as specified under paragraph d of this subdivision. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.

g. Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any farm animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in farm animals or in the proceeds from the sale of such farm animals.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

N.Y. EDUC. LAW § 6714(2012).Treatment records.

1. Upon written request from the owner of an animal which has received treatment from or under the supervision of a veterinarian, such veterinarian shall provide to such owner within a reasonable time period a copy of all records relating to the treatment of such animal. For the purposes of this section, the term "records" shall mean all information concerning or related to the examination or treatment of the animal kept by the veterinarian in the course of his or her practice. A veterinarian may impose a reasonable charge for providing copies of such records. A veterinarian may make available to the owner either the original or a copy of such record or document including x-rays, electrocardiograms and other diagnostic tests and may impose a reasonable fee for the reproduction of such copies.

2. *A veterinarian licensed pursuant to this article, may disclose records, as defined in this section, concerning a companion animal as defined in section three hundred fifty of the agriculture and markets law which has received treatment by such veterinarian without the consent of the companion animal's owner under the following circumstances:*

(a) When a veterinarian reasonably and in good faith suspects that a companion animal's injury, illness or condition is the result of animal cruelty or a violation of any state or federal law pertaining to the care, treatment, abuse or neglect of a companion animal, the veterinarian may report the incident and disclose records concerning the companion animal's condition and treatment to the police, duly incorporated society for the prevention of cruelty to animals, peace officer, district attorney's office, animal control officer, department of agriculture and markets, other appropriate government agency, or any agent thereof.

(b) When a veterinarian reasonably believes that disclosure of records as defined in this section, is necessary to protect the health or welfare of a companion animal, a person or the public, the veterinarian may disclose such records to the police, duly incorporated society for the prevention of cruelty to animals, peace officer, animal control officer, department of agriculture and markets, other appropriate government agency, or any agent thereof.

3. *A veterinarian acts in good faith within the meaning of this section when he or she reasonably believes that his or her actions are necessary to protect the health and welfare of the companion animal or the public.*

4. *A veterinarian who reasonably and in good faith reports or discloses records in accordance with this section shall be immune from liability in the form of damages in any civil or criminal proceeding on account of such reporting or disclosure.*

11. LAW ENFORCEMENT POLICIES

N.Y. AGRIC. & MKTS. LAW § 371 (2012). Powers of peace officers.

A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the agriculture and markets law. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken.

N.Y. AGRIC. & MKTS. LAW § 372 (2012). Issuance of warrants upon complaint.

Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.

12. SEXUAL ASSAULT

N.Y. PENAL LAW § 130.20 (2012). Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. *He or she engages in sexual conduct with an animal* or a dead human body.

Sexual misconduct is a class A misdemeanor.

13. FIGHTING

N.Y. AGRIC. & MKTS. LAW § 351 (2012). Prohibition of animal fighting.

1. For purposes of this section, the term “animal fighting” shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons, except in exhibitions of a kind commonly featured at rodeos.

2. Any person who engages in any of the following conduct is guilty of a felony punishable by imprisonment for a period not to exceed four years, or by a fine not to exceed twenty-five thousand dollars, or by both such fine and imprisonment:

(a) For amusement or gain, causes any animal to engage in animal fighting; or

(b) Trains any animal under circumstances evincing an intent that such animal engage in animal fighting for amusement or gain; or

(c) Breeds, sells or offers for sale any animal under circumstances evincing an intent that such animal engage in animal fighting; or

(d) Permits any act described in paragraph (a), (b) or (c) of this subdivision to occur on premises under his control; or

(e) Owns, possesses or keeps any animal trained to engage in animal fighting on premises where an exhibition of animal fighting is being conducted under circumstances evincing an intent that such animal engage in animal fighting.

3.

(a) Any person who engages in conduct specified in paragraph (b) of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed fifteen thousand dollars, or by both such fine and imprisonment.

(b) The owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting.

4.

(a) Any person who engages in conduct specified in paragraph (b) hereof is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) The knowing presence as a spectator having paid an admission fee or having made a wager at any place where an exhibition of animal fighting is being conducted.

5.

(a) Any person who engages in the conduct specified in paragraph (b) of this subdivision is guilty of a class B misdemeanor punishable by imprisonment for a period not to exceed three months, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in paragraph (b) of this subdivision after having been convicted within the previous five years of a violation of this subdivision or subdivision four of this section is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) The knowing presence as a spectator at any place where an exhibition of animal fighting is being conducted.

6.

(a) Any person who intentionally owns, possesses, sells, transfers or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate animal fighting as defined in subdivision one of this section is guilty of a class B misdemeanor punishable by imprisonment for a period of up to ninety days, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in this subdivision after having been convicted within the previous five years of a violation of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) For purposes of this section, animal fighting paraphernalia shall mean equipment, products, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning or furtherance of animal fighting. Animal fighting paraphernalia includes the following:

(i) A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;

(ii) A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

(iii) A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing places;

(iv) A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;

(v) A fighting pit, which means a walled area, or otherwise defined area, designed to contain an animal fight;

(vi) Any other instrument commonly used in the furtherance of pitting an animal against another animal.

N.Y. AGRIC. & MKTS. LAW § 375 (2012). Officer may take possession of animals or implements used in fights among animals.

Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals. He shall state to the person in charge thereof, at the time of such taking, his name and residence, and also, the time and place at which the application provided for by the next section will be made.

N.Y. AGRIC. & MKTS. LAW § 376 (2012). Disposition of animals or implements used in fights among animals.

The officer, after taking possession of such animals, or implements, or other property, pursuant to the preceding section, shall apply to the magistrate before whom complaint is made against the offender violating such provision of law, for the order next hereinafter mentioned, and shall make and file an affidavit with such magistrate, stating therein the name of the offender charged in such complaint, the time, place and description of the animals, implements or other property so taken, together with the name of the party who claims the same, if known, and that the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender. He shall then deliver such animals, implements, or other property, to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person in such order named and designated, to be by him kept until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county. The officer or person so named and designated in such order, shall immediately thereupon assume such custody, and shall retain the same for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear, until his final discharge or conviction. Upon the conviction of such offender, the animals, implements, or other property, shall be adjudged by the court to be forfeited. In the event of the acquittal or final discharge, without conviction, of such offender, such court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.

14. REFERENCED STATUTES

N.Y. AGRIC. & MKTS. LAW § 350 (2012). Definitions.

1. “Animal,” as used in this article, includes every living creature except a human being;
2. “Torture” or “cruelty” includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.
3. “Adoption” means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, seized or surrendered.
4. “Farm animal”, as used in this article, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in section 11-1907 of the environmental conservation law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.
5. “Companion animal” or “pet” means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. “Pet” or “companion animal” shall not include a “farm animal” as defined in this section.

N.Y. AGRIC. & MKTS. LAW § 351 (2012). Prohibition of animal fighting.

1. For purposes of this section, the term “animal fighting” shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons, except in exhibitions of a kind commonly featured at rodeos.
2. Any person who engages in any of the following conduct is guilty of a felony punishable by imprisonment for a period not to exceed four years, or by a fine not to exceed twenty-five thousand dollars, or by both such fine and imprisonment:
 - (a) For amusement or gain, causes any animal to engage in animal fighting; or
 - (b) Trains any animal under circumstances evincing an intent that such animal engage in animal fighting for amusement or gain; or
 - (c) Breeds, sells or offers for sale any animal under circumstances evincing an intent that such animal engage in animal fighting; or
 - (d) Permits any act described in paragraph (a), (b) or (c) of this subdivision to occur on premises under his control; or

(e) Owns, possesses or keeps any animal trained to engage in animal fighting on premises where an exhibition of animal fighting is being conducted under circumstances evincing an intent that such animal engage in animal fighting.

3.

(a) Any person who engages in conduct specified in paragraph (b) of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed fifteen thousand dollars, or by both such fine and imprisonment.

(b) The owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting.

4.

(a) Any person who engages in conduct specified in paragraph (b) hereof is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) The knowing presence as a spectator having paid an admission fee or having made a wager at any place where an exhibition of animal fighting is being conducted.

5.

(a) Any person who engages in the conduct specified in paragraph (b) of this subdivision is guilty of a class B misdemeanor punishable by imprisonment for a period not to exceed three months, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in paragraph (b) of this subdivision after having been convicted within the previous five years of a violation of this subdivision or subdivision four of this section is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.

(b) The knowing presence as a spectator at any place where an exhibition of animal fighting is being conducted.

N.Y. AGRIC. & MKTS. LAW § 353 (2012). Overdriving, torturing and injuring animals; failure to provide proper sustenance.

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law.

Nothing herein contained shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The state commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The state commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

N.Y. AGRIC. & MKTS. LAW § 353-a (2012). Aggravated cruelty to animals.

1. A person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, "aggravated cruelty" shall mean conduct which:

- (i) is intended to cause extreme physical pain; or
- (ii) is done or carried out in an especially depraved or sadistic manner.

2. Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.

3. Aggravated cruelty to animals is a felony. A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years.

N.Y. AGRIC. & MKTS. LAW § 353-b (2012). Appropriate shelter for dogs left outdoors.

1. For purposes of this section:

(a) “Physical condition” shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.

(b) “Inclement weather” shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.

(c) “Dogs that are left outdoors” shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.

2.

(a) Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate. Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.

(b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. Minimum standards for determining whether shelter is appropriate to a dog’s breed, physical condition and the climate shall include:

(a) For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.

(b) For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material; dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.

4. Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.

5. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.

6. Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.

N.Y. AGRIC. & MKTS. LAW § 353-d (2012). Confinement of companion animals in vehicles: extreme temperatures.

1. A person shall not confine a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

2. Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, or peace officer acting as an agent of a duly incorporated humane society may take necessary steps to remove the animal or animals from the vehicle.

3. Police officers, peace officers or peace officers acting as agents of a duly incorporated humane society removing an animal or animals from a vehicle pursuant to this section shall place a written notice on or in the vehicle, bearing the name of the officer or agent, and the department or agency and address where the animal or animals will be taken.

4. An animal or animals removed from a vehicle pursuant to this section shall, after receipt of any necessary emergency veterinary treatment, be delivered to the duly incorporated humane society or society for the prevention of cruelty to animals, or designated agent thereof, in the jurisdiction where the animal or animals were seized.

5. Any person who knowingly violates the provisions of subdivision one of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for a second and subsequent offenses.

6. Officers shall not be held criminally or civilly liable for actions taken reasonably and in good faith in carrying out the provisions of this section.

7. Nothing contained in this section shall be construed to affect any other protections afforded to companion animals under any other provisions of this article.

N.Y. AGRIC. & MKTS. LAW § 355 (2012). Abandonment of animals.

A person being the owner or possessor, or having charge or custody of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it become disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

N.Y. AGRIC. & MKTS. LAW § 356 (2012). Failure to provide proper food and drink to impounded animal.

A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

N.Y. AGRIC. & MKTS. LAW § 359 (2012). Carrying animal in a cruel manner.

1. A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

2. A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-eight consecutive hours, or thirty-six consecutive hours where consent is given in the manner hereinafter provided, without unloading for rest, water and feeding, during five consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. The consent which will extend the period from twenty-eight to thirty-six hours shall be given by the owner, or by person in custody of a particular shipment, by a writing separate and apart from any printed bill of lading or other railroad form. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed.

N.Y. AGRIC. & MKTS. LAW § 360 (2012). Poisoning or attempting to poison animals.

A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle or unjustifiably exposes any such drug or substance with intent that the same shall be taken by horse, mule or by domestic cattle, whether such horse, mule or domestic cattle be the property of himself or another, is guilty of a felony. A person who unjustifiably administers any poisonous or noxious drug or substance to an animal, other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule or domestic cattle, whether such animal be the property of himself or another, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

N.Y. AGRIC. & MKTS. LAW § 362 (2012). Throwing substance injurious to animals in public place.

A person who wilfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

N.Y. AGRIC. & MKTS. LAW § 371 (2012). Powers of peace officers.

A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the agriculture and markets law. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken.

N.Y. AGRIC. & MKTS. LAW § 372 (2012). Issuance of warrants upon complaint.

Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.

N.Y. AGRIC. & MKTS. LAW § 373 (2012). Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept.

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.

1-a. Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.

2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.

3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.

4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.

5. Nothing herein contained shall restrict the rights and powers derived from section one hundred seventeen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.

6.

a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the "impounding organization", may file a petition with the court requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

b.

(1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.

(2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred seventeen of this chapter or section three hundred seventy-four of this article.

(3) In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.

(4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.

N.Y. AGRIC. & MKTS. LAW § 374 (2012). Humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept.

1. Any agent or officer of a duly incorporated society for the prevention of cruelty to animals, any dog control officer, or any police officer, may lawfully cause to be humanely destroyed (by means provided for in paragraph a of subdivision three of this section) any animal found abandoned and not properly cared for, or any lost, strayed, homeless or unwanted animal, if upon examination a licensed veterinarian shall certify in writing, or if two reputable citizens called upon by such agent, officer or police officer to view the same in his or her presence find that the animal is so maimed, diseased, disabled, or infirm so as to be unfit for any useful purpose and that humane euthanasia is warranted; or after such agent, officer or police officer has obtained in writing from the owner of such animal his or her consent to such destruction.

2. In the absence of such findings or certification a duly incorporated society for the prevention of cruelty to animals, or any pound maintained by or under contract or agreement with any county, city, town or village may after five days make available for adoption or have humanely destroyed in accordance with the provisions of this section and subject to subdivisions six, eight and nine of section one hundred eighteen of this chapter, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its owner.

3.

a. Except as provided in subdivision four of this section, euthanasia of animals pursuant to this section shall be accomplished solely by means of injection of sodium pentobarbital or sodium pentobarbital solution administered by a certified euthanasia technician, a licensed veterinarian or a licensed veterinary technician. Euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution shall be performed only upon animals that are heavily sedated, anesthetized, or comatose. However, only a licensed veterinarian may perform euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution upon animals that are not heavily sedated, anesthetized or comatose and only when such licensed veterinarian determines that such intracardiac injection is the most humane option available. Whenever a cardiac injection of sodium pentobarbital or sodium pentobarbital solution is administered by a licensed veterinarian upon an animal that is not heavily sedated, anesthetized or comatose, such veterinarian must document, in writing, the administration of such injection and the reason for its administration. Such documentation shall be retained for at least three years. Under no circumstances shall intracardiac injection be performed on animals that are not heavily sedated, anesthetized or comatose where such animals are under the care of any duly incorporated society for the prevention of cruelty to animals, animal shelter, humane society or pound.

b. No animal shall be left unattended between the time that the euthanasia procedure begins and the time when death is confirmed. The body of a euthanized animal shall not be disposed of in any manner until death is confirmed by a licensed veterinarian, a certified euthanasia technician or a licensed veterinary technician. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.

The department of health shall promulgate regulations deemed necessary for implementation of the provisions of this subdivision, including regulations governing the training and certification of certified euthanasia technicians.

4. a. Any method of euthanasia other than that provided for in subdivision three of this section is prohibited except that euthanasia of an animal by gunshot is permissible as an emergency measure for an animal that is posing an imminent threat of serious physical injury to a person or to another animal as provided in section one hundred twenty-one-a of this chapter and where the use of a humane method of euthanasia prescribed in this section is rendered impossible or where a severely injured animal is suffering and cannot otherwise be aided.

b. Within ninety days of the effective date of this subdivision, any chamber used to induce hypoxia by means of a lethal gas shall be dismantled, rendered inoperable and beyond repair, and removed from the premises. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.

5. No person shall release any dog or cat from the custody or control of any pound, shelter, society for the prevention of cruelty to animals, humane society, dog protective association, dog control officer, peace officer or any agent thereof, for any purpose except adoption or redemption by its owner, provided, however, that after the time for redemption has expired, release may be made to another such pound, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated animal protective association for the sole purpose of placing such animal in an adoptive home when such action is reasonably believed to improve the opportunity for adoption. Notwithstanding the penalties set forth in paragraph b of subdivision three of this section and paragraph b of subdivision four of this section, any violation of this subdivision, subdivision two, three or four of this section, shall constitute a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

6. In lieu of such destruction, redemption or other disposition pursuant to this section, such pound, shelter, or society may in its discretion lawfully and without liability deliver such animal for adoption to an individual other than the owner after the time for redemption has expired.

7. Prior to such destruction or other disposition, the owner of the animal may redeem the same upon proving title to the satisfaction of such society and paying such society such amount, approved by a magistrate, as may have been reasonably expended by such society in connection with the care and maintenance thereof.

8. a. In addition to any other penalty provided by law, upon conviction for any violation of section three hundred fifty-one, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-three-b, three hundred fifty-five, three hundred fifty-six, three hundred fifty-nine, three hundred sixty, three hundred sixty-one, three hundred sixty-five

or three hundred sixty-eight of this article, the convicted person may, after a duly held hearing pursuant to paragraph f of this subdivision, be ordered by the court to forfeit, to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, the animal or animals which are the basis of the conviction. Upon such an order of forfeiture, the convicted person shall be deemed to have relinquished all rights to the animals which are the basis of the conviction, except those granted in paragraph d of this subdivision.

b. Pursuant to the provisions of subdivisions two, three, four and five of this section, no dog or cat in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society or its authorized agents thereof, or a pound or shelter, shall be sold, transferred or otherwise made available to any person for the purpose of research, experimentation or testing. No authorized agent of a duly incorporated society for the prevention of cruelty to animals, nor of a duly incorporated humane society, shall use any animal placed in its custody by the duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society for the purpose of research, experimentation or testing.

c. The court may additionally order that the convicted person or any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, shall not own, harbor, or have custody or control of any other animals, other than farm animals, for a period of time which the court deems reasonable.

d. In the case of farm animals, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act. The court shall reimburse the convicted person and any duly determined interested persons, pursuant to paragraph f of this subdivision, any money earned by the sale of the farm animals less any costs including, but not limited to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to paragraph e of this subdivision.

e. A duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society in charge of animals forfeited pursuant to paragraph a of this subdivision may, in its discretion, lawfully and without liability, adopt them to individuals other than the convicted person or person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely dispose of them according to the provisions of subdivisions two, three, four and five of this section.

f.

(1) Prior to an order of forfeiture of farm animals, a hearing shall be held within thirty days of conviction, to determine the pecuniary interests of any other person in the farm animals which were the basis of the conviction. Written notice shall be served at least five days prior to the hearing upon all interested persons. In addition, notice shall be made by publication in a local newspaper at least seven days prior to the hearing. For the purposes of this subdivision, interested persons shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity who the court determines may have a pecuniary interest in the farm animals which are the subject of the forfeiture action.

(2) All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person shall be entitled to be reimbursed his interest in the farm animals, less any costs, fines or penalties imposed by the court, as specified under paragraph d of this subdivision. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.

g. Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any farm animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in farm animals or in the proceeds from the sale of such farm animals.

N.Y. AGRIC. & MKTS. LAW § 375 (2012). Officer may take possession of animals or implements used in fights among animals.

Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals. He shall state to the person in charge thereof, at the time of such taking, his name and residence, and also, the time and place at which the application provided for by the next section will be made.

N.Y. AGRIC. & MKTS. LAW § 376 (2012). Disposition of animals or implements used in fights among animals.

The officer, after taking possession of such animals, or implements, or other property, pursuant to the preceding section, shall apply to the magistrate before whom complaint is made against the offender violating such provision of law, for the order next hereinafter mentioned, and shall make and file an affidavit with such magistrate, stating therein the name of the offender charged in such complaint, the time, place and description of the animals, implements or other property so taken, together with the name of the party who claims the same, if known, and that the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender. He shall then deliver such animals, implements, or other property, to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person in such order named and designated, to be by him kept until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county. The officer or person so named and designated in such order, shall immediately thereupon assume such custody, and shall retain the same for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear, until his final discharge or conviction. Upon the conviction of such offender, the animals, implements, or other property, shall be adjudged by the court to be forfeited. In the event of the acquittal or final discharge, without conviction, of such offender, such court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.

N.Y. CRIM. PRO. LAW § 530.12 (2012). Protection for victims of family offenses.

1. When a criminal action is pending involving a complaint charging any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household, as members of the same family or household are defined in subdivision one of section 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of any order of recognizance or bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require the defendant:

- (a) to stay away from the home, school, business or place of employment of the family or household member or of any designated witness, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such temporary order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the temporary order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, past or present injury, threats, drug or alcohol abuse, and access to weapons;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;

(d) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;

(e) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law;

(f)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by the victim or a minor child residing in the household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

(g) The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

2. Notwithstanding any other provision of law, a temporary order of protection issued or continued by a family court pursuant to section eight hundred thirteen of the family court act shall continue in effect, absent action by the appropriate criminal court pursuant to subdivision three of this section, until the defendant is arraigned upon an accusatory instrument filed pursuant to section eight hundred thirteen of the family court act in such criminal court.

3. The court may issue a temporary order of protection ex parte upon the filing of an accusatory instrument and for good cause shown. When a family court order of protection is modified, the criminal court shall forward a copy of such modified order to the family court issuing the original order of protection; provided, however, that where a copy of the modified order is transmitted to the family court by facsimile or other electronic means, the original copy of such modified order and accompanying affidavit shall be forwarded immediately thereafter.

3-a. Emergency powers when family court not in session; issuance of temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis issue a temporary order of protection pending a hearing in family court, provided that a sworn affidavit, verified in accordance with subdivision one of section 100.30 of this chapter, is submitted: (i) alleging that the family court is not in session; (ii) alleging that a family offense, as defined in subdivision one of section eight hundred twelve of the family court act and subdivision one of section 530.11 of this article, has been committed; (iii) alleging that a family offense petition has been filed or will be filed in family court on the next day the court is in session; and (iv) showing good cause. Upon appearance in a local criminal court, the petitioner shall be advised that he or she may continue with the proceeding either in family court or upon the filing of a local criminal court accusatory instrument in criminal court or both. Upon issuance of a temporary order of protection where petitioner requests that it be returnable in family court, the local criminal court shall transfer the matter forthwith to the family court and shall make the matter returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the order. The local criminal court, upon issuing a temporary order of protection returnable in family court pursuant to this subdivision, shall immediately forward, in a manner designed to insure arrival before the return date set in the order, a copy of the temporary order of protection and sworn affidavit to the family court and shall provide a copy of such temporary order of protection to the petitioner; provided, however, that where a copy of the temporary order of protection and affidavit are transmitted to the family court by facsimile or other electronic means, the original order and affidavit shall be forwarded to the family court immediately thereafter. Any temporary order of protection issued pursuant to this subdivision shall be issued to the respondent, and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section. Any temporary order of protection issued pursuant to this subdivision shall plainly state the date that such order expires which, in the case of an order returnable in family court, shall be not more than four calendar days after its issuance, unless sooner vacated or modified by the family court. A petitioner requesting a temporary order of protection returnable in family court pursuant to this subdivision in a case in which a family court petition has not been filed shall be informed that such temporary order of protection shall expire as provided for herein, unless the petitioner files a petition pursuant to subdivision one of section eight hundred twenty-one of the family court act on or before the return date in family court and the family court issues a temporary order of protection or order of protection as authorized under article eight of the family court act. Nothing in this subdivision shall limit or restrict the petitioner's right to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of the family court act and section 100.07 of this chapter.

3-b. Emergency powers when family court not in session; modifications of orders of protection or temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis modify a temporary order of protection or order of protection which has been issued under article four, five, six or eight of the family court act pending a hearing in family court, provided that a sworn affidavit verified in accordance with subdivision one of section 100.30 of this chapter is submitted: (i) alleging that the family court is not in session and (ii) showing good cause, including a showing that the existing order is insufficient for the

purposes of protection of the petitioner, the petitioner's child or children or other members of the petitioner's family or household. The local criminal court shall make the matter regarding the modification of the order returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the modified order. The court shall immediately forward a copy of the modified order, if any, and sworn affidavit to the family court and shall provide a copy of such modified order, if any, and affidavit to the petitioner; provided, however, that where copies of such modified order and affidavit are transmitted to the family court by facsimile or other electronic means, the original copies of such modified order and affidavit shall be forwarded to the family court immediately thereafter. Any modified temporary order of protection or order of protection issued pursuant to this subdivision shall be issued to the respondent and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section.

4. The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant for the arrest of defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.

5. Upon sentencing on a conviction for any crime or violation between spouses, between a parent and child, or between members of the same family or household as defined in subdivision one of section 530.11 of this article, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:

(a) to stay away from the home, school, business or place of employment of the family or household member, the other spouse or the child, or of any witness designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons; or

(d) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;

(e) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law.

6. An order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, four or five of this section shall bear in a conspicuous manner the term "order of protection" or "temporary order of protection" as the case may be and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which the complainant resides, or, if the complainant resides within a city, with the police department of such city. The absence of such language shall not affect the validity of such order. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the complainant at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

Such order of protection shall plainly state the date that such order expires.

6-a. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought.

7. A family offense subject to the provisions of this section which occurs subsequent to the issuance of an order of protection under this chapter shall be deemed a new offense for which the complainant may seek to file a new accusatory instrument and may file a family court petition under article eight of the family court act as provided for in section 100.07 of this chapter.

8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and

community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to his or her special duties or police officer shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford.

9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him or her for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter.

10. Punishment for contempt based on a violation of an order of protection or temporary order of protection shall not affect the original criminal action, nor reduce or diminish a sentence upon conviction for the original crime or violation alleged therein or for a lesser included offense thereof.

11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:

(a) revoke an order of recognizance or revoke an order of bail or order forfeiture of such bail and commit the defendant to custody; or

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or

(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.

[(e) Repealed.]

12. The chief administrator of the courts shall promulgate appropriate uniform temporary orders of protection and orders of protection forms to be used throughout the state. Such forms shall be promulgated and developed in a manner to ensure the compatibility[compatibility] of such forms with the statewide computerized registry established pursuant to section two hundred twenty-one-a of the executive law.

13. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection when applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section 530.11 of this article.

14. The people shall make reasonable efforts to notify the complainant alleging a crime constituting a family offense when the people have decided to decline prosecution of such crime, to dismiss the criminal charges against the defendant or to enter into a plea agreement. The people shall advise the complainant of the right to file a petition in the family court pursuant to section 100.07 of this chapter and section one hundred fifteen of the family court act.

In any case where allegations of criminal conduct are transferred from the family court to the criminal court pursuant to paragraph (ii) of subdivision (b) of section eight hundred forty-six of the family court act, the people shall advise the family court making the transfer of any decision to file an accusatory instrument against the family court respondent and shall notify such court of the disposition of such instrument and the sentence, if any, imposed upon such respondent.

Release of a defendant from custody shall not be delayed because of the requirements of this subdivision.

15. Any motion to vacate or modify an order of protection or temporary order of protection shall be on notice to the non-moving party, except as provided in subdivision three-b of this section.

N.Y. CRIM. PRO.LAW § 530.13 (2012).Protection of victims of crimes, other than family offenses.

1. When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require that the defendant:

- (a) stay away from the home, school, business or place of employment of the victims of, or designated witnesses to, the alleged offense;

(b) refrain from harassing, intimidating, threatening or otherwise interfering with the victims of the alleged offense and such members of the family or household of such victims or designated witnesses as shall be specifically named by the court in such order [fig 1];

(c)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

2. The court may issue a temporary order of protection under this section ex parte upon the filing of an accusatory instrument and for good cause shown.

3. The court may issue or extend a temporary order of protection under this section ex parte simultaneously with the issuance of a warrant for the arrest of the defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.

4. Upon sentencing on a conviction for any offense, where the court has not issued an order of protection pursuant to section 530.12 of this article, the court may, in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions such an order may require that the defendant:

(a) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense;

(b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order;

(c)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

5. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought. An order of protection issued under this section shall plainly state the date that such order expires. Orders of protection issued to protect victims of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, shall be on uniform statewide forms that shall be promulgated by the chief administrator of the courts in a manner to ensure the compatibility of such forms with the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law. A copy of an order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, or four of this section shall be filed by the clerk of the court with the sheriff's office in the county in which such victim or victims reside, or, if the victim or victims reside within a city, with the police department of such city. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the victim or victims at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

6. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the victim and the defendant and defense counsel and to any other person affected by the order, a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any police officer or peace officer acting pursuant to his or her special duties shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford.

7. Punishment for contempt based upon a violation of an order or [of] protection or temporary order of protection issued under this section shall not affect a pending criminal action, nor reduce or diminish a sentence upon conviction for any other crimes or offenses.

8. If a defendant is brought before the court for failure to obey any lawful order issued under this section and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:

(a) revoke an order of recognizance or bail and commit the defendant to custody; or

(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody or impose or increase bail pending a trial of the original crime or violation; or

(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or

(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.

9. The chief administrator of the courts shall promulgate appropriate uniform temporary order of protection and order of protection forms to be used throughout the state.

N.Y. EDUC. LAW § 6714(2012).Treatment records.

1. Upon written request from the owner of an animal which has received treatment from or under the supervision of a veterinarian, such veterinarian shall provide to such owner within a reasonable time period a copy of all records relating to the treatment of such animal. For the purposes of this section, the term "records" shall mean all information concerning or related to the examination or treatment of the animal kept by the veterinarian in the course of his or her practice. A veterinarian may impose a reasonable charge for providing copies of such records. A veterinarian may make available to the owner either the original or a copy of such record or document including x-rays, electrocardiograms and other diagnostic tests and may impose a reasonable fee for the reproduction of such copies.

2. A veterinarian licensed pursuant to this article, may disclose records, as defined in this section, concerning a companion animal as defined in section three hundred fifty of the agriculture and markets law which has received treatment by such veterinarian without the consent of the companion animal's owner under the following circumstances:

(a) When a veterinarian reasonably and in good faith suspects that a companion animal's injury, illness or condition is the result of animal cruelty or a violation of any state or federal law pertaining to the care, treatment, abuse or neglect of a companion animal, the veterinarian may report the incident and disclose records concerning the companion animal's condition and treatment to the police, duly incorporated society for the prevention of cruelty to animals, peace officer, district attorney's office, animal control officer, department of agriculture and markets, other appropriate government agency, or any agent thereof.

(b) When a veterinarian reasonably believes that disclosure of records as defined in this section, is necessary to protect the health or welfare of a companion animal, a person or the public, the veterinarian may disclose such records to the police, duly incorporated society for the prevention of cruelty to animals, peace officer, animal control officer, department of agriculture and markets, other appropriate government agency, or any agent thereof.

3. A veterinarian acts in good faith within the meaning of this section when he or she reasonably believes that his or her actions are necessary to protect the health and welfare of the companion animal or the public.

4. A veterinarian who reasonably and in good faith reports or discloses records in accordance with this section shall be immune from liability in the form of damages in any civil or criminal proceeding on account of such reporting or disclosure.

N.Y. FAM. CT. LAW § 656 (2012).Order of protection.

The court may make an order of protection and an order of probation in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions of behavior to be observed for a specific time by any petitioner or any respondent, and shall specify if an order of probation is in effect. No order of protection may direct any party to observe conditions of behavior unless the party requesting the order of protection has served and filed a petition or counter-claim in accordance with section one hundred fifty-four-b of this act. Such an order may require the petitioner or the respondent:

(a) to stay away from the home, school, business or place of employment of any other party, the other spouse or parent, or the child, and to stay away from any other specific location designated by the court;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;

(d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;

(e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety or welfare of a child;

(f) to participate in an educational program and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the state or any political subdivision thereof;

(g) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order;

(h) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced.

(i)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

(j) to observe such other conditions as are necessary to further the purposes of protection.

The court shall not require anyone seeking an order of protection under this section to first request that child protective services investigate the allegations or to first request permission to file a petition under article ten of this act.

Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this act.

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

N.Y. FAM. CT. LAW § 842 (2012).Order of protection.

An order of protection under section eight hundred forty-one of this part shall set forth reasonable conditions of behavior to be observed for a period not in excess of two years by the petitioner or respondent or for a period not in excess of five years upon (i) a finding by the court on the record of the existence of aggravating circumstances as defined in paragraph (vii) of subdivision (a) of section eight hundred twenty-seven of this article; or (ii) a finding by the court on the record that the conduct alleged in the petition is in violation of a valid order of protection. Any finding of aggravating circumstances pursuant to this section shall be stated on the record and upon the order of protection. Any order of protection issued pursuant to this section shall specify if an order of probation is in effect. Any order of protection issued pursuant to this section may require the petitioner or the respondent:

- (a) to stay away from the home, school, business or place of employment of any other party, the other spouse, the other parent, or the child, and to stay away from any other specific location designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this subdivision, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons;
- (b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;
- (c) to refrain from committing a family offense, as defined in subdivision one of section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;
- (d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;
- (e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety or welfare of a child;

(f) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced;

(g) to require the respondent to participate in a batterer's education program designed to help end violent behavior, which may include referral to drug and alcohol counselling [counseling], and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the petitioner, the state or any political subdivision thereof; and

(h) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order.

(i)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.

(j) to observe such other conditions as are necessary to further the purposes of protection.

The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. The court may also upon the showing of special circumstances extend the order of protection for a reasonable period of time.

Notwithstanding the provisions of section eight hundred seventeen of this article, where a temporary order of child support has not already been issued, the court may in addition to the issuance of an order of protection pursuant to this section, issue an order for temporary child support in an amount sufficient to meet the needs of the child, without a showing of immediate or emergency need. The court shall make an order for temporary child support notwithstanding that information with respect to income and assets of the respondent may be unavailable. Where such information is available, the court may make an award for temporary child support pursuant to the formula set forth in subdivision one of section four hundred thirteen of this act. Temporary orders of support issued pursuant to this article shall be deemed to have been issued pursuant to section four hundred thirteen of this act.

Upon making an order for temporary child support pursuant to this subdivision, the court shall advise the petitioner of the availability of child support enforcement services by the support collection unit of the local department of social services, to enforce the temporary order and to assist in securing continued child support, and shall set the support matter down for further proceedings in accordance with article four of this act.

Where the court determines that the respondent has employer-provided medical insurance, the court may further direct, as part of an order of temporary support under this subdivision, that a medical support execution be issued and served upon the respondent's employer as provided for in section fifty-two hundred forty-one of the civil practice law and rules.

In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the petitioner and respondent and his counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or division of parole where the individual is under probation or parole supervision.

Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this article.

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

N.Y. FAM. CT. LAW § 1056 (2012).Order of protection.

1. The court may make an order of protection in assistance or as a condition of any other order made under this part. Such order of protection shall remain in effect concurrently with, shall expire no later than the expiration date of, and may be extended concurrently with, such other order made under this part, except as provided in subdivision four of this section. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent or a person legally responsible for the child's care or the spouse of the parent or other person legally responsible for the child's care, or both. Such an order may require any such person

- (a) to stay away from the home, school, business or place of employment of the other spouse, parent or person legally responsible for the child's care or the child, and to stay away from any other specific location designated by the court;

(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;

(c) to refrain from committing a family offense, as defined in subdivision one of the section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;

(d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;

(e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child;

(f) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order.

(g)

1. to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the person protected by the order or a minor child residing in such person's household.

2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law..

(h) to observe such other conditions as are necessary to further the purposes of protection.

2. The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. In making orders of protection, the court shall so act as to insure that in the care, protection, discipline and guardianship of the child his religious faith shall be preserved and protected.

3. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this act.

4. The court may enter an order of protection independently of any other order made under this part, against a person who was a member of the child's household or a person legally responsible as defined in section one thousand twelve of this chapter, and who is no longer a member of such household at the time of the disposition and who is not related by blood or marriage to the child or a member of the child's household. An order of protection entered pursuant to this subdivision may be for any period of time up to the child's eighteenth birthday and upon such conditions as the court deems necessary and proper to protect the health and safety of the child and the child's caretaker.

5. The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

N.Y. PENAL LAW § 55.10 (2012). Designation of offenses.

1. Felonies.

(a) The particular classification or subclassification of each felony defined in this chapter is expressly designated in the section or article defining it.

(b) Any offense defined outside this chapter which is declared by law to be a felony without specification of the classification thereof, or for which a law outside this chapter provides a sentence to a term of imprisonment in excess of one year, shall be deemed a class E felony.

2. Misdemeanors.

(a) Each misdemeanor defined in this chapter is either a class A misdemeanor or a class B misdemeanor, as expressly designated in the section or article defining it.

(b) Any offense defined outside this chapter which is declared by law to be a misdemeanor without specification of the classification thereof or of the sentence therefor shall be deemed a class A misdemeanor.

(c) Except as provided in paragraph (b) of subdivision three, where an offense is defined outside this chapter and a sentence to a term of imprisonment in excess of fifteen days but not in excess of one year is provided in the law or ordinance defining it, such offense shall be deemed an unclassified misdemeanor.

3. Violations. Every violation defined in this chapter is expressly designated as such. Any offense defined outside this chapter which is not expressly designated a violation shall be deemed a violation if:

(a) Notwithstanding any other designation specified in the law or ordinance defining it, a sentence to a term of imprisonment which is not in excess of fifteen days is provided therein, or the only sentence provided therein is a fine; or

(b) A sentence to a term of imprisonment in excess of fifteen days is provided for such offense in a law or ordinance enacted prior to the effective date of this chapter but the offense was not a crime prior to that date.

4. Traffic infraction. Notwithstanding any other provision of this section, an offense which is defined as a “traffic infraction” shall not be deemed a violation or a misdemeanor by virtue of the sentence prescribed therefor.

N.Y. PENAL LAW § 70.00(2012).Sentence of imprisonment for felony.

1. Indeterminate sentence. Except as provided in subdivisions four and five of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:

(a) For a class A felony, the term shall be life imprisonment;

(b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years;

(c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;

(d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and

(e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years.

3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:

(a) In the case of a class A felony, the minimum period shall be fixed by the court and specified in the sentence.

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) For any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed.

4. Alternative definite sentence for class D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

5. Life imprisonment without parole. Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony; the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter; or the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

N.Y. PENAL LAW § 70.15 (2012). Sentences of imprisonment for misdemeanors and violation.

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed one year; provided, however, that a sentence of imprisonment imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 must be for a period of no less than one year when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.

2. Class B misdemeanor. A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months.

3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime.

4. Violation. A sentence of imprisonment for a violation shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed fifteen days.

In the case of a violation defined outside this chapter, if the sentence is expressly specified in the law or ordinance that defines the offense and consists solely of a fine, no term of imprisonment shall be imposed.

N.Y. PENAL LAW § 80.00 (2012). Fine for felony.

1. A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding the higher of

a. five thousand dollars; or

b. double the amount of the defendant's gain from the commission of the crime; or

c. if the conviction is for any felony defined in article two hundred twenty or two hundred twenty-one of this chapter, according to the following schedule:

(i) for A-I felonies, one hundred thousand dollars;

(ii) for A-II felonies, fifty thousand dollars;

(iii) for B felonies, thirty thousand dollars;

(iv) for C felonies, fifteen thousand dollars.

When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support.

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.

3. When the court imposes a fine for a felony pursuant to paragraph b of subdivision one of this section, the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support such a finding or to permit adequate consideration of the matters specified in paragraph c of subdivision one of this section, the court may conduct a hearing upon such issues.

4. Exception. The provisions of this section shall not apply to a corporation.

5. All moneys in excess of five thousand dollars received or collected in payment of a fine imposed pursuant to paragraph c of subdivision one of this section are the property of the state and the state comptroller shall deposit all such fines to the rehabilitative alcohol and substance treatment fund established pursuant to section ninety-seven-cc of the state finance law.

6. Notwithstanding any inconsistent provision of subdivision one of this section a sentence to pay a fine for a felony set forth in the vehicle and traffic law shall be a sentence to pay an amount fixed by the court in accordance with the provisions of the law that defines the crime.

7. When the court imposes a fine pursuant to section 145.22 or 145.23 of this chapter, the court shall direct that no less than ten percent of such fine be credited to the state cemetery vandalism restoration and administration fund created pursuant to section ninety-seven-r of the state finance law.

N.Y. PENAL LAW § 80.05 (2012).Fines for misdemeanors and violation.

1. Class A misdemeanor. A sentence to pay a fine for a class A misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding one thousand dollars, provided, however, that a sentence imposed for a violation of section 215.80 of this chapter may include a fine in an amount equivalent to double the value of the property unlawfully disposed of in the commission of the crime.

2. Class B misdemeanor. A sentence to pay a fine for a class B misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding five hundred dollars.

3. Unclassified misdemeanor. A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, in accordance with the provisions of the law or ordinance that defines the crime.

4. Violation. A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding two hundred fifty dollars.

In the case of a violation defined outside this chapter, if the amount of the fine is expressly specified in the law or ordinance that defines the offense, the amount of the fine shall be fixed in accordance with that law or ordinance.

5. Alternative sentence. If a person has gained money or property through the commission of any misdemeanor or violation then upon conviction thereof, the court, in lieu of imposing the fine authorized for the offense under one of the above subdivisions, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense; provided, however, that the amount fixed by the court pursuant to this subdivision upon a conviction under section 11-1904 of the environmental conservation law shall not exceed five thousand dollars. In such event the provisions of subdivisions two and three of section 80.00 shall be applicable to the sentence.

6. Exception. The provisions of this section shall not apply to a corporation.

N.Y. PENAL LAW § 130.20 (2012). Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

ANIMAL PROTECTION LAWS OF NEWFOUNDLAND & LABRADOR

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Newfoundland and Labrador's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Newfoundland and Labrador may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in Newfoundland and Labrador. Because the law is continually evolving, always review an official source for the most current language of any statute.

NEWFOUNDLAND & LABRADOR

1. GENERAL PROHIBITIONS*

A person shall not cause an animal to be in distress

S.N.L., c. A-9.1, s. 18(1)

An owner of an animal shall not permit the animal to be in distress

S.N.L., c. A-9.1, s. 18(2)

A person shall not harm or cause harm to an animal used for law enforcement purposes

S.N.L., c. A-9.1, s. 19

A person shall not transport an animal in a motor vehicle outside the passenger compartment unless the animal is confined or secured in a body harness

S.N.L., c. A-9.1, s. 21

A person shall not confine an animal in an enclosed space, including a motor vehicle, without adequate ventilation

S.N.L., c. A-9.1, s. 22

A person shall not transport an animal in the trunk of a motor vehicle

S.N.L., c. A-9.1, s. 23

A person shall not permit an animal to be hitched, tied or fastened to a fixed object by a choke collar or rope tied around the animal's neck

S.N.L., c. A-9.1, s. 24

A person shall not cut the solid part of the tail of a horse, commonly known as "docking"

S.N.L., c. A-9.1, s. 25

A person shall not cut or crop, or permit to be cut or cropped, the ear of a dog

S.N.L., c. A-9.1, s. 26

NEWFOUNDLAND & LABRADOR*continued*

<p>1. GENERAL PROHIBITIONS* <i>continued</i></p>	<p>A person who, while operating a bicycle or a motor vehicle, injures an animal shall stop and provide the care and attention to the animal that is necessary to relieve its pain and help its recovery S.N.L., c. A-9.1, s. 28(1)</p> <p>A person who, while operating a bicycle or a motor vehicle, kills an animal, shall notify an inspector of that fact S.N.L., c. A-9.1, s. 28(2)</p> <p>A person shall not cut the solid part of the tail of a dog, sheep or other animal, commonly known as "docking" N.L.R. 35/12, s. 8</p> <p>Cosmetic surgery in domestic animals is prohibited N.L.R. 35/12, s. 9</p> <p>Declawing of a cat by someone other than a veterinarian is prohibited N.L.R. 35/12, s. 10</p> <p>Certain methods of euthanasia are prohibited N.L.R. 35/12, s. 11</p> <p>A practice or procedure that is prohibited in a code or standard that is adopted in the <i>Animal Protection Standards Regulations</i> is a prohibited practice or procedure N.L.R. 35/12, s. 15</p> <p>Pet retail stores shall not sell dogs or cats unless the dog was bred and raised in an establishment that meets the requirements in the <i>Animal Protection Standards Regulations</i> N.L.R. 35/12, s. 16</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[A] non-human vertebrate” S.N.L., c. A-9.1, s. 2</p>

NEWFOUNDLAND & LABRADOR*continued*

<i>Classification of Crimes</i>	Summary conviction offence S.N.L., c. A-9.1, s. 76
2. MAXIMUM PENALTIES **	\$50,000 fine <i>and/or</i> 6 months imprisonment S.N.L., c. A-9.1, s. 76(1)
3. EXEMPTIONS ***	3 S.N.L., c. A-9.1, s. 2(4) Parts II ([Animal Protection]), III, IV and V do not apply to fish or wild life as defined in the <i>Wild Life Act</i> S.N.L., c. A-9.1, s. 2(4) Prohibition on causing or permitting an animal to be in distress does not apply in respect of a class of animals prescribed by regulation, or animals living in circumstances or conditions prescribed by regulation, or where the distress is a result of a treatment, process or condition that occurs in the course of an accepted activity S.N.L., c. A-9.1, s. 18(3) Docking permitting in the course of an accepted activity S.N.L., c. A-9.1, s. 25 Cropping of ears permitted in the course of an accepted activity S.N.L., c. A-9.1, s. 26
4. COUNSELING / EVALUATIONS ^H	-----

5. PROTECTIVE ORDERS ^H	S.N.L. 2005, c. F-3.1, §§ 2, 3, 5, 6
NEWFOUNDLAND & LABRADOR <i>continued</i>	
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS ^H	<p>The owner of an animal that is taken into custody may enter into an agreement to pay to the SPCA part or all of the expenses incurred with respect to the transportation, food, care, shelter or veterinary medical treatment provided for the animal and for its destruction in the event the animal is destroyed S.N.L., c. A-9.1, s. 15(1)</p> <p>The SPCA may, before delivering the animal to its owner, require the owner to pay the expenses referred to in subsection (1) S.N.L., c. A-9.1, s. 15(2)</p> <p>The SPCA may recover the expenses referred to in subsection 15(1) in a court in an action in debt S.N.L., c. A-9.1, s. 15(3)</p> <p>Where a judge makes an order authorizing the keeping in care of an animal taken into custody, he or she may also order that the whole or a part of the cost of providing transportation, food, care, shelter or treatment to the animal be paid by the owner S.N.L., c. A-9.1, s. 16(3)</p> <p>Where a person is convicted of an offence, the court making the conviction may, in addition to another penalty, make an order that the convicted person pay the whole or a part of the cost of providing transportation, food, care, shelter or treatment provided to, and where applicable, management or destruction of, an animal that was the subject of the offence of which the convicted person was convicted S.N.L., c. A-9.1, s. 76(5)</p>

NEWFOUNDLAND & LABRADOR*continued*

7. SEIZURE / ON-SITE SUPERVISION

An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress, enter onto land on which a dwelling house is located; request a person in the dwelling house to produce the animal; and conduct an examination of the animal
S.N.L., c. A-9.1, s. 9(1)

An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress, enter onto land to conduct an examination of the animal
S.N.L., c. A-9.1, s. 9(2)

An inspector may provide an animal that is found in distress with food, water, care or treatment in addition to another action that the inspector is authorized to take
S.N.L., c. A-9.1, s. 9(4)

Where it is reasonably necessary for the purpose of ensuring compliance, an inspector may without a warrant enter a place where animals are kept for sale, hire, exhibition, sport, boarding, breeding, training, or other commercial purpose that may be prescribed by regulation, during normal business hours, either alone or accompanied
S.N.L., c. A-9.1, s. 10

Where an inspector has reasonable grounds to believe that there is in a place an animal in distress, the inspector may, with a warrant issued, enter the place and investigate
S.N.L., c. A-9.1, s. 11(1)

NEWFOUNDLAND & LABRADOR*continued*

7. SEIZURE / ON-SITE SUPERVISION
continued

An inspector may exercise these powers without a warrant, in a place other than a dwelling-house, where the conditions for obtaining a warrant exist but because of exigent circumstances it would not be practical to obtain the warrant; or the inspector has reasonable grounds to believe that there is on, at or in the place, an animal in immediate distress

S.N.L., c. A-9.1, s. 11(4)

Where an inspector has reasonable grounds to believe that an animal is in distress, the inspector may endeavour to obtain the owner's cooperation to relieve the animal's distress

S.N.L., c. A-9.1, s. 12

The inspector may take custody of an animal in distress if a veterinarian has examined the animal and has advised the inspector that the health and well-being of the animal necessitates its removal; the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner of the animal is not present and cannot be found promptly; or an owner does not promptly take reasonable steps to relieve the animal's distress

S.N.L., c. A-9.1, s. 13

Where there is authority to seize an animal and an inspector is of the opinion that it is not practicable to seize, take or deliver custody in fact of the animal, the inspector shall be considered to have seized or taken custody in law of the animal

S.N.L., c. A-9.1, s. 73(1)

<p>NEWFOUNDLAND & LABRADOR<i>continued</i></p>	
<p>7. SEIZURE / ON-SITE SUPERVISION <i>continued</i></p>	<p>Where an inspector has taken or delivered custody in law of an animal, but the animal has been left in the custody of the owner, the inspector may require that the animal be detained by the owner, with the owner to be responsible for the standards of care that may be prescribed by regulation and to provide food, water, care, and treatment to the animal; or the custodian in law may provide food, care, shelter and veterinary medical treatment to animals in his or her care S.N.L., c. A-9.1, s. 73(2)</p>

NEWFOUNDLAND & LABRADOR*continued*

8. FORFEITURE / POSSESSION^H

An inspector may destroy an animal where the animal is in such distress that it cannot be relieved of its distress or live without undue suffering

S.N.L., c. A-9.1, s. 14

A judge may make an order authorizing the keeping in care of an animal that is in custody where the owner of the animal has been charged with an offence and the judge is satisfied that there are reasonable grounds to believe that the animal may be subject to distress if returned to its owner

S.N.L., c. A-9.1, s. 16

Where an animal is delivered into the custody of the SPCA following the conviction of its owner, by its owner, or where the owner of the animal is not found by the SPCA, the animal may be destroyed or disposed of within the time and in the manner prescribed by regulation

S.N.L., c. A-9.1, s. 17(1)

Where an animal is sold or given away under subsection 17(1), the animal becomes the property of the person to whom it is sold or given

S.N.L., c. A-9.1, s. 17(2)

Where a person is convicted of an offence, a judge may, in addition to another penalty, make an order prohibiting that convicted person from having the ownership, care or custody of an animal, or of a number or type of animal specified in the order, for a period of time specified in the order; and directing

	<p>that an animal in the ownership or care of that convicted person be delivered into the custody of the SPCA S.N.L., c. A-9.1, s. 76(4)</p>
<p>NEWFOUNDLAND & LABRADOR<i>continued</i></p>	
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>A veterinarian who believes on reasonable grounds that an animal has been or is subject to neglect or abuse, shall report this to the Chief Veterinary Officer S.N.L., c. A-9.1, s. 27(1)</p> <p>An action shall not lie against a person for reporting anything under subsection 27(1) unless the reporting is done falsely and maliciously S.N.L., c. A-9.1, s. 27(2)</p> <p>An action does not lie or shall not be instituted against an inspector, a veterinarian, the SPCA or an officer or employee of the SPCA, a municipal authority or councillor, an officer or employee of a municipal authority, the Crown, the minister or an employee of the province, or other person employed or engaged in the administration or enforcement of this Act, for loss or damage suffered by reason of anything done in good faith under this Act or the regulations S.N.L., c. A-9.1, s. 78</p>

NEWFOUNDLAND & LABRADOR*continued*

11. LAW ENFORCEMENT POLICIES

The minister may appoint persons to be inspectors on such terms and conditions as the minister may specify

S.N.L., c. A-9.1, s. 68(1)

An inspector may in the course of carrying out an investigation or inspection ascertain the identity of an individual

S.N.L., c. A-9.1, s. 68(12)

An inspector may carry out inspection and investigation powers prescribed by regulation

S.N.L., c. A-9.1, s. 68(13)

An inspector may commence proceedings by the laying of an information, or by proceeding in the form of a ticket issued in accordance with the *Provincial Offences Act*

S.N.L., c. A-9.1, s. 68(14)

An inspector may not carry out the prosecution of an offence

S.N.L., c. A-9.1, s. 68(15)

An inspector shall use no more force than is reasonably required to enter or inspect a place

S.N.L., c. A-9.1, s. 70

A peace officer may detain a vehicle for the purpose of performing an inspection or an investigation

S.N.L., c. A-9.1, s. 71

The person occupying a place entered by an inspector shall give the inspector all reasonable assistance

S.N.L., c. A-9.1, s. 74

	A person shall not obstruct or interfere with an inspector or provide an inspector with false information S.N.L., c. A-9.1, s. 75
NEWFOUNDLAND & LABRADOR <i>continued</i>	
12. SEXUAL ASSAULT	-----
13. FIGHTING	A person shall not maintain or keep an animal for the purpose of fighting or allow or permit an animal to be used for the purpose of fighting S.N.L., c. A-9.1, s. 20
NOTES	The Animal Protection Standards Regulations, N.L.R 36/12, gives binding effect to recommended codes of practice for the care of animals used in agriculture, scientific research, fur farming, breeding, circuses, zoos, and pet stores. The Animal Protection Standards Regulations, N.L.R 36/12, also set out basic standards of care for dogs.

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, ss. 2, 18, 19, 21-26, 28 (2012)

Interpretation

2

(1) In this Act

- (a) *"animal" means a non-human vertebrate;*
- (b) *"animal by-product" means a part of an animal or its carcass that is extracted, collected or otherwise obtained from an animal or from its carcass for purposes that are not a principal intention of growing or raising the animal and includes,*
 - (i) *blood and its components, and anything containing those things or derived from those things,*
 - (ii) *antlers, bones, bristles, feathers, flesh, hair, hides, skins, hoofs, horns, offal and anything containing those things or derived from those things, and*
 - (iii) *another thing prescribed by regulation as an animal by-product,**but does not include a thing prescribed by regulation as excluded;*
- (c) *"animal product" means a material derived from an animal or its carcass where a principal intention of growing or raising the animal is for the consumption or other use by humans of the material, whether for food, fibre, fuel, pharmacological or medical purposes, and includes,*
 - (i) *reproductive animal material, including ova, embryos and semen,*
 - (ii) *meat,*
 - (iii) *milk, cream, butter and cheese,*
 - (iv) *eggs,*
 - (v) *honey,*
 - (vi) *fibre derived from animals,*
 - (vii) *hides, skins and pelts, and*
 - (viii) *another thing prescribed by regulation as an animal product,**but does not include a thing prescribed by regulation as excluded;*

- (d) "Chief Veterinary Officer" means the official employed in the department as the chief veterinary officer;
- (e) "companion animal" means
 - (i) a dog,
 - (ii) a cat, or
 - (iii) an animal kept for companionship or bred or raised for sale for companionship and not for an agricultural purpose,
 and excludes
 - (iv) livestock,
 - (v) wild life and fish as defined in the Wild Life Act , and
 - (vi) an animal that may be prescribed by regulation as excluded;
- (f) "department" means the department presided over by the minister;
- (g) *"distress" means the state of being in need of proper care, water, food or shelter, being sick, injured, abused or in pain or of suffering undue or unnecessary hardship, privation or neglect;*
- (h) *"dog" means a dog, male or female, and includes an animal which is a cross between a dog and a wolf;*
- (i) "fur bearing animal" means a beaver, chinchilla, fisher, fox, lynx, marten, mink, muskrat, rabbit, squirrel, weasel, wolf or other animal that may be prescribed by regulation to be a fur bearing animal;
- (j) "hazard" includes
 - (i) a danger or threat to life or property, or
 - (ii) an impediment to the operation of a motor vehicle;
- (k) "injured" and "injuries" includes injuries caused by wounding, worrying, terrifying or pursuing;
- (l) "inspector" means an inspector appointed or designated under section 68 ;
- (m) "licence" means a licence issued under section 55 ;
- (n) "licensee" means a person who is the holder of a licence issued under section 55 ;
- (o) "livestock" means horses, cattle, sheep, goats, swine, poultry, llamas, alpacas, bison, and fur bearing animals raised in captivity and another domesticated animal that may be prescribed by regulation to be livestock;

- (p) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (q) "motor vehicle" means a vehicle propelled, driven or controlled other than by muscular power and includes a vehicle running on fixed rails;
- (r) "municipal authority" means a local government designated by the minister under section 77 ;
- (s) "nuisance" as applied to animals means an animal which has
 - (i) been shown to have trespassed upon land enclosed by a fence by breaking, going under or jumping over the fence, or
 - (ii) caused a hazard to people, other animals, livestock operations, property or to the safe operation of motor vehicles;
- (t) "owner" when used with reference to an animal includes a person who has custody, charge or possession of that animal or who is the owner of property, a house, premises or part of a premises where an animal is kept or permitted to live or remain;
- (u) "peace officer" means a member of the Royal Newfoundland Constabulary or a member of the Royal Canadian Mounted Police;
- (v) "place" includes commercial or private premises, land, a container, vehicle, vessel or aircraft;
- (w) "poultry" means chicken, turkeys, ducks, geese, guinea fowl, pigeons and other domesticated birds;
- (x) "SPCA" means the corporation known as *The Society for the Prevention of Cruelty to Animals (Newfoundland and Labrador)*;
- (y) "staff veterinarian" means a veterinarian employed in that capacity by the department;
- (z) "veterinarian" means a veterinarian licensed under the *Veterinary Medical Act, 2004* ; and
- (aa) "warrant" includes a telewarrant.

(2) For the purpose of this Act, an accepted activity is an activity designated by the regulations as an accepted activity.

(3) Notwithstanding subsection (2), an activity is an accepted activity only where it is carried out in a manner that is consistent with the regulations.

(4) Parts II, III, IV and V do not apply to fish or wild life as defined in the *Wild Life Act* .

* * * * *

Prohibition

18

(1) A person shall not cause an animal to be in distress.

(2) An owner of an animal shall not permit the animal to be in distress.

(3) Subsections (1) and (2) do not apply in respect of a class of animals prescribed by regulation, or animals living in circumstances or conditions prescribed by regulation, or where the distress is a result of a treatment, process or condition that occurs in the course of an accepted activity.

Law enforcement animal

19

A person shall not harm or cause harm to an animal used for law enforcement purposes.

Prohibition - fighting

20

A person shall not

- (a) maintain or keep an animal for the purpose of fighting; or
- (b) allow or permit an animal to be used for the purpose of fighting.

Transport of animal in vehicle

21

A person shall not transport, or permit to be transported, an animal in a motor vehicle outside the passenger compartment unless the animal is confined or secured in a body harness, or by means of another fastening, in a manner which is adequate to prevent the animal from falling off the vehicle or otherwise injuring itself or causing a hazard to other vehicles.

Prohibition - enclosed space

22

A person shall not confine, or permit to be confined, an animal in an enclosed space, including a motor vehicle, without adequate ventilation.

Prohibition - trunk

23

(1) A person shall not transport, or permit to be transported, an animal in the trunk of a motor vehicle.

(2) Subsection (1) does not apply to a station wagon, passenger van, sport-utility vehicle, hatchback or another type of motor vehicle that does not have a trunk.

Prohibition

24

(1) A person shall not permit an animal to be hitched, tied or fastened to a fixed object where a choke collar or choke chain forms part of the securing apparatus.

(2) A person shall not permit an animal to be hitched, tied or fastened to a fixed object by means of a rope or cord tied around the animal's neck.

Prohibition - docking

25

A person shall not cut, or permit to be cut, the solid part of the tail of a horse, commonly known as "docking", unless in the course of an accepted activity.

Prohibition - cropping of ears

26

A person shall not cut or crop, or permit to be cut or cropped, the ear of a dog, unless in the course of an accepted activity.

Animal injured or killed by motor vehicle

28

(1) A person who, while operating a bicycle or a motor vehicle, injures an animal shall, where reasonably possible, stop and provide the care and attention to the animal that is necessary to relieve its pain and help its recovery.

(2) A person who, while operating a bicycle or a motor vehicle, kills an animal, shall as soon as reasonably possible, notify an inspector of that fact and provide the information that the inspector requires.

Animal Protection Regulations, N.L.R. 35/12, ss. 8-16 (2012)

Prohibition - docking of tail of other animals

8

(1) A person shall not cut, or permit to be cut, the solid part of the tail of a dog, sheep or other animal, commonly known as "docking", unless

- (a) docking is permitted in a code or standard adopted in the Animal Protection Standards Regulations respecting the care of that animal; or*
- (b) the tail is surgically removed as a result of an injury to the animal or other medical necessity as determined by a veterinarian.*

(2) This section does not apply to horses.

Prohibition - cosmetic surgery

9

(1) Cosmetic surgery in domestic animals is prohibited unless it is permitted in a code or standard adopted in the Animal Protection Standards Regulations respecting the care of that animal.

(2) For the purpose of this section, "cosmetic surgery" means a non-therapeutic surgical procedure which alters the appearance of an animal for purely cosmetic purposes.

(3) The definition of "cosmetic surgery" in subsection (2) does not include

- (a) surgery that is considered by a veterinarian to be necessary as a result of an injury to an animal or for another medical reason concerning the health of an animal;*
- (b) an onychectomy (declawing) in a cat; and*
- (c) dewclaw removal from a dog.*

(4) This section does not apply to the docking of a tail of an animal or the cropping of the ears of a dog.

Declawing in a cat

10

(1) A person shall not conduct an onychectomy (declawing) in a cat.

(2) Notwithstanding subsection (1), a veterinarian or a person under the supervision of a veterinarian may conduct an onychectomy (declawing) in a cat.

Prohibited methods of euthanasia

11

(1) *The following chemical methods of euthanasia are prohibited:*

- (a) *the combination of embutramide, mebezonium and tetracaine when*
 - (i) *administered without sedation, or*
 - (ii) *administered other than by intravenous injection;*
- (b) *chloral hydrate;*
- (c) *nitrous oxide, when administered alone;*
- (d) *ether;*
- (e) *chloroform;*
- (f) *cyanide;*
- (g) *strychnine;*
- (h) *neuromuscular blocking agents (nicotine, magnesium sulphate, potassium chloride, and all curariform agents);*
- (i) *formalin; and*
- (j) *household products and solvents.*

(2) *The following mechanical methods of euthanasia are prohibited:*

- (a) *air embolism on a conscious animal;*
- (b) *burning;*
- (c) *exsanguination of a conscious animal;*
- (d) *decompression;*
- (e) *drowning;*
- (f) *hypothermia and rapid freezing;*
- (g) *stunning by delivering a blow to the head by manual means;*
- (h) *kill-trapping;*

- (i) *electrocution of a conscious animal; and*
- (j) *smothering.*

(3) Paragraph (2)(i) does not apply to the euthanasia of a fox that is conducted in accordance with a code or standard adopted in the Animal Protection Standards Regulations .

Euthanasia - accepted activity

12

(1) Euthanasia of a dog or cat is an accepted activity where it is conducted in accordance with one of the following methods:

- (a) by injection or another method under the supervision or authority of a veterinarian;*
- (b) by shooting with a firearm;*
- (c) by means of a captive bolt gun; or*
- (d) by inhalation of compressed carbon monoxide, from which substantially all impurities have been removed, in a controlled gas chamber.*

(2) Euthanasia of an animal is an accepted activity where it is conducted in accordance with a code or standard adopted in the Animal Protection Standards Regulations and applied to the animal that is the subject of that code or standard.

(3) Euthanasia of an animal is an accepted activity where it is conducted in accordance with the latest edition of the Guidelines on Euthanasia , published by the American Veterinary Medical Association.

(4) Where there is a conflict between a code or standard respecting euthanasia that is adopted in a regulation made under the Act and section 11 , section 11 shall prevail.

(5) Notwithstanding subsection (4), where an animal is being used for research, teaching or testing and there is a conflict between a code or standard published by the Canadian Council on Animal Care that is adopted in the Animal Protection Standards Regulations and subsection (1), (2) or (3) or section 11 , the code or standard published by the Canadian Council on Animal Care shall prevail.

Euthanasia – Critical situation

13

Notwithstanding sections 11 and 12 , euthanasia through delivery by manual means of a blow to the head of an animal is an accepted activity where

- (a) *it is conducted in a critical situation where an animal is in such distress that it cannot be relieved of its distress or live without undue suffering, a veterinarian is unavailable and there is no other reasonable way to relieve the animal of its distress; or*
- (b) *it is conducted under paragraph 35(1)(a) or section 37 of the Act.*

Euthanasia - other legislation

14

Notwithstanding sections 11 and 12 , euthanasia is an accepted activity where it is conducted in accordance with another regulation made under the Act, the Meat Inspection Act , the Wild Life Act , or regulations or orders made under those Acts.

Prohibited practices and procedures

15

(1) A practice or procedure that is prohibited in a code or standard that is adopted in the Animal Protection Standards Regulations is a prohibited practice or procedure.

(2) Subsection (1) applies to a person who is required to comply with a code or standard adopted in the Animal Protection Standards Regulations , or the requirements in the code or standard .

Prohibition - sale from pet retail stores

16

(1) An owner or operator of a pet retail store shall not sell a dog unless the dog was bred and raised in an establishment that meets the requirements in A Code of Practice for Canadian Kennel Operations , to the extent that they are adopted in the Animal Protection Standards Regulations , or equivalent standards.

(2) An owner or operator of a pet retail store shall not sell a cat unless the cat was bred and raised in an establishment that meets the requirements in A Code of Practice for Canadian Cattery Operations , to the extent that they are adopted in the Animal Protection Standards Regulations , or equivalent standards.

(3) Subsection (1) does not apply where a pet retail store provides space to an animal shelter that meets the requirements in A Code of Practice for Canadian Kennel Operations and the Basic Standards for Dog Care, to the extent that they are adopted and prescribed respectively in the Animal Protection Standards Regulations , and the animal shelter arranges an adoption of a dog.

(4) Subsection (2) does not apply where a pet retail store provides space to an animal shelter that meets the requirements in A Code of Practice for Canadian Cattery Operations , to the extent that they are adopted in the Animal Protection Standards Regulations , and the animal shelter arranges an adoption of a cat.

2. PENALTIES

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, s. 76 (2012)

Offence

76

(1) A person who contravenes this Act or the regulations or an order, licence or permit made under this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000 and, in default of payment, to a term of imprisonment not exceeding 6 months, or to both a fine and imprisonment.

(2) Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence is also guilty of the offence and on conviction is liable to the same penalty to which a person is liable for the offence, whether or not the corporation has been prosecuted or convicted.

(3) Notwithstanding subsection (1), where, with respect to an offence under this Act or the regulations, a proceeding is commenced by means of a ticket in accordance with the Provincial Offences Act, a person found guilty of that offence is liable on summary conviction to a fine that may be established by the regulations made under section 66.

(4) Where a person is convicted of an offence, a Provincial Court judge may, in addition to another penalty, make an order

- (a) prohibiting that convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (2), from having the ownership, care or custody of an animal, or of a number or type of animal specified in the order, for a period of time specified in the order, including in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever; and
- (b) directing that an animal in the ownership or care of that convicted person be delivered into the custody of the SPCA or the minister.

(5) Where a person is convicted of an offence, the court making the conviction may, in addition to another penalty, make an order that the convicted person pay the whole or a part of the cost of providing transportation, food, care, shelter or treatment provided to, and where applicable, management or destruction of, an animal that was the subject of the offence of which the convicted person was convicted.

3. EXEMPTIONS

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, ss. 2, 18, 19, 21-26, 28 (2012)

Interpretation

2

(1) In this Act

- (a) "animal" means a non-human vertebrate;
- (b) "animal by-product" means a part of an animal or its carcass that is extracted, collected or otherwise obtained from an animal or from its carcass for purposes that are not a principal intention of growing or raising the animal and includes,
 - (i) blood and its components, and anything containing those things or derived from those things,
 - (ii) antlers, bones, bristles, feathers, flesh, hair, hides, skins, hoofs, horns, offal and anything containing those things or derived from those things, and
 - (iii) another thing prescribed by regulation as an animal by-product,but does not include a thing prescribed by regulation as excluded;
- (c) "animal product" means a material derived from an animal or its carcass where a principal intention of growing or raising the animal is for the consumption or other use by humans of the material, whether for food, fibre, fuel, pharmacological or medical purposes, and includes,
 - (i) reproductive animal material, including ova, embryos and semen,
 - (ii) meat,
 - (iii) milk, cream, butter and cheese,
 - (iv) eggs,
 - (v) honey,
 - (vi) fibre derived from animals,
 - (vii) hides, skins and pelts, and
 - (viii) another thing prescribed by regulation as an animal product,but does not include a thing prescribed by regulation as excluded;

- (d) "Chief Veterinary Officer" means the official employed in the department as the chief veterinary officer;
- (e) "companion animal" means
 - (i) a dog,
 - (ii) a cat, or
 - (iii) an animal kept for companionship or bred or raised for sale for companionship and not for an agricultural purpose,
 and excludes
 - (iv) livestock,
 - (v) wild life and fish as defined in the Wild Life Act , and
 - (vi) an animal that may be prescribed by regulation as excluded;
- (f) "department" means the department presided over by the minister;
- (g) "distress" means the state of being in need of proper care, water, food or shelter, being sick, injured, abused or in pain or of suffering undue or unnecessary hardship, privation or neglect;
- (h) "dog" means a dog, male or female, and includes an animal which is a cross between a dog and a wolf;
- (i) "fur bearing animal" means a beaver, chinchilla, fisher, fox, lynx, marten, mink, muskrat, rabbit, squirrel, weasel, wolf or other animal that may be prescribed by regulation to be a fur bearing animal;
- (j) "hazard" includes
 - (i) a danger or threat to life or property, or
 - (ii) an impediment to the operation of a motor vehicle;
- (k) "injured" and "injuries" includes injuries caused by wounding, worrying, terrifying or pursuing;
- (l) "inspector" means an inspector appointed or designated under section 68 ;
- (m) "licence" means a licence issued under section 55 ;
- (n) "licensee" means a person who is the holder of a licence issued under section 55 ;
- (o) "livestock" means horses, cattle, sheep, goats, swine, poultry, llamas, alpacas, bison, and fur bearing animals raised in captivity and another domesticated animal that may be prescribed by regulation to be livestock;

- (p) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (q) "motor vehicle" means a vehicle propelled, driven or controlled other than by muscular power and includes a vehicle running on fixed rails;
- (r) "municipal authority" means a local government designated by the minister under section 77 ;
- (s) "nuisance" as applied to animals means an animal which has
 - (i) been shown to have trespassed upon land enclosed by a fence by breaking, going under or jumping over the fence, or
 - (ii) caused a hazard to people, other animals, livestock operations, property or to the safe operation of motor vehicles;
- (t) "owner" when used with reference to an animal includes a person who has custody, charge or possession of that animal or who is the owner of property, a house, premises or part of a premises where an animal is kept or permitted to live or remain;
- (u) "peace officer" means a member of the Royal Newfoundland Constabulary or a member of the Royal Canadian Mounted Police;
- (v) "place" includes commercial or private premises, land, a container, vehicle, vessel or aircraft;
- (w) "poultry" means chicken, turkeys, ducks, geese, guinea fowl, pigeons and other domesticated birds;
- (x) "SPCA" means the corporation known as The Society for the Prevention of Cruelty to Animals (Newfoundland and Labrador);
- (y) "staff veterinarian" means a veterinarian employed in that capacity by the department;
- (z) "veterinarian" means a veterinarian licensed under the *Veterinary Medical Act, 2004* ; and
- (aa) "warrant" includes a telewarrant.

(2) For the purpose of this Act, an accepted activity is an activity designated by the regulations as an accepted activity.

(3) Notwithstanding subsection (2), an activity is an accepted activity only where it is carried out in a manner that is consistent with the regulations.

(4) *Parts II, III, IV and V do not apply to fish or wild life as defined in the Wild Life Act .*

* * * * *

Prohibition

18

(1) A person shall not cause an animal to be in distress.

(2) An owner of an animal shall not permit the animal to be in distress.

(3) Subsections (1) and (2) do not apply in respect of a class of animals prescribed by regulation, or animals living in circumstances or conditions prescribed by regulation, or where the distress is a result of a treatment, process or condition that occurs in the course of an accepted activity.

Prohibition - docking

25

A person shall not cut, or permit to be cut, the solid part of the tail of a horse, commonly known as "docking", unless in the course of an accepted activity.

Prohibition - cropping of ears

26

A person shall not cut or crop, or permit to be cut or cropped, the ear of a dog, unless in the course of an accepted activity.

Animal Protection Regulations, N.L.R. 35/12, ss. 6, 7, 12-14 (2012)

Accepted activity - docking of horse's tail

6

An accepted activity in which the solid part of the tail of a horse may be cut or permitted to be cut is the surgical removal of the tail by a veterinarian as a result of an injury to the horse or other medical necessity as determined by a veterinarian.

Accepted activity - cropping of dog's ears

7

An accepted activity in which the ear of a dog may be cut or cropped or permitted to be cut or cropped is the surgical removal of part of a dog's ear by a veterinarian as a result of an injury to the dog or other medical necessity as determined by a veterinarian.

Euthanasia - accepted activity

12

(1) Euthanasia of a dog or cat is an accepted activity where it is conducted in accordance with one of the following methods:

- (a) by injection or another method under the supervision or authority of a veterinarian;*
- (b) by shooting with a firearm;*
- (c) by means of a captive bolt gun; or*
- (d) by inhalation of compressed carbon monoxide, from which substantially all impurities have been removed, in a controlled gas chamber.*

(2) Euthanasia of an animal is an accepted activity where it is conducted in accordance with a code or standard adopted in the Animal Protection Standards Regulations and applied to the animal that is the subject of that code or standard.

(3) Euthanasia of an animal is an accepted activity where it is conducted in accordance with the latest edition of the Guidelines on Euthanasia , published by the American Veterinary Medical Association.

(4) Where there is a conflict between a code or standard respecting euthanasia that is adopted in a regulation made under the Act and section 11 , section 11 shall prevail.

(5) Notwithstanding subsection (4), where an animal is being used for research, teaching or testing and there is a conflict between a code or standard published by the Canadian Council on Animal Care that is adopted in the Animal Protection Standards Regulations and subsection (1), (2) or (3) or section 11 , the code or standard published by the Canadian Council on Animal Care shall prevail.

Euthanasia – Critical situation

13

Notwithstanding sections 11 and 12 , euthanasia through delivery by manual means of a blow to the head of an animal is an accepted activity where

- (a) it is conducted in a critical situation where an animal is in such distress that it cannot be relieved of its distress or live without undue suffering, a veterinarian is*

unavailable and there is no other reasonable way to relieve the animal of its distress; or

(b) it is conducted under paragraph 35(1)(a) or section 37 of the Act.

Euthanasia - other legislation

14

Notwithstanding sections 11 and 12 , euthanasia is an accepted activity where it is conducted in accordance with another regulation made under the Act, the Meat Inspection Act , the Wild Life Act , or regulations or orders made under those Acts.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

Family Violence Protection Act, S.N.L. 2005, c. F-3.1, ss. 2, 3, 6 (2012)

Definitions

2

In this Act

- (a) "applicant" means a person referred to in subsection 4(1)
- (i) who applies for an emergency protection order,
 - (ii) on whose behalf an application is made for an emergency protection order, or
 - (iii) who is granted an emergency protection order;
- (b) "child" means a child born within or outside marriage who ordinarily or periodically resides with the applicant and is under the age of 19 years and unmarried and includes
- (i) a child adopted under the Adoption Act,
 - (ii) a child whom the applicant has demonstrated a settled intention to treat as a child of his or her family, and
 - (iii) a child in the actual care and custody of the applicant;
- (c) "clerk" includes a clerk acting under the Criminal Code and the Youth Criminal Justice Act (Canada) and a person who performs the duties of a clerk of the court;
- (d) "court" means the Provincial Court of Newfoundland and Labrador;
- (e) "emergency protection order" means an order granted under section 5;
- (f) *"family violence" means an act or omission described in subsection 3(1);*
- (g) "judge" means a Provincial Court judge appointed under the Provincial Court Act, 1991 and includes the chief judge;
- (h) "minister" means the minister appointed under the Executive Council Act to administer this Act;
- (i) "police officer" means

(i) a member of the Royal Newfoundland Constabulary, and

(ii) a member of the Royal Canadian Mounted Police Force stationed in the province;

(j) "property" means an interest, present or future, vested or contingent, in real or personal property, including companion animals, and includes property that

(i) a person owns, or

(ii) a person does not own but

(A) uses or enjoys,

(B) is available for the person's use or enjoyment,

(C) is in the person's care or custody, or

(D) is at the person's residence;

(k) "residence" means a place where the applicant normally resides and includes a residence that the applicant has vacated due to family violence;

(l) "respondent" means a person against whom an emergency protection order is sought or granted under this Act;

(m) "rules of court" means the rules made under section 29.1 of the Provincial Court Act, 1991; and

(n) "weapon" has the meaning assigned to it under section 2 of the Criminal Code and includes an explosive substance.

Family violence defined

3

(1) *For the purpose of this Act, "family violence" means one or more of the following acts or omissions committed against an applicant or a child by a respondent:*

(a) an assault that consists of the intentional application of force that causes the applicant to fear for his or her safety but does not include an act committed in self-defence;

(b) *an intentional, reckless or threatened act or omission that causes bodily harm or damage to property;*

(c) *an intentional, reckless or threatened act or omission that causes a reasonable fear of bodily harm or damage to property;*

(d) forcible physical confinement without lawful authority;

(e) sexual assault, sexual exploitation or sexual molestation, or the threat of sexual assault, sexual exploitation or sexual molestation;

(f) conduct that causes the applicant to reasonably fear for his or her safety, including following, contacting, communicating with, observing or recording a person; and

(g) the deprivation of food, clothing, medical attention, shelter, transportation or other necessities of life.

(2) Family violence may be found to have occurred for the purpose of this Act whether or not, in respect of an act or omission described in subsection (1), a charge has been laid or dismissed or withdrawn or a conviction has been or could be obtained.

(3) For the purpose of this Act, a respondent who encourages or solicits another person to do an act which, if done by the respondent, would constitute family violence against the applicant, is considered to have done that act personally.

* * * * *

Contents of emergency protection order

6

An emergency protection order may contain one or more of the following provisions that the judge considers necessary and advisable in the circumstances for the immediate protection of the applicant who is at risk of harm or the property that is at risk of damage:

(a) a provision granting the applicant exclusive occupation of the residence for a defined period, regardless of ownership;

(b) a provision directing a police officer to remove the respondent from the residence immediately or within a specified time;

(c) a provision directing a police officer to accompany a specified person, within a specified time, to the residence to supervise the removal of personal belongings in order to ensure the protection of the applicant;

(d) a provision restraining the respondent from directly or indirectly communicating with the applicant or another specified person;

(e) a provision restraining the respondent from attending at or near, or entering, a place that is attended regularly by the applicant, a relative of the applicant, a child or other specified person, including a residence, property, business, school or place of employment;

(f) a provision granting the applicant temporary possession of or control over specified personal property, including a motor vehicle, cheque book, bank card, health services card or supplementary medical insurance card, identification documents, keys, utility or household accounts or other personal effects;

(g) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property in which the applicant has an interest;

(h) a provision restraining the respondent from committing further acts of family violence;

(i) a provision prohibiting the publication of the name and address of the applicant or a child or other information that may identify the applicant or a child;

(j) a provision directing the respondent to deliver up to a police officer, until a further order is made under the Criminal Code, the Firearms Act (Canada) or another Act,

(i) a weapon that the respondent owns, possesses or controls, and

(ii) a document that authorizes the respondent to own, possess or control a weapon referred to in subparagraph (i);

(k) where an order includes a provision under paragraph (j), a provision that if the respondent does not deliver up the items referred to in the order, a police officer may, for the purpose of seizing the items, enter and search a place where the police officer has reason to believe the items are located with the assistance and force that are reasonable in the circumstances;

(l) a provision requiring the respondent to make the rent or mortgage payments arising in respect of the residence;

(m) a provision restraining the respondent from terminating the basic services of utilities servicing the residence;

(n) a provision awarding temporary care and custody of a child to the applicant or some other person; and

(o) another provision that the court considers necessary to ensure the immediate protection of the applicant or another person or property that is at risk of harm or

damage.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, ss. 15-16, 76 (2012)

Expenses

15

(1) The owner of an animal that is taken into custody under section 13 may enter into an agreement to pay to the SPCA, the municipal authority or the minister, part or all of the expenses incurred with respect to the transportation, food, care, shelter or veterinary medical treatment provided for the animal and for its destruction in the event the animal is destroyed.

(2) The SPCA, the municipal authority or the minister may, before delivering the animal to its owner, require the owner to pay the expenses referred to in subsection (1).

(3) The SPCA, the municipal authority or the minister may recover the expenses referred to in subsection (1) in a court in an action in debt where the owner does not

(a) enter into an agreement under subsection (1); or

(b) make a payment in accordance with an agreement under subsection (1) within the time that is set out in that agreement.

(4) An animal may be kept in the custody of an inspector, the SPCA, a municipal authority or the minister where the owner of the animal is indebted for the expenses referred to in this section.

(5) This section does not apply where a Provincial Court order has been issued under section 16 .

Provincial Court order

16

(1) A Provincial Court judge may, upon an application by an inspector, the SPCA, a municipal authority or the minister, make an order authorizing the keeping in care of an animal that is in custody under section 13 where,

(a) the owner of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection 13 (1), with an offence under this Act or the regulations or under another law in force in the province pertaining to the welfare of or prevention of cruelty to animals; and

(b) the Provincial Court judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that the animal may be subject to distress if returned to its owner.

(2) An order made under subsection (1) may be made on such conditions as the Provincial Court

judge considers appropriate, including providing for the return of the animal to its owner where

- (a) the inspector or other person who has custody of the animal is satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner and, where applicable, the owner has complied with an order issued under this section respecting the payment of expenses; or
- (b) the charge is disposed of, the owner of the animal is acquitted or the charge is dismissed or withdrawn.

(3) Where a Provincial Court judge makes an order under subsection (1), he or she may also order that the whole or a part of the cost of providing transportation, food, care, shelter or treatment to the animal be paid by the owner to the person who is authorized by the order to keep the animal in his or her care.

(4) A person who is authorized to keep an animal in his or her care or the owner of the animal may apply to a Provincial Court judge to vary an order made under subsection (3) and the Provincial Court judge may make such order as he or she considers appropriate.

(5) The owner of the animal may apply to a Provincial Court judge to order the return of an animal that is the subject of an order made under subsection (1) and, where satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner, the Provincial Court judge may order the return of the animal to its owner, subject to conditions that the Provincial Court judge considers appropriate.

* * * * *

Offence

76

(1) A person who contravenes this Act or the regulations or an order, licence or permit made under this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000 and, in default of payment, to a term of imprisonment not exceeding 6 months, or to both a fine and imprisonment.

(2) Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence is also guilty of the offence and on conviction is liable to the same penalty to which a person is liable for the offence, whether or not the corporation has been prosecuted or convicted.

(3) Notwithstanding subsection (1), where, with respect to an offence under this Act or the regulations, a proceeding is commenced by means of a ticket in accordance with the *Provincial Offences Act*, a person found guilty of that offence is liable on summary conviction to a fine that may be established by the regulations made under section 66.

(4) Where a person is convicted of an offence, a Provincial Court judge may, in addition to another penalty, make an order

- (a) prohibiting that convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (2), from having the ownership, care or custody of an animal, or of a number or type of animal specified in the order, for a period of time specified in the order, including in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever; and
- (b) directing that an animal in the ownership or care of that convicted person be delivered into the custody of the SPCA or the minister.

(5) Where a person is convicted of an offence, the court making the conviction may, in addition to another penalty, make an order that the convicted person pay the whole or a part of the cost of providing transportation, food, care, shelter or treatment provided to, and where applicable, management or destruction of, an animal that was the subject of the offence of which the convicted person was convicted.

7. SEIZURE / ON-SITE SUPERVISION

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, ss. 9-13, 73 (2012)

Viewing of animal

9

(1) An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress,

- (a) enter onto land on which a dwelling house is located;*
- (b) request a person in the dwelling house to produce the animal for inspection; and*
- (c) where the animal is produced, view the animal or conduct an examination of the animal as may be required to determine whether or not it is in distress.*

(2) An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress, enter onto land to view the animal or conduct an examination of the animal as may be required to determine whether or not it is in distress.

(3) Subsection (2) does not apply to land which an inspector is authorized to inspect under section 10 .

(4) An inspector may provide an animal that is found in distress with food, water, care or treatment in addition to another action that the inspector is authorized to take.

Inspection of commercial place

10

(1) Where it is reasonably necessary for the purpose of ensuring compliance with this Part and the regulations, an inspector may without a warrant enter a place where animals are kept for sale, hire, exhibition, sport, boarding, breeding, training, or other commercial purpose that may be prescribed by regulation, during normal business hours, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary.

(2) The power to enter and inspect a place under this section shall not be exercised to enter and inspect a place that is a dwelling house except with the consent of the occupant or with a warrant.

(3) An inspector conducting an inspection under this section may

- (a) enter and inspect the place and examine the animals found there to ascertain whether there is an animal in distress; and*

- (b) *provide an animal that is found in distress with food, water, care or treatment, in addition to another action that the inspector is authorized to take.*

Investigation

11

(1) Where an inspector has reasonable grounds to believe that there is on, at or in a place an animal in distress or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection, the inspector may, with a warrant issued under subsection (2), enter the place and investigate, inquire into and examine anything in respect of which the investigation is being made.

(2) A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that there is on, at or in a place an animal in distress or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection, may issue a warrant authorizing one or more inspectors, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and subject to the conditions that may be specified in the warrant, to

- (a) search for, examine and seize anything that will provide evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection;*
- (b) examine the animals found there to ascertain whether there is an animal in distress;*
- (c) provide an animal that is found in distress with food, water, care or treatment, in addition to another action that the inspector is authorized to take;*
- (d) take samples from or perform or arrange for tests on living or dead animals, animal products, animal by-products, waste materials, bedding, food, drugs or other things related to an animal on, at or in the place, and may exhume or cause to be exhumed the carcass of an animal to do these things;*
- (e) take photographs or make videos, notes or other recordings;*
- (f) make copies of a record or thing;*
- (g) use or cause to be used a data processing system at the place to examine data contained in or available to the data processing system;*
- (h) reproduce a record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying;*

- (i) *use or cause to be used copying equipment at the place to make copies of a record, book of account or other document; and*
- (j) *make those inquiries that the inspector considers necessary.*

(3) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that there is on, at or in a place an animal in distress, or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection.

(4) Notwithstanding subsection (1), an inspector may exercise the powers referred to in this section without a warrant, in a place other than a dwelling-house, where

- (a) the conditions for obtaining a warrant exist but because of exigent circumstances it would not be practical to obtain the warrant; or*
- (b) the inspector has reasonable grounds to believe that there is on, at or in the place, an animal in immediate distress.*

(5) For the purpose of subsection (4),

- (a) "exigent circumstances" include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence; and*
- (b) "immediate distress," means distress that requires immediate intervention in order to alleviate suffering or to preserve the animal's life.*

Seek owner's cooperation

12

(1) Where an inspector has reasonable grounds to believe that an animal is in distress, the inspector may endeavour to obtain the owner's cooperation to relieve the animal's distress.

(2) Subsection (1) applies where the owner of the animal is present or may be found promptly.

(3) An inspector may take reasonable steps to find the owner of the animal.

Taking custody of animal

13

(1) Where an inspector is lawfully present in a place in accordance with this Act or with a warrant, or in a public place, the inspector may take custody of an animal in distress, in the following circumstances:

- (a) a veterinarian has examined the animal and has advised the inspector in writing that the health and well-being of the animal necessitates its removal;*

(b) *the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner of the animal is not present and cannot be found promptly; or*

(c) *an owner does not promptly take reasonable steps to relieve the animal's distress.*

(2) *An inspector who takes custody of an animal in distress under subsection (1) may*

(a) *retain custody of the animal;*

(b) *arrange for necessary transportation, food, care, shelter and veterinary medical treatment;*

(c) *deliver the animal into the custody of the SPCA;*

(d) *deliver the animal into the custody of the minister with the approval of the Chief Veterinary Officer; or*

(e) *deliver the animal into the custody of a municipal authority, upon the approval of an inspector who is an employee of the municipal authority.*

(3) *An inspector who has taken custody of an animal under subsection (1) shall immediately serve written notice of his or her action on the owner of the animal, or take reasonable steps to find the owner and inform him or her of the action taken.*

(4) *A person, to whom custody of the animal may have been delivered under subsection (2), shall take reasonable steps to find the owner of the animal in the event the owner has not been found under subsection (3).*

* * * * *

Custody in law

73

(1) *Where there is authority given under this Act to seize or take custody of an animal, or to deliver custody of an animal to another person, and an inspector is of the opinion that it is not practicable to seize, take or deliver custody in fact of the animal, the inspector shall be considered to have seized or taken custody in law of the animal or have delivered custody in law of the animal to the other person.*

(2) *Where an inspector has taken or delivered custody in law of an animal, but the animal has been left in the custody of the owner,*

(a) *the inspector may require that the animal be detained by the owner, with the owner to be responsible for the standards of care that may be prescribed by regulation and to provide food, water, care, and treatment to the animal; or*

(b) *the custodian in law may provide food, care, shelter and veterinary medical treatment to animals in his or her care, may make management decisions with respect to the animals, and may carry out those activities authorized under this Act.*

(3) *The owner who continues to have custody in fact of the animal does not have a greater right to the animal than does the custodian in law, and the ability of the owner who continues to have custody in fact of the animal to deal with the animal, animal products, animal by-products, bedding, food, cages, equipment, supplies or other things related to the animal, is limited by the actions taken by the custodian in law under paragraph (2)(b).*

(4) *Where a person is a custodian in law of an animal under paragraph (2)(b), that person shall conspicuously post on the premises where the animal is situate, a notice stating that he or she has custody in law of the animal in accordance with that paragraph.*

(5) *A person who is not a custodian in law under subsection (1) and who purports to or who sells, bargains or assigns ownership of or otherwise alienates title to or an interest in an animal referred to in subsection (1), commits an offence.*

(6) *The custodian in law of an animal under subsection (1) may, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, enter without a warrant a place where the animal is located.*

(7) *Notwithstanding subsection (6), a custodian in law may not re-enter a dwelling house for the purpose of carrying out actions authorized under this section, unless*

(a) *that was a condition of the original warrant for entry into the dwelling house; or*

(b) *the occupant of the dwelling-house has consented to the re-entry.*

(8) *A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that custody in law but not in fact has been taken of an animal and an inspector has been prevented from entering a place, or that an inspector shall be prevented from entering a place under this section, may issue a warrant authorizing one or more inspectors named in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and carry out the activities authorized under this section, subject to the conditions that may be specified in the warrant.*

(9) *An application for a telewarrant under section 69 shall include the inspector's grounds for believing that custody in law but not in fact has been taken of an animal and an inspector has been prevented from entering a place or that an inspector shall be prevented from entering a place for a purpose outlined in this section.*

Animal Protection Regulations, N.L.R. 35/12, s. 4 (2012)

Inspection

4

(1) An animal shelter may be subject to an inspection under section 10 of the Act.

(2) A fur farm may be subject to an inspection under section 10 of the Act.

8. FORFEITURE / POSSESSION

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, ss. 14, 16, 17, 76 (2012)

Destruction of an animal

14

(1) An inspector may destroy an animal where the animal is in such distress that it cannot,

- (a) in the opinion of a veterinarian;*
- (b) in the unanimous opinion of an inspector and 2 other persons; or*
- (c) in the opinion of a inspector alone in a critical situation where a veterinarian or 2 other persons are not available to the inspector,*

be relieved of its distress or live without undue suffering.

(2) The inspector or the person to whom custody of the animal has been delivered under paragraph 13 (2)(c), (d) or (e), shall take reasonable steps to find the owner of the animal and advise him or her of the animal's destruction.

Provincial Court order

16

(1) A Provincial Court judge may, upon an application by an inspector, the SPCA, a municipal authority or the minister, make an order authorizing the keeping in care of an animal that is in custody under section 13 where,

- (a) the owner of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection 13 (1), with an offence under this Act or the regulations or under another law in force in the province pertaining to the welfare of or prevention of cruelty to animals; and*
- (b) the Provincial Court judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that the animal may be subject to distress if returned to its owner.*

(2) An order made under subsection (1) may be made on such conditions as the Provincial Court judge considers appropriate, including providing for the return of the animal to its owner where

- (a) the inspector or other person who has custody of the animal is satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner and, where applicable, the owner has complied with an order issued under this section respecting the payment of expenses; or*

(b) *the charge is disposed of, the owner of the animal is acquitted or the charge is dismissed or withdrawn.*

(3) Where a Provincial Court judge makes an order under subsection (1), he or she may also order that the whole or a part of the cost of providing transportation, food, care, shelter or treatment to the animal be paid by the owner to the person who is authorized by the order to keep the animal in his or her care.

(4) *A person who is authorized to keep an animal in his or her care or the owner of the animal may apply to a Provincial Court judge to vary an order made under subsection (3) and the Provincial Court judge may make such order as he or she considers appropriate.*

(5) *The owner of the animal may apply to a Provincial Court judge to order the return of an animal that is the subject of an order made under subsection (1) and, where satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner, the Provincial Court judge may order the return of the animal to its owner, subject to conditions that the Provincial Court judge considers appropriate.*

Disposal

17

(1) *Where an animal is delivered into the custody of the SPCA, a municipal authority or the minister,*

(a) *under section 76 ;*

(b) *by its owner; or*

(c) *where the owner of the animal is not found by the SPCA, the municipal authority or the minister,*

the animal may be destroyed or disposed of within the time and in the manner prescribed by regulation.

(2) *Where an animal is sold or given away under subsection (1), the animal becomes the property of the person to whom it is sold or given.*

(3) Money paid to the SPCA or a municipal authority under this Part or a Provincial Court order is the property of the SPCA or the municipal authority to which it was paid.

(4) Money paid to the minister under this Act or a Provincial Court order shall be paid into the Consolidated Revenue Fund.

(5) *Notwithstanding subsections (1) and (2), where not fewer than 2 inspectors or a staff veterinarian agree that it is not practicable to sell or give an animal to the SPCA, a municipal authority or the minister or to another person, those inspectors or the staff veterinarian may immediately destroy the animal.*

Offence

76

(1) A person who contravenes this Act or the regulations or an order, licence or permit made under this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000 and, in default of payment, to a term of imprisonment not exceeding 6 months, or to both a fine and imprisonment.

(2) Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence is also guilty of the offence and on conviction is liable to the same penalty to which a person is liable for the offence, whether or not the corporation has been prosecuted or convicted.

(3) Notwithstanding subsection (1), where, with respect to an offence under this Act or the regulations, a proceeding is commenced by means of a ticket in accordance with the *Provincial Offences Act*, a person found guilty of that offence is liable on summary conviction to a fine that may be established by the regulations made under section 66.

(4) Where a person is convicted of an offence, a Provincial Court judge may, in addition to another penalty, make an order

- (a) prohibiting that convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (2), from having the ownership, care or custody of an animal, or of a number or type of animal specified in the order, for a period of time specified in the order, including in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever; and*
- (b) directing that an animal in the ownership or care of that convicted person be delivered into the custody of the SPCA or the minister.*

(5) Where a person is convicted of an offence, the court making the conviction may, in addition to another penalty, make an order that the convicted person pay the whole or a part of the cost of providing transportation, food, care, shelter or treatment provided to, and where applicable, management or destruction of, an animal that was the subject of the offence of which the convicted person was convicted.

Animal Protection Regulations, N.L.R. 35/12, s. 5 (2012)

Destruction or disposal

5

(1) An animal may be destroyed or disposed of under paragraph 17(1)(c) of the Act, where an owner of the animal is not found within 5 days after the animal is delivered into the custody of the SPCA, a municipal authority or the minister.

(2) Euthanasia of an animal under section 17 of the Act shall be conducted in accordance with these regulations.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, ss. 27, 78 (2012)

Veterinarian to report

27

(1) A veterinarian who, in the course of practising veterinary medicine, believes on reasonable grounds that an animal has been or is subject to neglect or abuse that compromises the animal's health, other than in the course of an accepted activity, shall promptly

- (a) report his or her belief to the Chief Veterinary Officer; and*
- (b) provide information respecting the matter that the Chief Veterinary Officer requests.*

(2) An action shall not lie against a person for reporting anything under subsection (1) unless the reporting is done falsely and maliciously.

* * * * *

Immunity

78

An action does not lie or shall not be instituted against an inspector, a veterinarian, the SPCA or an officer or employee of the SPCA, a municipal authority or councillor, an officer or employee of a municipal authority, the Crown, the minister or an employee of the province, or other person employed or engaged in the administration or enforcement of this Act, for loss or damage suffered by reason of anything done in good faith, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by that person, under or in the exercise or supposed exercise of a power conferred by this Act or the regulations or in carrying out or supposed carrying out of a duty imposed by this Act or the regulations.

11. LAW ENFORCEMENT POLICIES

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, ss. 68, 70, 71, 74, 75 (2012)

Inspector

68

(1) The minister may designate or appoint persons or a class of persons to be inspectors for the purpose of this Act, or a specific Part or provision of this Act, on such terms and conditions as the minister may specify, including the species of animal, the geographic area, and the term for which persons may be inspectors.

(2) For the purpose of this Act, the following are considered to have been designated under subsection (1):

- (a) the Chief Veterinary Officer and staff veterinarians of the department; and
- (b) a member of the Royal Newfoundland Constabulary or of the Royal Canadian Mounted Police.

(3) The minister may designate a person or a class of persons from another department of government under subsection (1), with the approval of the minister of that other department.

(4) The minister may, in writing, authorize a person employed in the department, or a person or class of persons designated or appointed under subsection (1), to perform and exercise those duties and powers conferred by this Act upon the minister that may, in the opinion of the minister, be conveniently performed or exercised by that person and the performance or exercise of those duties or powers by that authorized person or class of persons shall be of the same effect as if they were performed or exercised by the minister.

(5) The minister shall sign and issue a certificate of appointment to an inspector.

(6) A certificate issued to an inspector under subsection (5) is admissible in evidence, in the absence of evidence to the contrary, as proof of the designation of the inspector or his or her appointment under this Act without proof of the designation, signature or appointment by the minister.

(7) An inspector carrying out an action authorized under this Act shall, when requested to do so, produce

- (a) his or her certificate of appointment; or
- (b) in the case of an employee of the province, his or her identification card issued by the province that references the appointment as inspector under this Act.

(8) Subsections (5), (6) and (7) do not apply to peace officers.

(9) The minister may revoke or suspend the appointment or designation of a person as an inspector.

(10) The minister may specify in the terms and conditions of the inspector's appointment, the places where an inspector is authorized to carry out an inspection or an investigation under this Act.

(11) A person who is appointed or designated as an inspector may act only in accordance with the terms and conditions of his or her appointment.

(12) An inspector may in the course of carrying out an investigation or inspection under this Act ascertain the identity of an individual.

(13) An inspector may carry out inspection and investigation powers prescribed by regulation.

(14) An inspector may commence proceedings by the laying of an information, or by proceeding in the form of a ticket issued in accordance with the Provincial Offences Act and regulations, in respect of a violation of this Act or the regulations.

(15) An inspector may not carry out the prosecution of an offence under this Act.

Use of force

70

An inspector shall use no more force than is reasonably required to enter or inspect a place.

Detain a vehicle

71

A peace officer may detain a vehicle for the purpose of performing an inspection or an investigation authorized under this Act.

Assistance to inspector

74

The person occupying or in charge of a place entered by an inspector, and a person found in that place, shall

- (a) give the inspector, the veterinarian or other person who accompanies the inspector all reasonable assistance to enable the carrying out of an action authorized under this Act;*
- (b) furnish the inspector with the record or thing that the inspector may reasonably require to carry out an action authorized under this Act; and*

- (c) *produce an animal that the inspector requires for viewing or examination.*

Obstruction prohibited

75

A person shall not

- (a) *obstruct or interfere with an inspector or other person engaged in the execution of this Act or the regulations; or*
- (b) *provide an inspector or other person engaged in the execution of this Act with false information.*

12. SEXUAL ASSAULT

13. FIGHTING

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1, s.20 (2012)

Prohibition - fighting

20

A person shall not

- (a) maintain or keep an animal for the purpose of fighting; or*
- (b) allow or permit an animal to be used for the purpose of fighting.*

14. REFERENCED STATUTES

Animal Health and Protection Act, S.N.L. 2010, c. A-9.1 (2012)

Short title

1

This Act may be cited as the *Animal Health and Protection Act* .

Interpretation

2

(1) In this Act

- (a) "animal" means a non-human vertebrate;
- (b) "animal by-product" means a part of an animal or its carcass that is extracted, collected or otherwise obtained from an animal or from its carcass for purposes that are not a principal intention of growing or raising the animal and includes,
 - (i) blood and its components, and anything containing those things or derived from those things,
 - (ii) antlers, bones, bristles, feathers, flesh, hair, hides, skins, hoofs, horns, offal and anything containing those things or derived from those things, and
 - (iii) another thing prescribed by regulation as an animal by-product,

but does not include a thing prescribed by regulation as excluded;

- (c) "animal product" means a material derived from an animal or its carcass where a principal intention of growing or raising the animal is for the consumption or other use by humans of the material, whether for food, fibre, fuel, pharmacological or medical purposes, and includes,
 - (i) reproductive animal material, including ova, embryos and semen,
 - (ii) meat,
 - (iii) milk, cream, butter and cheese,
 - (iv) eggs,
 - (v) honey,

- (vi) fibre derived from animals,
 - (vii) hides, skins and pelts, and
 - (viii) another thing prescribed by regulation as an animal product,
- but does not include a thing prescribed by regulation as excluded;
- (d) "Chief Veterinary Officer" means the official employed in the department as the chief veterinary officer;
 - (e) "*companion animal*" means
 - (i) a dog,
 - (ii) a cat, or
 - (iii) an animal kept for companionship or bred or raised for sale for companionship and not for an agricultural purpose,

and excludes

 - (iv) livestock,
 - (v) wild life and fish as defined in the Wild Life Act , and
 - (vi) an animal that may be prescribed by regulation as excluded;
 - (f) "department" means the department presided over by the minister;
 - (g) "*distress*" means the state of being in need of proper care, water, food or shelter, being sick, injured, abused or in pain or of suffering undue or unnecessary hardship, privation or neglect;
 - (h) "*dog*" means a dog, male or female, and includes an animal which is a cross between a dog and a wolf;
 - (i) "*fur bearing animal*" means a beaver, chinchilla, fisher, fox, lynx, marten, mink, muskrat, rabbit, squirrel, weasel, wolf or other animal that may be prescribed by regulation to be a fur bearing animal;
 - (j) "hazard" includes
 - (i) a danger or threat to life or property, or
 - (ii) an impediment to the operation of a motor vehicle;
 - (k) "injured" and "injuries" includes injuries caused by wounding, worrying, terrifying or pursuing;
 - (l) "inspector" means an inspector appointed or designated under section 68 ;

- (m) "licence" means a licence issued under section 55 ;
- (n) "licensee" means a person who is the holder of a licence issued under section 55 ;
- (o) "livestock" means horses, cattle, sheep, goats, swine, poultry, llamas, alpacas, bison, and fur bearing animals raised in captivity and another domesticated animal that may be prescribed by regulation to be livestock;
- (p) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (q) "motor vehicle" means a vehicle propelled, driven or controlled other than by muscular power and includes a vehicle running on fixed rails;
- (r) "municipal authority" means a local government designated by the minister under section 77 ;
- (s) "nuisance" as applied to animals means an animal which has
 - (i) been shown to have trespassed upon land enclosed by a fence by breaking, going under or jumping over the fence, or
 - (ii) caused a hazard to people, other animals, livestock operations, property or to the safe operation of motor vehicles;
- (t) "owner" when used with reference to an animal includes a person who has custody, charge or possession of that animal or who is the owner of property, a house, premises or part of a premises where an animal is kept or permitted to live or remain;
- (u) "peace officer" means a member of the Royal Newfoundland Constabulary or a member of the Royal Canadian Mounted Police;
- (v) "place" includes commercial or private premises, land, a container, vehicle, vessel or aircraft;
- (w) "poultry" means chicken, turkeys, ducks, geese, guinea fowl, pigeons and other domesticated birds;
- (x) "SPCA" means the corporation known as The Society for the Prevention of Cruelty to Animals (Newfoundland and Labrador);
- (y) "staff veterinarian" means a veterinarian employed in that capacity by the department;
- (z) "veterinarian" means a veterinarian licensed under the *Veterinary Medical Act, 2004* ; and
- (aa) "warrant" includes a telewarrant.

(2) For the purpose of this Act, an accepted activity is an activity designated by the regulations as an accepted activity.

(3) Notwithstanding subsection (2), an activity is an accepted activity only where it is carried out in a manner that is consistent with the regulations.

(4) Parts II, III, IV and V do not apply to fish or wild life as defined in the *Wild Life Act* .

Labrador Inuit rights

3

(1) This Act and regulations made under this Act shall be read and applied in conjunction with the *Labrador Inuit Land Claims Agreement Act* and, where a provision of this Act or the regulations made under this Act is inconsistent or conflicts with a provision, term or condition of the *Labrador Inuit Land Claims Agreement Act* , the provision, term or condition of the *Labrador Inuit Land Claims Agreement Act* shall have precedence over the provision of this Act or a regulation made under this Act.

(2) Where under this Act or regulations made under this Act, the minister issues a licence, he or she may add to that licence terms or conditions that the licensee must comply with in order to ensure compliance with the terms and conditions of the *Labrador Inuit Land Claims Agreement Act* .

* * * * *

PART II -- ANIMAL PROTECTION

Viewing of animal

9

(1) An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress,

- (a) enter onto land on which a dwelling house is located;
- (b) request a person in the dwelling house to produce the animal for inspection; and
- (c) where the animal is produced, view the animal or conduct an examination of the animal as may be required to determine whether or not it is in distress.

(2) An inspector may at a reasonable time and where the inspector reasonably believes it is necessary to determine whether an animal is in distress, enter onto land to view the animal or conduct an examination of the animal as may be required to determine whether or not it is in distress.

(3) Subsection (2) does not apply to land which an inspector is authorized to inspect under section 10 .

(4) An inspector may provide an animal that is found in distress with food, water, care or treatment in addition to another action that the inspector is authorized to take.

Inspection of commercial place

10

(1) Where it is reasonably necessary for the purpose of ensuring compliance with this Part and the regulations, an inspector may without a warrant enter a place where animals are kept for sale, hire, exhibition, sport, boarding, breeding, training, or other commercial purpose that may be prescribed by regulation, during normal business hours, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary.

(2) The power to enter and inspect a place under this section shall not be exercised to enter and inspect a place that is a dwelling house except with the consent of the occupant or with a warrant.

(3) An inspector conducting an inspection under this section may

- (a) enter and inspect the place and examine the animals found there to ascertain whether there is an animal in distress; and
- (b) provide an animal that is found in distress with food, water, care or treatment, in addition to another action that the inspector is authorized to take.

Investigation

11

(1) Where an inspector has reasonable grounds to believe that there is on, at or in a place an animal in distress or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection, the inspector may, with a warrant issued under subsection (2), enter the place and investigate, inquire into and examine anything in respect of which the investigation is being made.

(2) A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that there is on, at or in a place an animal in distress or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection, may issue a warrant authorizing one or more inspectors, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and subject to the conditions that may be specified in the warrant, to

- (a) search for, examine and seize anything that will provide evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection;

- (b) examine the animals found there to ascertain whether there is an animal in distress;
- (c) provide an animal that is found in distress with food, water, care or treatment, in addition to another action that the inspector is authorized to take;
- (d) take samples from or perform or arrange for tests on living or dead animals, animal products, animal by-products, waste materials, bedding, food, drugs or other things related to an animal on, at or in the place, and may exhume or cause to be exhumed the carcass of an animal to do these things;
- (e) take photographs or make videos, notes or other recordings;
- (f) make copies of a record or thing;
- (g) use or cause to be used a data processing system at the place to examine data contained in or available to the data processing system;
- (h) reproduce a record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying;
- (i) use or cause to be used copying equipment at the place to make copies of a record, book of account or other document; and
- (j) make those inquiries that the inspector considers necessary.

(3) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that there is on, at or in a place an animal in distress, or anything that will give evidence with respect to a contravention of this Part, or the regulations or an order made under this Act or the regulations relating to animal protection.

(4) Notwithstanding subsection (1), an inspector may exercise the powers referred to in this section without a warrant, in a place other than a dwelling-house, where

- (a) the conditions for obtaining a warrant exist but because of exigent circumstances it would not be practical to obtain the warrant; or
- (b) the inspector has reasonable grounds to believe that there is on, at or in the place, an animal in immediate distress.

(5) For the purpose of subsection (4),

- (a) "exigent circumstances" include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence; and
- (b) "immediate distress," means distress that requires immediate intervention in order to alleviate suffering or to preserve the animal's life.

Seek owner's cooperation

12

- (1) Where an inspector has reasonable grounds to believe that an animal is in distress, the inspector may endeavour to obtain the owner's cooperation to relieve the animal's distress.
- (2) Subsection (1) applies where the owner of the animal is present or may be found promptly.
- (3) An inspector may take reasonable steps to find the owner of the animal.

Taking custody of animal

13

- (1) Where an inspector is lawfully present in a place in accordance with this Act or with a warrant, or in a public place, the inspector may take custody of an animal in distress, in the following circumstances:
 - (a) a veterinarian has examined the animal and has advised the inspector in writing that the health and well-being of the animal necessitates its removal;
 - (b) the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner of the animal is not present and cannot be found promptly; or
 - (c) an owner does not promptly take reasonable steps to relieve the animal's distress.
- (2) An inspector who takes custody of an animal in distress under subsection (1) may
 - (a) retain custody of the animal;
 - (b) arrange for necessary transportation, food, care, shelter and veterinary medical treatment;
 - (c) deliver the animal into the custody of the SPCA;
 - (d) deliver the animal into the custody of the minister with the approval of the Chief Veterinary Officer; or
 - (e) deliver the animal into the custody of a municipal authority, upon the approval of an inspector who is an employee of the municipal authority.
- (3) An inspector who has taken custody of an animal under subsection (1) shall immediately serve written notice of his or her action on the owner of the animal, or take reasonable steps to find the owner and inform him or her of the action taken.
- (4) A person, to whom custody of the animal may have been delivered under subsection (2), shall take reasonable steps to find the owner of the animal in the event the owner has not been

found under subsection (3).

Destruction of an animal

14

(1) An inspector may destroy an animal where the animal is in such distress that it cannot,

- (a) in the opinion of a veterinarian;
- (b) in the unanimous opinion of an inspector and 2 other persons; or
- (c) in the opinion of a inspector alone in a critical situation where a veterinarian or 2 other persons are not available to the inspector,

be relieved of its distress or live without undue suffering.

(2) The inspector or the person to whom custody of the animal has been delivered under paragraph 13 (2)(c), (d) or (e), shall take reasonable steps to find the owner of the animal and advise him or her of the animal's destruction.

Expenses

15

(1) The owner of an animal that is taken into custody under section 13 may enter into an agreement to pay to the SPCA, the municipal authority or the minister, part or all of the expenses incurred with respect to the transportation, food, care, shelter or veterinary medical treatment provided for the animal and for its destruction in the event the animal is destroyed.

(2) The SPCA, the municipal authority or the minister may, before delivering the animal to its owner, require the owner to pay the expenses referred to in subsection (1).

(3) The SPCA, the municipal authority or the minister may recover the expenses referred to in subsection (1) in a court in an action in debt where the owner does not

- (a) enter into an agreement under subsection (1); or
- (b) make a payment in accordance with an agreement under subsection (1) within the time that is set out in that agreement.

(4) An animal may be kept in the custody of an inspector, the SPCA, a municipal authority or the minister where the owner of the animal is indebted for the expenses referred to in this section.

(5) This section does not apply where a Provincial Court order has been issued under section 16 .

Provincial Court order

(1) A Provincial Court judge may, upon an application by an inspector, the SPCA, a municipal authority or the minister, make an order authorizing the keeping in care of an animal that is in custody under section 13 where,

- (a) the owner of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection 13 (1), with an offence under this Act or the regulations or under another law in force in the province pertaining to the welfare of or prevention of cruelty to animals; and
- (b) the Provincial Court judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that the animal may be subject to distress if returned to its owner.

(2) An order made under subsection (1) may be made on such conditions as the Provincial Court judge considers appropriate, including providing for the return of the animal to its owner where

- (a) the inspector or other person who has custody of the animal is satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner and, where applicable, the owner has complied with an order issued under this section respecting the payment of expenses; or
- (b) the charge is disposed of, the owner of the animal is acquitted or the charge is dismissed or withdrawn.

(3) Where a Provincial Court judge makes an order under subsection (1), he or she may also order that the whole or a part of the cost of providing transportation, food, care, shelter or treatment to the animal be paid by the owner to the person who is authorized by the order to keep the animal in his or her care.

(4) A person who is authorized to keep an animal in his or her care or the owner of the animal may apply to a Provincial Court judge to vary an order made under subsection (3) and the Provincial Court judge may make such order as he or she considers appropriate.

(5) The owner of the animal may apply to a Provincial Court judge to order the return of an animal that is the subject of an order made under subsection (1) and, where satisfied that there are no longer reasonable grounds to believe that the animal may be subject to distress if returned to its owner, the Provincial Court judge may order the return of the animal to its owner, subject to conditions that the Provincial Court judge considers appropriate.

Disposal

(1) Where an animal is delivered into the custody of the SPCA, a municipal authority or the minister,

- (a) under section 76 ;
- (b) by its owner; or
- (c) where the owner of the animal is not found by the SPCA, the municipal authority or the minister,

the animal may be destroyed or disposed of within the time and in the manner prescribed by regulation.

(2) Where an animal is sold or given away under subsection (1), the animal becomes the property of the person to whom it is sold or given.

(3) Money paid to the SPCA or a municipal authority under this Part or a Provincial Court order is the property of the SPCA or the municipal authority to which it was paid.

(4) Money paid to the minister under this Act or a Provincial Court order shall be paid into the Consolidated Revenue Fund.

(5) Notwithstanding subsections (1) and (2), where not fewer than 2 inspectors or a staff veterinarian agree that it is not practicable to sell or give an animal to the SPCA, a municipal authority or the minister or to another person, those inspectors or the staff veterinarian may immediately destroy the animal.

Prohibition

18

(1) A person shall not cause an animal to be in distress.

(2) An owner of an animal shall not permit the animal to be in distress.

(3) Subsections (1) and (2) do not apply in respect of a class of animals prescribed by regulation, or animals living in circumstances or conditions prescribed by regulation, or where the distress is a result of a treatment, process or condition that occurs in the course of an accepted activity.

Law enforcement animal

19

A person shall not harm or cause harm to an animal used for law enforcement purposes.

Prohibition - fighting

20

A person shall not

- (a) maintain or keep an animal for the purpose of fighting; or
- (b) allow or permit an animal to be used for the purpose of fighting.

Transport of animal in vehicle

21

A person shall not transport, or permit to be transported, an animal in a motor vehicle outside the passenger compartment unless the animal is confined or secured in a body harness, or by means of another fastening, in a manner which is adequate to prevent the animal from falling off the vehicle or otherwise injuring itself or causing a hazard to other vehicles.

Prohibition - enclosed space

22

A person shall not confine, or permit to be confined, an animal in an enclosed space, including a motor vehicle, without adequate ventilation.

Prohibition - trunk

23

(1) A person shall not transport, or permit to be transported, an animal in the trunk of a motor vehicle.

(2) Subsection (1) does not apply to a station wagon, passenger van, sport-utility vehicle, hatchback or another type of motor vehicle that does not have a trunk.

Prohibition

24

(1) A person shall not permit an animal to be hitched, tied or fastened to a fixed object where a choke collar or choke chain forms part of the securing apparatus.

(2) A person shall not permit an animal to be hitched, tied or fastened to a fixed object by means of a rope or cord tied around the animal's neck.

Prohibition - docking

25

A person shall not cut, or permit to be cut, the solid part of the tail of a horse, commonly known as "docking", unless in the course of an accepted activity.

Prohibition - cropping of ears

26

A person shall not cut or crop, or permit to be cut or cropped, the ear of a dog, unless in the course of an accepted activity.

Veterinarian to report

27

(1) A veterinarian who, in the course of practising veterinary medicine, believes on reasonable grounds that an animal has been or is subject to neglect or abuse that compromises the animal's health, other than in the course of an accepted activity, shall promptly

- (a) report his or her belief to the Chief Veterinary Officer; and
- (b) provide information respecting the matter that the Chief Veterinary Officer requests.

(2) An action shall not lie against a person for reporting anything under subsection (1) unless the reporting is done falsely and maliciously.

Animal injured or killed by motor vehicle

28

(1) A person who, while operating a bicycle or a motor vehicle, injures an animal shall, where reasonably possible, stop and provide the care and attention to the animal that is necessary to relieve its pain and help its recovery.

(2) A person who, while operating a bicycle or a motor vehicle, kills an animal, shall as soon as reasonably possible, notify an inspector of that fact and provide the information that the inspector requires.

Regulations

29

(1) The Lieutenant-Governor in Council may make regulations

- (a) prescribing a place where animals are kept for a commercial purpose and for which an inspection may be conducted under section 10 ;
- (b) prescribing an accepted activity and the manner in which it is to be carried out;

- (c) prescribing classes of animals, circumstances and conditions for the purpose of section 18 ; and
- (d) to give effect to the purpose of this Part.

(2) The minister may make regulations for the purpose of this Part prescribing

- (a) standards of design, construction and maintenance of the places in which animals are kept;
- (b) standards of care of animals; and
- (c) standards for activities involving animals.

Conflict

30

(1) Where there is a conflict between this Part and Part I of this Act, Part I prevails.

(2) Where there is a conflict between this Part and Part III of this Act, Part III prevails.

(3) Where this Part or the regulations conflict with the *City of St. John's Act* , the *City of Corner Brook Act* , the *City of Mount Pearl Act* , or the *Municipalities Act, 1999* or regulations or bylaws made under those Acts, the provisions of this Part shall prevail.

* * * * *

PART VI -- REGULATIONS AND FEES

Regulations and fees

66

(1) The Lieutenant-Governor in Council may make regulations

- (a) prescribing who may be an inspector for the purpose of this Act or for a provision or Part of this Act, and the terms and conditions of appointment;
- (b) prescribing a municipal authority whose employees may be appointed as inspectors for the purpose of this Act or for a provision or Part of this Act;
- (c) prescribing a municipal authority which may be given duties for the administration of this Act, or a Part or provision of this Act;
- (d) prescribing investigation and inspection powers of inspectors under this Act or a Part or provision of this Act;

- (e) respecting the detention and return or other disposition of a thing seized under a warrant or under a provision of this Act;
- (f) respecting the manner of taking an animal into custody;
- (g) defining what constitutes taking reasonable steps to find and notify the owner of an animal;
- (h) prescribing the manner and time periods for the detention, isolation, quarantine, sale and other disposal of animals;
- (i) prescribing prohibited practices or procedures;
- (j) prescribing the penalties for a breach of the regulations or of an order made under the regulations;
- (k) prescribing an animal as excluded from the definition of a companion animal;
- (l) prescribing an animal to be a fur bearing animal for the purpose of this Act and the regulations;
- (m) prescribing an animal to be livestock for the purpose of this Act and the regulations;
- (n) exempting classes of persons or animals or places or areas from the application of this Act, or a provision of this Act, or the regulations;
- (o) respecting the contravention of sections of this Act and the regulations for which proceedings may be commenced in the form of a ticket under the *Provincial Offences Act* and regulations and the fines associated with those offences;
- (p) to define a word for the purpose of a Part or the Act where the word is not defined in the Part or the Act;
- (q) to vary a definition for the purpose of a Part or the Act; and
- (r) generally, to give effect to the purpose of this Act.

(2) The minister may set the fees and expenses and establish the forms which are required for the purpose and administration of this Act.

(3) Regulations may be made under this Act with retroactive effect.

(4) The Lieutenant-Governor in Council or the minister may in addition to or instead of regulations made under this Act adopt by reference and constitute as regulations the whole or a part or provisions of a code adopted or standard fixed, with or without modification, and including amendments to the code or standard of an organization acceptable to the Lieutenant-Governor in Council or the minister.

(5) A certificate of the minister that a document is a copy of a code or standard referred to in

subsection (4) or an extract from, a modification of, or an amendment to, a code or standard is without further proof presumptive evidence of the content of that code, standard, extract or amendment.

Prohibited practices and procedures

67

A person shall not engage in a practice or procedure specified as prohibited in the regulations.

PART VII -- INSPECTOR'S POWERS

Inspector

68

(1) The minister may designate or appoint persons or a class of persons to be inspectors for the purpose of this Act, or a specific Part or provision of this Act, on such terms and conditions as the minister may specify, including the species of animal, the geographic area, and the term for which persons may be inspectors.

(2) For the purpose of this Act, the following are considered to have been designated under subsection (1):

- (a) the Chief Veterinary Officer and staff veterinarians of the department; and
- (b) a member of the Royal Newfoundland Constabulary or of the Royal Canadian Mounted Police.

(3) The minister may designate a person or a class of persons from another department of government under subsection (1), with the approval of the minister of that other department.

(4) The minister may, in writing, authorize a person employed in the department, or a person or class of persons designated or appointed under subsection (1), to perform and exercise those duties and powers conferred by this Act upon the minister that may, in the opinion of the minister, be conveniently performed or exercised by that person and the performance or exercise of those duties or powers by that authorized person or class of persons shall be of the same effect as if they were performed or exercised by the minister.

(5) The minister shall sign and issue a certificate of appointment to an inspector.

(6) A certificate issued to an inspector under subsection (5) is admissible in evidence, in the absence of evidence to the contrary, as proof of the designation of the inspector or his or her appointment under this Act without proof of the designation, signature or appointment by the minister.

(7) An inspector carrying out an action authorized under this Act shall, when requested to do so, produce

- (a) his or her certificate of appointment; or
- (b) in the case of an employee of the province, his or her identification card issued by the province that references the appointment as inspector under this Act.

(8) Subsections (5), (6) and (7) do not apply to peace officers.

(9) The minister may revoke or suspend the appointment or designation of a person as an inspector.

(10) The minister may specify in the terms and conditions of the inspector's appointment, the places where an inspector is authorized to carry out an inspection or an investigation under this Act.

(11) A person who is appointed or designated as an inspector may act only in accordance with the terms and conditions of his or her appointment.

(12) An inspector may in the course of carrying out an investigation or inspection under this Act ascertain the identity of an individual.

(13) An inspector may carry out inspection and investigation powers prescribed by regulation.

(14) An inspector may commence proceedings by the laying of an information, or by proceeding in the form of a ticket issued in accordance with the *Provincial Offences Act* and regulations, in respect of a violation of this Act or the regulations.

(15) An inspector may not carry out the prosecution of an offence under this Act.

Telewarrant

69

(1) Where in the opinion of an inspector it would not be practical to appear before a Provincial Court judge to apply for a warrant, the inspector may make the application by telephone, facsimile or other means of telecommunication.

(2) Where the information on which an application for a warrant is submitted by telephone, facsimile or other means of telecommunication, the information shall be given under oath or affirmation, and the oath or affirmation may be administered by telephone, facsimile or other means of telecommunication.

(3) The information submitted by telephone, facsimile or other means of communication shall include a statement of the circumstances that make it impracticable for the inspector to appear personally before a Provincial Court judge.

(4) The information submitted by telephone, facsimile or other means of communication shall

also include a statement of the inspector's grounds respecting the purpose for which a warrant is requested under a section of this Act.

(5) The sworn or affirmed information submitted by telephone, facsimile or other means of telecommunication by an inspector shall specify the name of the person giving evidence, the facts ascertained and the manner and location in which evidence was received, and a record of that information shall be filed by the Provincial Court judge with the clerk of the court over which the judge presides.

Use of force

70

An inspector shall use no more force than is reasonably required to enter or inspect a place.

Detain a vehicle

71

A peace officer may detain a vehicle for the purpose of performing an inspection or an investigation authorized under this Act.

Seizure and forfeiture

72

(1) An inspector who is lawfully in a place under this Act or a warrant issued under this Act or in a public place, may seize an animal or thing that is produced to the inspector or that is in plain view where the inspector has reasonable grounds to believe that the animal or thing produced or in plain view

- (a) would afford evidence of an offence under this Act or the regulations; or
- (b) was used or is being used in connection with the commission of an offence under this Act or the regulations, and that the seizure is necessary to prevent the continuation or repetition of the offence.

(2) This section does not apply to an animal in distress that has been taken into custody under Part II or an animal that is at large or a nuisance animal that has been taken into custody under Part III.

(3) An animal or thing that is seized under subsection (1) or under section 6 , 11 or 43 may be

- (a) retained in the custody of the inspector;
- (b) delivered into the custody of the person that the minister directs; or

- (c) left in the custody of the owner.
- (4) Where an animal or thing is left in the custody of the owner, the owner shall safeguard it until
- (a) an inspector removes the animal or thing;
 - (b) the owner is notified by an inspector that the investigation has concluded and that a charge will not be laid; or
 - (c) where a charge is laid and disposed of, the owner is acquitted or the charge is dismissed or withdrawn.
- (5) Where an animal is left in the custody of the owner, section 73 applies in addition to this section.
- (6) An animal or thing that is seized and not forfeited under this section, or the proceeds of a sale under subsection (9), shall be returned or paid to the person from whom it was seized where,
- (a) a charge is not laid at the conclusion of the investigation; or
 - (b) a charge is laid but, when the charge is disposed of, the owner of the animal is acquitted or the charge is dismissed or withdrawn.
- (7) Where a person is convicted of an offence and a fine is imposed,
- (a) an animal or thing seized in connection with the offence and not forfeited to the Crown under this section may not be returned until the fine has been paid;
 - (b) the proceeds realized from a sale under subsection (9), less the expenses involved in the sale, may be applied in or towards the payment of the fine; and
 - (c) where payment of the fine is in default, a Provincial Court judge may order that the thing be forfeited to the Crown.
- (8) Where the identity of the person from whom an animal or thing is seized has not been ascertained within 30 days after the seizure, the animal or thing is forfeited to the Crown.
- (9) A dead or living animal, animal product, animal by-product, waste material, food or other thing that is seized may be disposed of or sold by the Crown where, in the opinion of the person who has custody of it, it is likely to spoil or it cannot be properly maintained in custody.
- (10) An animal or thing that is sold under subsection (9) shall be sold in the manner and for the price that may be determined by the minister.
- (11) The proceeds of a sale referred to in subsection (9) shall be paid into the Consolidated Revenue Fund, and where a Provincial Court judge has not ordered that the proceeds of the sale be forfeited, then they may be paid to the person entitled to them.
- (12) Where a person is convicted of an offence under this Act or the regulations, a Provincial Court judge may order that

- (a) an animal or thing seized in connection with the offence, or the whole or a part of the proceeds of a sale under subsection (9) be forfeited to the Crown; and
- (b) the person pay to the minister an amount of compensation for the reasonable costs, expenses and charges incurred by the minister or an inspector in the management, seizure, storage and disposition of an animal or thing seized in connection with the offence.

(13) Subsection (12) applies in addition to another penalty.

(14) Where a court orders a person to pay an amount of money as compensation under paragraph (12)(b), the amount may be recovered by the minister from the person to whom the order was directed as a debt owed to the Crown and the minister shall notify the person against whom the order was made of his or her determination of the amount of recoverable costs, expenses and charges.

(15) An animal or thing forfeited to the Crown shall be disposed of as the Minister directs.

(16) Where an animal or thing is forfeited to the Crown following a conviction under this Act, a person who claims an interest in the animal or thing and who is not the person from whom the animal or thing was seized, or the person who was convicted, may apply to a Provincial Court judge, not later than 30 days after the animal or thing is forfeited, on notice to the minister and to the person from whom the animal or thing was seized, for an order directing that the animal or thing be released to the person claiming the interest.

(17) An order made under subsection (16) is subject to such conditions as may be imposed by the Provincial Court judge.

Custody in law

73

(1) Where there is authority given under this Act to seize or take custody of an animal, or to deliver custody of an animal to another person, and an inspector is of the opinion that it is not practicable to seize, take or deliver custody in fact of the animal, the inspector shall be considered to have seized or taken custody in law of the animal or have delivered custody in law of the animal to the other person.

(2) Where an inspector has taken or delivered custody in law of an animal, but the animal has been left in the custody of the owner,

- (a) the inspector may require that the animal be detained by the owner, with the owner to be responsible for the standards of care that may be prescribed by regulation and to provide food, water, care, and treatment to the animal; or
- (b) the custodian in law may provide food, care, shelter and veterinary medical treatment to animals in his or her care, may make management decisions with respect to the animals, and may carry out those activities authorized under this

Act.

(3) The owner who continues to have custody in fact of the animal does not have a greater right to the animal than does the custodian in law, and the ability of the owner who continues to have custody in fact of the animal to deal with the animal, animal products, animal by-products, bedding, food, cages, equipment, supplies or other things related to the animal, is limited by the actions taken by the custodian in law under paragraph (2)(b).

(4) Where a person is a custodian in law of an animal under paragraph (2)(b), that person shall conspicuously post on the premises where the animal is situated, a notice stating that he or she has custody in law of the animal in accordance with that paragraph.

(5) A person who is not a custodian in law under subsection (1) and who purports to or who sells, bargains or assigns ownership of or otherwise alienates title to or an interest in an animal referred to in subsection (1), commits an offence.

(6) The custodian in law of an animal under subsection (1) may, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, enter without a warrant a place where the animal is located.

(7) Notwithstanding subsection (6), a custodian in law may not re-enter a dwelling house for the purpose of carrying out actions authorized under this section, unless

- (a) that was a condition of the original warrant for entry into the dwelling house; or
- (b) the occupant of the dwelling-house has consented to the re-entry.

(8) A Provincial Court judge who is satisfied upon oath or affirmation that there are reasonable grounds to believe that custody in law but not in fact has been taken of an animal and an inspector has been prevented from entering a place, or that an inspector shall be prevented from entering a place under this section, may issue a warrant authorizing one or more inspectors named in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspector considers reasonably necessary, to enter the place, by force where necessary, and carry out the activities authorized under this section, subject to the conditions that may be specified in the warrant.

(9) An application for a telewarrant under section 69 shall include the inspector's grounds for believing that custody in law but not in fact has been taken of an animal and an inspector has been prevented from entering a place or that an inspector shall be prevented from entering a place for a purpose outlined in this section.

Assistance to inspector

74

The person occupying or in charge of a place entered by an inspector, and a person found in that place, shall

- (a) give the inspector, the veterinarian or other person who accompanies the inspector all reasonable assistance to enable the carrying out of an action authorized under this Act;
- (b) furnish the inspector with the record or thing that the inspector may reasonably require to carry out an action authorized under this Act; and
- (c) produce an animal that the inspector requires for viewing or examination.

Obstruction prohibited

75

A person shall not

- (a) obstruct or interfere with an inspector or other person engaged in the execution of this Act or the regulations; or
- (b) provide an inspector or other person engaged in the execution of this Act with false information.

PART VIII -- OFFENCES AND PENALTIES

Offence

76

- (1) A person who contravenes this Act or the regulations or an order, licence or permit made under this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000 and, in default of payment, to a term of imprisonment not exceeding 6 months, or to both a fine and imprisonment.
- (2) Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence is also guilty of the offence and on conviction is liable to the same penalty to which a person is liable for the offence, whether or not the corporation has been prosecuted or convicted.
- (3) Notwithstanding subsection (1), where, with respect to an offence under this Act or the regulations, a proceeding is commenced by means of a ticket in accordance with the *Provincial Offences Act*, a person found guilty of that offence is liable on summary conviction to a fine that may be established by the regulations made under section 66.
- (4) Where a person is convicted of an offence, a Provincial Court judge may, in addition to another penalty, make an order
 - (a) prohibiting that convicted person and, if the convicted person is a corporation,

the directors and officers of the corporation described in subsection (2), from having the ownership, care or custody of an animal, or of a number or type of animal specified in the order, for a period of time specified in the order, including in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever; and

- (b) directing that an animal in the ownership or care of that convicted person be delivered into the custody of the SPCA or the minister.

(5) Where a person is convicted of an offence, the court making the conviction may, in addition to another penalty, make an order that the convicted person pay the whole or a part of the cost of providing transportation, food, care, shelter or treatment provided to, and where applicable, management or destruction of, an animal that was the subject of the offence of which the convicted person was convicted.

PART IX -- GENERAL

Municipal authority

77

(1) The minister may designate a municipal authority to administer this Act, a Part or provision of this Act within the municipality on behalf of the minister.

(2) A municipal authority is authorized to act under the designation of the minister.

Immunity

78

An action does not lie or shall not be instituted against an inspector, a veterinarian, the SPCA or an officer or employee of the SPCA, a municipal authority or councillor, an officer or employee of a municipal authority, the Crown, the minister or an employee of the province, or other person employed or engaged in the administration or enforcement of this Act, for loss or damage suffered by reason of anything done in good faith, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by that person, under or in the exercise or supposed exercise of a power conferred by this Act or the regulations or in carrying out or supposed carrying out of a duty imposed by this Act or the regulations.

Certificates

79

In a prosecution under this Act or the regulations,

- (a) where an inspector has made a copy of a record or thing that has been seized,

examined or produced under this Act, the copy certified by the inspector to be a true copy is admissible in evidence, without proof of the office or signature of the certifying inspector, and has the same probative value as the original record or thing; and

- (b) a certificate or report purporting to be signed by an analyst and stating that a substance or thing, or a sample of a substance or thing, has been submitted to and analyzed or examined by that analyst, and stating the results of the analysis, is admissible in evidence in a prosecution for an offence under this Act without proof of the signature or the official character of the person appearing to have signed the certificate or the report.

Animal Protection Regulations, N.L.R. 35/12 (2012)

Short title

1

These regulations may be cited as the *Animal Protection Regulations* .

Definitions

2

In these regulations

- (a) "animal shelter" means a place that provides stray, abandoned or abused animals a sanctuary or where permanent or temporary adoptive homes are sought for animals;
- (b) "fur farm" has the same definition as in the *Fur Farming Regulations* ; and
- (c) "pet retail store" has the same definition as in the *Animal Protection Standards Regulations* .

Interpretation - codes or standards

3

(1) Where there is a reference in these regulations to a code or standard adopted in another regulation made under the Act, it is a reference to the code or standard to the extent that the code or standard is adopted in that other regulation.

(2) A provision of a code or standard that is adopted in the *Animal Protection Standards Regulations* may be considered a requirement where

- (a) the word "must," "shall" or "require" is contained in the provision of the code or standard; or
- (b) the *Animal Protection Standards Regulations* specify that a provision of a code or standard is a requirement.

Inspection

4

- (1) An animal shelter may be subject to an inspection under section 10 of the Act.
- (2) A fur farm may be subject to an inspection under section 10 of the Act.

Destruction or disposal

5

- (1) An animal may be destroyed or disposed of under paragraph 17(1)(c) of the Act, where an owner of the animal is not found within 5 days after the animal is delivered into the custody of the SPCA, a municipal authority or the minister.
- (2) Euthanasia of an animal under section 17 of the Act shall be conducted in accordance with these regulations.

Accepted activity - docking of horse's tail

6

An accepted activity in which the solid part of the tail of a horse may be cut or permitted to be cut is the surgical removal of the tail by a veterinarian as a result of an injury to the horse or other medical necessity as determined by a veterinarian.

Accepted activity - cropping of dog's ears

7

An accepted activity in which the ear of a dog may be cut or cropped or permitted to be cut or cropped is the surgical removal of part of a dog's ear by a veterinarian as a result of an injury to the dog or other medical necessity as determined by a veterinarian.

Prohibition - docking of tail of other animals

8

(1) A person shall not cut, or permit to be cut, the solid part of the tail of a dog, sheep or other animal, commonly known as "docking", unless

- (a) docking is permitted in a code or standard adopted in the *Animal Protection Standards Regulations* respecting the care of that animal; or
- (b) the tail is surgically removed as a result of an injury to the animal or other medical necessity as determined by a veterinarian.

(2) This section does not apply to horses.

Prohibition - cosmetic surgery

9

(1) Cosmetic surgery in domestic animals is prohibited unless it is permitted in a code or standard adopted in the *Animal Protection Standards Regulations* respecting the care of that animal.

(2) For the purpose of this section, "cosmetic surgery" means a non-therapeutic surgical procedure which alters the appearance of an animal for purely cosmetic purposes.

(3) The definition of "cosmetic surgery" in subsection (2) does not include

- (a) surgery that is considered by a veterinarian to be necessary as a result of an injury to an animal or for another medical reason concerning the health of an animal;
- (b) an onychectomy (declawing) in a cat; and
- (c) dewclaw removal from a dog.

(4) This section does not apply to the docking of a tail of an animal or the cropping of the ears of a dog.

Declawing in a cat

10

(1) A person shall not conduct an onychectomy (declawing) in a cat.

(2) Notwithstanding subsection (1), a veterinarian or a person under the supervision of a veterinarian may conduct an onychectomy (declawing) in a cat.

Prohibited methods of euthanasia

11

(1) The following chemical methods of euthanasia are prohibited:

- (a) the combination of embutramide, mebezonium and tetracaine when
 - (i) administered without sedation, or
 - (ii) administered other than by intravenous injection;
- (b) chloral hydrate;
- (c) nitrous oxide, when administered alone;
- (d) ether;
- (e) chloroform;
- (f) cyanide;
- (g) strychnine;
- (h) neuromuscular blocking agents (nicotine, magnesium sulphate, potassium chloride, and all curariform agents);
- (i) formalin; and
- (j) household products and solvents.

(2) The following mechanical methods of euthanasia are prohibited:

- (a) air embolism on a conscious animal;
- (b) burning;
- (c) exsanguination of a conscious animal;
- (d) decompression;
- (e) drowning;
- (f) hypothermia and rapid freezing;
- (g) stunning by delivering a blow to the head by manual means;
- (h) kill-trapping;
- (i) electrocution of a conscious animal; and
- (j) smothering.

(3) Paragraph (2)(i) does not apply to the euthanasia of a fox that is conducted in accordance with a code or standard adopted in the *Animal Protection Standards Regulations* .

Euthanasia - accepted activity

12

(1) Euthanasia of a dog or cat is an accepted activity where it is conducted in accordance with one of the following methods:

- (a) by injection or another method under the supervision or authority of a veterinarian;
- (b) by shooting with a firearm;
- (c) by means of a captive bolt gun; or
- (d) by inhalation of compressed carbon monoxide, from which substantially all impurities have been removed, in a controlled gas chamber.

(2) Euthanasia of an animal is an accepted activity where it is conducted in accordance with a code or standard adopted in the *Animal Protection Standards Regulations* and applied to the animal that is the subject of that code or standard.

(3) Euthanasia of an animal is an accepted activity where it is conducted in accordance with the latest edition of the *Guidelines on Euthanasia*, published by the American Veterinary Medical Association.

(4) Where there is a conflict between a code or standard respecting euthanasia that is adopted in a regulation made under the Act and section 11, section 11 shall prevail.

(5) Notwithstanding subsection (4), where an animal is being used for research, teaching or testing and there is a conflict between a code or standard published by the Canadian Council on Animal Care that is adopted in the *Animal Protection Standards Regulations* and subsection (1), (2) or (3) or section 11, the code or standard published by the Canadian Council on Animal Care shall prevail.

Euthanasia – Critical situation

13

Notwithstanding sections 11 and 12, euthanasia through delivery by manual means of a blow to the head of an animal is an accepted activity where

- (a) it is conducted in a critical situation where an animal is in such distress that it cannot be relieved of its distress or live without undue suffering, a veterinarian is unavailable and there is no other reasonable way to relieve the animal of its distress; or
- (b) it is conducted under paragraph 35(1)(a) or section 37 of the Act.

Euthanasia - other legislation

14

Notwithstanding sections 11 and 12 , euthanasia is an accepted activity where it is conducted in accordance with another regulation made under the Act, the *Meat Inspection Act* , the *Wild Life Act* , or regulations or orders made under those Acts.

Prohibited practices and procedures

15

(1) A practice or procedure that is prohibited in a code or standard that is adopted in the *Animal Protection Standards Regulations* is a prohibited practice or procedure.

(2) Subsection (1) applies to a person who is required to comply with a code or standard adopted in the *Animal Protection Standards Regulations*, or the requirements in the code or standard .

Prohibition - sale from pet retail stores

16

(1) An owner or operator of a pet retail store shall not sell a dog unless the dog was bred and raised in an establishment that meets the requirements in *A Code of Practice for Canadian Kennel Operations* , to the extent that they are adopted in the *Animal Protection Standards Regulations* , or equivalent standards.

(2) An owner or operator of a pet retail store shall not sell a cat unless the cat was bred and raised in an establishment that meets the requirements in *A Code of Practice for Canadian Cattery Operations* , to the extent that they are adopted in the *Animal Protection Standards Regulations* , or equivalent standards.

(3) Subsection (1) does not apply where a pet retail store provides space to an animal shelter that meets the requirements in *A Code of Practice for Canadian Kennel Operations* and the Basic Standards for Dog Care, to the extent that they are adopted and prescribed respectively in the *Animal Protection Standards Regulations* , and the animal shelter arranges an adoption of a dog.

(4) Subsection (2) does not apply where a pet retail store provides space to an animal shelter that meets the requirements in *A Code of Practice for Canadian Cattery Operations* , to the extent that they are adopted in the *Animal Protection Standards Regulations* , and the animal shelter arranges an adoption of a cat.

ANIMAL PROTECTION LAWS OF NORTH CAROLINA

1. GENERAL PROHIBITIONS
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11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains North Carolina's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

North Carolina may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NORTH CAROLINA

1. GENERAL PROHIBITIONS*	<p>(1) General cruelty to animals N.C. GEN. STAT. § 14-360(a)</p> <p>(2) Intentional deprivation of necessary sustenance N.C. GEN. STAT. § 14-360(a1)</p> <p>(3) Maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill N.C. GEN. STAT. § 14-360(b)</p> <p>(4) Instigating or promoting cruelty to animals N.C. GEN. STAT. § 14-361</p> <p>(5) Abandonment of animals N.C. GEN. STAT. § 14-361.1</p> <p>(6) Conveying animals in a cruel manner N.C. GEN. STAT. § 14-363</p>
<i>Animals Covered in Definition</i>	[Criminal & civil remedies definition]: “‘[A]nimal[s]’ includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings” N.C. GEN. STAT. §§14-360(c), 19A-1(1)

NORTH CAROLINA*continued*

<p><i>Classification of Crimes</i></p>	<p>(1), (4), (6) Class 1 misdemeanor</p> <p>(2), (3) Class H felony</p> <p>(5) Class 2 misdemeanor</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1), (4), (6) [1st offense]: 45 days imprisonment <i>and/or</i> Fine at the discretion of the court N.C. GEN. STAT. § 15A-1340.23</p> <p>(2), (3) [1st offense]: 6 months imprisonment <i>and/or</i> Fine at the discretion of the court N.C. GEN. STAT. § 15A-1340.17</p> <p>(5) [1st offense]: 30 days imprisonment <i>and/or</i> \$1,000 fine N.C. GEN. STAT. § 15A-1340.23</p>

NORTH CAROLINA*continued*

<p>3. EXEMPTIONS***</p>	<p>1, 2, 3, 4, 5, 9 N.C. GEN. STAT.§§ 14-360(c), 19A-1.1</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>N.C. GEN. STAT. § 50B-3</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Necessary expenses for costs of care of seized animals shall be a charge to the animal’s owner and a lien on the animal. N.C. GEN. STAT.§ 19A-47</p> <p>The court may order a defendant to post a bond to cover the reasonable expenses for care of an impounded animal. N.C. GEN. STAT. § 19A-70</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Conviction may result in confiscation of cruelly treated animals. N.C. GEN. STAT.§ 14-363.2</p> <p>Court may issue preliminary injunction or other order authorizing the seizure of cruelly treated animals. N.C. GEN. STAT. §§ 19A-3, 19A-46</p> <p>Court may authorize on-site supervision to ensure minimum care for animals not impounded. N.C. GEN. STAT. § 19A-70</p>

NORTH CAROLINA*continued*

8. FORFEITURE / POSSESSION^H	<p>Court may order confiscation of cruelly treated animals and has final determination of custody. N.C. GEN. STAT. § 14-363.2</p> <p>Court may issue a permanent injunction allowing the forfeiture of cruelly treated animals. N.C. GEN. STAT. § 19A-4</p> <p>If the defendant fails to post or renew a court-ordered bond for costs of care for an impounded animal, the animal is forfeited. N.C. GEN. STAT. § 19A-70</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians who, in good faith, report suspected animal cruelty, participate in an investigation or testify in an animal cruelty case are immune from civil, criminal and professional liability. N.C. GEN. STAT. § 14-360.1</p>

NORTH CAROLINA*continued*

<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Provision for the appointment of animal cruelty investigators N.C. GEN. STAT. §19A-45</p> <p>Animal cruelty investigator may be issued court order to seize cruelly treated animals. N.C. GEN. STAT. § 19A-46(a)</p> <p>Animal cruelty investigator may request a law enforcement officer or animal control officer to assist in seizing cruelly treated animals. N.C. GEN. STAT. § 19A-46(b)</p> <p>Interference with an animal cruelty investigator is a Class I misdemeanor. N.C. GEN. STAT. § 19A-48</p> <p>All animal cruelty investigators must receive annual instruction in the investigation of complaints relating to the care and treatment of animals. N.C. GEN. STAT. § 19A-49</p>
<p>12. SEXUAL ASSAULT</p>	<p>The crime against nature with a beast is a Class I felony. N.C. GEN. STAT. § 14-177</p>

NORTH CAROLINA*continued*

<p>13. FIGHTING</p>	<p>Cockfighting is a Class I felony. N.C. GEN. STAT. §14-362</p> <p>Various animal fighting activities (other than cockfighting and dogfighting or baiting) are Class 2 misdemeanors on 1st offenses and Class I felonies for subsequent offenses within three years of first conviction. N.C. GEN. STAT. §14-362.1</p> <p>Various dogfighting and baiting activities (including spectatorship) are Class H felonies. N.C. GEN. STAT. §14-362.2</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>-----</p>
<p>NOTE</p>	<p>Maliciously chaining a dog is a Class 1 misdemeanor. N.C. GEN. STAT. § 14-362.3</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

N.C. GEN. STAT. § 14-360 (2012).Cruelty to animals; construction of section.

(a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.

(a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.

(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.

(c) As used in this section, the words “torture”, “torment”, and “cruelly” include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word “intentionally” refers to an act committed knowingly and without justifiable excuse, while the word “maliciously” means an act committed intentionally and with malice or bad motive. As used in this section, the term “animal” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of “wild birds” pursuant to G.S. 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

(2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(3) Activities conducted for lawful veterinary purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.

(5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

N.C. GEN. STAT.§ 14-361 (2012).Instigating or promoting cruelty to animals.

If any person shall willfully set on foot, or instigate, or move to, carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to any animal, he shall be guilty of a Class 1 misdemeanor.

N.C. GEN. STAT.§ 14-361.1 (2012).Abandonment of animals.

Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a Class 2 misdemeanor.

N.C. GEN. STAT.§ 14-363 (2012). Conveying animals in a cruel manner.

If any person shall carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhuman manner, he shall be guilty of a Class 1 misdemeanor. Whenever an offender shall be taken into custody therefor by any officer, the officer may take charge of such vehicle or other conveyance and its contents, and deposit the same in some safe place of custody. The necessary expenses which may be incurred for taking charge of and keeping and sustaining the vehicle or other conveyance shall be a lien thereon, to be paid before the same can be lawfully reclaimed; or the said expenses, or any part thereof remaining unpaid, may be recovered by the person incurring the same of the owner of such animal in an action therefor.

N.C. GEN. STAT.§ 19A-1 (2012). Definitions.

The following definitions apply in this Article:

(1) The term “animals” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.

(2) The terms “cruelty” and “cruel treatment” include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

(3) The term “person” has the same meaning as in G.S. 12-3.

Editor’s note: North Carolina provides civil remedies for the protection and humane treatment of animals in addition to the criminal remedies that are available. It is proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. N.C. GEN. STAT.§19A-2.

2. PENALTIES

N.C. GEN. STAT. § 15A-1340.17(2012). Punishment limits for each class of offense and prior record level.

(a) Offense Classification; Default Classifications. —The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.

(b) Fines.—Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described.—The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: “C” indicates that a community punishment is authorized; “I” indicates that an intermediate punishment is authorized; “A” indicates that an active punishment is authorized; and “Life Imprisonment Without Parole” indicates that the defendant shall be imprisoned for the remainder of the prisoner’s natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts
	A 240-300	AAAAA 276-345	DISPOSITION			
			317-397	365-456	Life Imprisonment Without Parole	
Aggravated						
B1	192-240	221-276	254-317	292-365	336-420	386-483
PRESUMPTIVE						
	144-192	166-221	190-254	219-292	252-336	290-386
Mitigated						
	A 157-196	AAAAA 180-225	DISPOSITION			
			207-258	238-297	273-342	314-393
Aggravated						
B2	125-157	144-180	165-207	190-238	219-273	251-314
PRESUMPTIVE						
	94-125	108-144	124-165	143-190	164-219	189-251
Mitigated						
	A 73-92	AAAAA 83-104	DISPOSITION			
			96-120	110-138	127-159	146-182
Aggravated						
C	58-73	67-83	77-96	88-110	101-127	117-146
PRESUMPTIVE						
	44-58	50-67	58-77	66-88	76-101	87-117
Mitigated						
	A 64-80	AAAAA 73-92	DISPOSITION			
			84-105	97-121	111-139	128-160
Aggravated						
D	51-64	59-73	67-84	78-97	89-111	103-128
PRESUMPTIVE						
	38-51	44-59	51-67	58-78	67-89	77-103
Mitigated						
	I/A 25-31	I/A 29-36	A 33-41	AAA 38-48	DISPOSITION 44-55 50-63	
Aggravated						
E	20-25	23-29	26-33	30-38	35-44	40-50
PRESUMPTIVE						
	15-20	17-23	20-26	23-30	26-35	30-40
Mitigated						
	I/A 16-20	I/AI/A 19-23	A 21-27	AA 25-31	DISPOSITION 28-36 33-41	
Aggravated						
F	13-16	15-19	17-21	20-25	23-28	26-33
PRESUMPTIVE						
	10-13	11-15	13-17	15-20	17-23	20-26
Mitigated						
	I/A 13-16	I/AI/AI/A 14-18	A 17-21	A 19-24	DISPOSITION 22-27 25-31	
Aggravated						
G	10-13	12-14	13-17	15-19	17-22	20-25
PRESUMPTIVE						
	8-10	9-12	10-13	11-15	13-17	15-20
Mitigated						

	C/I/A	I/A	I/AI/AI/A	A	DISPOSITION	
	6-8	8-10	10-12	11-14	15-19	20-25
Aggravated						
H	5-6	6-8	8-10	9-11	12-15	16-20
PRESUMPTIVE						
	4-5	4-6	6-8	7-9	9-12	12-16
Mitigated						
	C	C/I	I	I/A	I/AI/A	DISPOSITION
	6-8	6-86-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10
PRESUMPTIVE						
	3-4	3-4	4-5	4-6	5-7	6-8
Mitigated						

(d) Maximum Sentences Specified for Class F through Class I Felonies.— Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-13	4-14	5-15	6-17	7-18	8-19	9-20	10-21
11-23	12-24	13-25	14-26	15-27	16-29	17-30	18-31
19-32	20-33	21-35	22-36	23-37	24-38	25-39	26-41
27-42	28-43	29-44	30-45	31-47	32-48	33-49	34-50
35-51	36-53	37-54	38-55	39-56	40-57	41-59	42-60
43-61	44-62	45-63	46-65	47-66	48-67	49-68	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months.— Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-30	16-32	17-33	18-34	19-35	20-36	21-38	22-39
23-40	24-41	25-42	26-44	27-45	28-46	29-47	30-48
31-50	32-51	33-52	34-53	35-54	36-56	37-57	38-58
39-59	40-60	41-62	42-63	43-64	44-65	45-66	46-68
47-69	48-70	49-71	50-72	51-74	52-75	53-76	54-77
55-78	56-80	57-81	58-82	59-83	60-84	61-86	62-87
63-88	64-89	65-90	66-91	67-93	68-94	69-95	70-96
71-98	72-99	73-100	74-101	75-102	76-104	77-105	78-106
79-107	80-108	81-110	82-111	83-112	84-113	85-114	86-115
87-117	88-118	89-119	90-120	91-122	92-123	93-124	94-125
95-126	96-128	97-129	98-130	99-131	100-132	101-134	102-135
103-136	104-137	105-138	106-140	107-141	108-142	109-143	110-144
111-146	112-147	113-148	114-149	115-150	116-152	117-153	118-154
119-155	120-156	121-158	122-159	123-160	124-161	125-162	126-164
127-165	128-166	129-167	130-168	131-170	132-171	133-172	134-173
135-174	136-176	137-177	138-178	139-179	140-180	141-182	142-183
143-184	144-185	145-186	146-188	147-189	148-190	149-191	150-192
151-194	152-195	153-196	154-197	155-198	156-200	157-201	158-202

159-203	160-204	161-206	162-207	163-208	164-209	165-210	166-212
167-213	168-214	169-215	170-216	171-218	172-219	173-220	174-221
175-222	176-224	177-225	178-226	179-227	180-228	181-230	182-231
183-232	184-233	185-234	186-236	187-237	188-238	189-239	190-240
191-242	192-243	193-244	194-245	195-246	196-248	197-249	198-250
199-251	200-252	201-254	202-255	203-256	204-257	205-258	206-260
207-261	208-262	209-263	210-264	211-266	212-267	213-268	214-269
215-270	216-271	217-273	218-274	219-275	220-276	221-278	222-279
223-280	224-281	225-282	226-284	227-285	228-286	229-287	230-288
231-290	232-291	233-292	234-293	235-294	236-296	237-297	238-298
239-299	240-300	241-302	242-303	243-304	244-305	245-306	246-308
247-309	248-310	249-311	250-312	251-314	252-315	253-316	254-317
255-318	256-320	257-321	258-322	259-323	260-324	261-326	262-327
263-328	264-329	265-330	266-332	267-333	268-334	269-335	270-336
271-338	272-339	273-340	274-341	275-342	276-344	277-345	278-346
279-347	280-348	281-350	282-351	283-352	284-353	285-354	286-356
287-357	288-358	289-359	290-360	291-362	292-363	293-364	294-365
295-366	296-368	297-369	298-370	299-371	300-372	301-374	302-375
303-376	304-377	305-378	306-380	307-381	308-382	309-383	310-384
311-386	312-387	313-388	314-389	315-390	316-392	317-393	318-394
319-395	320-396	321-398	322-399	323-400	324-401	325-402	326-404
327-405	328-406	329-407	330-408	331-410	332-411	333-412	334-413
335-414	336-416	337-417	338-418	339-419			

(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More.— Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 12 additional months.

(f) Maximum Sentences Specified for Class B1 Through Class E Sex Offenses.— Unless provided otherwise in a statute establishing a punishment for a specific crime, for offenders sentenced for a Class B1 through E felony that is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 60 additional months.

N.C. GEN. STAT. § 15A-1340.23 (2012). Punishment limits for each class of offense and prior conviction level.

(a) *Offense Classification; Default Classifications.*—The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines.— *Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars (\$200.00) for a Class 3 misdemeanor and one thousand dollars (\$1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.*

(c) *Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described.— Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:*

(1) *A sentence disposition or dispositions: “C” indicates that a community punishment is authorized; “I” indicates that an intermediate punishment is authorized; and “A” indicates that an active punishment is authorized; and*

(2) *A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.*

MISDEMEANOR OFFENSE CLASS	PRIOR CONVICTION LEVELS		
	LEVEL I ----- No Prior Convictions	LEVEL II ----- One to Four Prior Convictions	LEVEL III ----- Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	1-15 days C/I	1-20 days C/I/A.

3. EXEMPTIONS

N.C. GEN. STAT. § 14-360 (2012).Cruelty to animals; construction of section.

(a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.

(a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.

(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.

(c) As used in this section, the words “torture”, “torment”, and “cruelly” include or refer to any act, omission, or neglect causing or permitting *unjustifiable pain, suffering, or death*. As used in this section, the word “intentionally” refers to an act committed knowingly and without justifiable excuse, while the word “maliciously” means an act committed intentionally and with malice or bad motive. As used in this section, the term “animal” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. *However, this section shall not apply to the following activities:*

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of “wild birds” pursuant to G.S. 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

(2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(3) Activities conducted for lawful veterinary purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.

(5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

Editor's note: The following exemptions apply to North Carolina's civil remedies for the protection of animals (Chapter 19A, Article 1):

N.C. GEN. STAT. § 19A-1.1 (2012). Exemptions.

This Article shall not apply to the following:

- (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this Article applies to those birds exempted by the Wildlife Resources Commission from its definition of "wild birds" pursuant to G.S. 113-129(15a).*
- (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.*
- (3) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.*
- (4) Activities conducted for lawful veterinary purposes.*
- (5) The lawful destruction of any animal for the purposes of protecting the public, other animals, or the public health.*
- (6) Lawful activities for sport.*

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

N.C. GEN. STAT. § 50B-3 (2012). Relief.

(a) If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. A protective order may include any of the following types of relief:

- (1) Direct a party to refrain from such acts.
- (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household.
- (3) Require a party to provide a spouse and his or her children suitable alternate housing.
- (4) Award temporary custody of minor children and establish temporary visitation rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process.
- (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it.
- (6) Order either party to make payments for the support of a minor child as required by law.
- (7) Order either party to make payments for the support of a spouse as required by law.
- (8) *Provide for possession of personal property of the parties, including the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.*
- (9) *Order a party to refrain from doing any or all of the following:*
 - a. Threatening, abusing, or following the other party.
 - b. Harassing the other party, including by telephone, visiting the home or workplace, or other means.
 - b1. Cruelly treating or abusing an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.*
 - c. Otherwise interfering with the other party.

(10) Award attorney's fees to either party.

(11) Prohibit a party from purchasing a firearm for a time fixed in the order.

(12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence Commission.

(13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.

(a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:

(1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.

(2) For purposes of determining custody and visitation issues, the court shall consider:

a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.

b. Whether the minor child was present during acts of domestic violence.

c. Whether a weapon was used or threatened to be used during any act of domestic violence.

d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.

e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.

f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.

g. Whether there is a pattern of abuse against an aggrieved party or the minor child.

h. Whether a party has abused or endangered the minor child during visitation.

i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.

j. Whether a party has improperly concealed or detained the minor child.

k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.

(3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:

a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.

b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.

c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.

d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.

e. Ordering the noncustodial parent to pay the costs of supervised visitation.

f. Prohibiting overnight visitation.

g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.

h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.

i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

(4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter.

(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed two years, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides. If the defendant is ordered to stay away from the child's school, a copy of the order shall be delivered promptly by the sheriff to the principal or, in the principal's absence, the assistant principal or the principal's designee of each school named in the order.

(c1) When a protective order issued under this Chapter is filed with the Clerk of Superior Court, the clerk shall provide to the applicant an informational sheet developed by the Administrative Office of the Courts that includes:

- (1) Domestic violence agencies and services.
- (2) Sexual assault agencies and services.
- (3) Victims' compensation services.
- (4) Legal aid services.
- (5) Address confidentiality services.
- (6) An explanation of the plaintiff's right to apply for a permit under G.S. 14-415.15.

(d) The sheriff of the county where a domestic violence order is entered shall provide for prompt entry of the order into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications, terminations, renewals, and dismissals of the order shall also be promptly entered.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

N.C. GEN. STAT. § 19A-47 (2012). Care of seized animal.

The investigator must take any animal he seizes directly to some safe and secure place and provide suitable care for it. The necessary expenses of caring for seized animals, including necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal to be enforced as provided by G.S. 44A-4.

N.C. GEN. STAT. § 19A-70 (2012). Care of animal subjected to illegal treatment.

(a) In every arrest under any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of an animal, the operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal pending the disposition of the litigation. For purposes of this section, "reasonable expenses" includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.

(b) Upon receipt of a petition, the court shall set a hearing on the petition to determine the need to care for and provide for the animal pending the disposition of the litigation. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges or the complaint or summons by which a civil action was initiated. If the defendant is in a local detention facility at the time the petition is filed, the operator of the animal shelter shall also provide notice to the custodian of the detention facility.

(c) The court shall set the amount of funds necessary for 30 days' care after taking into consideration all of the facts and circumstances of the case, including the need to care for and provide for the animal pending the disposition of the litigation, the recommendation of the operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant's ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.

Any order for funds to be deposited pursuant to this section shall state that if the operator of the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of the affiant's knowledge, the case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the case is resolved.

(d) If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the litigation is resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited by operation of law. If funds have been deposited in accordance with this section, the operator of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.

In the event of forfeiture, the animal shelter may determine whether the animal is suitable for adoption and whether adoption can be arranged for the animal. The animal may not be adopted by the defendant or by any person residing in the defendant's household. If the adopted animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the shelter shall humanely euthanize the animal.

(e) The deposit of funds shall not prevent the animal shelter from disposing of the animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.

(f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any animal that is the basis of the charges or claims against the defendant without the removal of the animal from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animal if it is not receiving those necessities.

7. SEIZURE / ON-SITE SUPERVISION

N.C. GEN. STAT. § 14-363.2 (2012). Confiscation of cruelly treated animals.

Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals.

N.C. GEN. STAT. § 19A-3 (2012). Preliminary injunction.

(a) Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, as a matter of discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the plaintiff so requests, may give the plaintiff the right to provide suitable care for the animal. If it appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the plaintiff to take possession of the animal as custodian.

(b) The plaintiff as custodian may employ a veterinarian to provide necessary medical care for the animal without any additional court order. Prior to taking such action, the plaintiff as custodian shall consult with, or attempt to consult with, the defendant in the action, but the plaintiff as custodian may authorize such care without the defendant's consent. Notwithstanding the provisions of this subsection, the plaintiff as custodian may not have an animal euthanized without written consent of the defendant or a court order that authorizes euthanasia upon the court's finding that the animal is suffering due to terminal illness or terminal injury.

(c) The plaintiff as custodian may place an animal with a foster care provider. The foster care provider shall return the animal to the plaintiff as custodian on demand.

N.C. GEN. STAT. § 19A-46 (2012). Powers; magistrate's order; execution of order; petition; notice to owner.

(a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge.

N.C. GEN. STAT. §19A-70 (2012). Care of animal subjected to illegal treatment.

(a) In every arrest under any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of an animal, the operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal pending the disposition of the litigation. For purposes of this section, "reasonable expenses" includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.

(b) Upon receipt of a petition, the court shall set a hearing on the petition to determine the need to care for and provide for the animal pending the disposition of the litigation. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges or the complaint or summons by which a civil action was initiated. If the defendant is in a local detention facility at the time the petition is filed, the operator of the animal shelter shall also provide notice to the custodian of the detention facility.

(c) The court shall set the amount of funds necessary for 30 days' care after taking into consideration all of the facts and circumstances of the case, including the need to care for and provide for the animal pending the disposition of the litigation, the recommendation of the operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant's ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.

Any order for funds to be deposited pursuant to this section shall state that if the operator of the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of the affiant's knowledge, the case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the case is resolved.

(d) If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the litigation is resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited by operation of law. If funds have been deposited in accordance with this section, the operator of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.

In the event of forfeiture, the animal shelter may determine whether the animal is suitable for adoption and whether adoption can be arranged for the animal. The animal may not be adopted by the defendant or by any person residing in the defendant's household. If the adopted animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the shelter shall humanely euthanize the animal.

(e) The deposit of funds shall not prevent the animal shelter from disposing of the animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.

(f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any animal that is the basis of the charges or claims against the defendant without the removal of the animal from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animal if it is not receiving those necessities.

8. FORFEITURE / POSSESSION

N.C. GEN. STAT. § 14-363.2 (2012). Confiscation of cruelly treated animals.

Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals.

N.C. GEN. STAT. § 19A-4 (2012). Permanent injunction.

(a) In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as the court deems appropriate, including a permanent injunction and dismissal of the action along with dissolution of any preliminary injunction that had been issued.

(b) If the plaintiff prevails, the court in its discretion may include the costs of food, water, shelter, and care, including medical care, provided to the animal, less any amounts deposited by the defendant under G.S. 19A-70, as part of the costs allowed to the plaintiff under G.S. 6-18. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner. For good cause shown, the court may also enjoin the defendant from acquiring new animals for a specified period of time or limit the number of animals the defendant may own or possess during a specified period of time.

(c) If the final judgment entitles the defendant to regain possession of the animal, the custodian shall return the animal, including taking any necessary steps to retrieve the animal from a foster care provider.

(d) The court shall consider and may provide for custody and care of the animal until the time to appeal expires or all appeals have been exhausted.

N.C. GEN. STAT. §19A-70 (2012). Care of animal subjected to illegal treatment.

(a) In every arrest under any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of an animal, the operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal pending the disposition of the litigation. For purposes of this section, “reasonable expenses” includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.

(b) Upon receipt of a petition, the court shall set a hearing on the petition to determine the need to care for and provide for the animal pending the disposition of the litigation. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges or the complaint or summons by which a civil action was initiated. If the defendant is in a local detention facility at the time the petition is filed, the operator of the animal shelter shall also provide notice to the custodian of the detention facility.

(c) The court shall set the amount of funds necessary for 30 days’ care after taking into consideration all of the facts and circumstances of the case, including the need to care for and provide for the animal pending the disposition of the litigation, the recommendation of the operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant’s ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.

Any order for funds to be deposited pursuant to this section shall state that if the operator of the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of the affiant’s knowledge, the case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the case is resolved.

(d) If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the litigation is resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. *If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited by operation of law.* If funds have been deposited in accordance with this section, the operator of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.

In the event of forfeiture, the animal shelter may determine whether the animal is suitable for adoption and whether adoption can be arranged for the animal. The animal may not be adopted by the defendant or by any person residing in the defendant's household. If the adopted animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the shelter shall humanely euthanize the animal.

(e) The deposit of funds shall not prevent the animal shelter from disposing of the animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.

(f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any animal that is the basis of the charges or claims against the defendant without the removal of the animal from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animal if it is not receiving those necessities.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

N.C. GEN. STAT. § 14-360.1 (2012).Immunity for veterinarian reporting animal cruelty.

Any veterinarian licensed in this State who has reasonable cause to believe that an animal has been the subject of animal cruelty in violation of G.S. 14-360 and who makes a report of animal cruelty, or who participates in any investigation or testifies in any judicial proceeding that arises from a report of animal cruelty, shall be immune from civil liability, criminal liability, and liability from professional disciplinary action and shall not be in breach of any veterinarian-patient confidentiality, unless the veterinarian acted in bad faith or with a malicious purpose. It shall be a rebuttable presumption that the veterinarian acted in good faith. A failure by a veterinarian to make a report of animal cruelty shall not constitute grounds for disciplinary action under G.S. 90-187.8.

11. LAW ENFORCEMENT POLICIES

N.C. GEN. STAT. § 19A-45 (2012). Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond.

(a) The board of county commissioners is authorized to appoint one or more animal cruelty investigators to serve without any compensation or other employee benefits in his county. In making these appointments, the board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the board of county commissioners is authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable pursuant to G.S. 19A-47 may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.

(b) Animal cruelty investigators shall serve a one-year term subject to removal for cause by the board of county commissioners. Animal cruelty investigators shall, while in the performance of their official duties, wear in plain view a badge of a design approved by the board identifying them as animal cruelty investigators, and provided at no cost to the county.

(c) Animal cruelty investigators shall take and subscribe the oath of office required of public officials. The oath shall be filed with the clerk of superior court. Animal cruelty investigators shall not be required to post any bond.

(d) Upon approval by the board of county commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the county.

N.C. GEN. STAT. § 19A-46 (2012). Powers; magistrate's order; execution of order; petition; notice to owner.

(a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) *The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.*

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge.

N.C. GEN. STAT. § 19A-48 (2012). Interference unlawful.

It shall be a Class 1 misdemeanor, to interfere with an animal cruelty investigator in the performance of his official duties.

N.C. GEN. STAT. § 19A-49 (2012). Educational requirements.

Each animal cruelty investigator at his own expense must attend annually a course of at least six hours instruction offered by the North Carolina Humane Federation or some other agency. The course shall be designed to give the investigator expertise in the investigation of complaints relating to the care and treatment of animals. Failure to attend a course approved by the board of county commissioners shall be cause for removal from office.

12. SEXUAL ASSAULT

N.C. GEN. STAT. § 14-177 (2012). Crime against nature.

If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class I felon.

13. FIGHTING

N.C. GEN. STAT. §14-362 (2012). Cockfighting.

A person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a Class I felony. A lease of property that is used or is intended to be used for an exhibition featuring the fighting of a cock is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

N.C. GEN. STAT. §14-362.1 (2012). Animal fights and baiting, other than cock fights, dog fights and dog baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides an animal for, allows property under his ownership or control to be used for, or profits from an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor. A lease of property that is used or is intended to be used for an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains an animal, other than a cock or a dog, with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal is guilty of a Class 2 misdemeanor.

(c) A person who participates as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor.

(d) A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class I felony.

(e) This section does not prohibit the lawful taking or training of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

N.C. GEN. STAT. § 14-362.2 (2012).Dog fighting and baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.

(d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

(e) This section does not prohibit the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of the dogs. Quarry at an earthdog trial shall at all times be kept separate from the dogs by a sturdy barrier, such as a cage, and have access to food and water.

(f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.

14. REFERENCED STATUTES

N.C. GEN. STAT. § 14-177 (2012). Crime against nature.

If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class I felon.

N.C. GEN. STAT. § 14-360 (2012). Cruelty to animals; construction of section.

(a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.

(a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.

(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.

(c) As used in this section, the words “torture”, “torment”, and “cruelly” include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word “intentionally” refers to an act committed knowingly and without justifiable excuse, while the word “maliciously” means an act committed intentionally and with malice or bad motive. As used in this section, the term “animal” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of “wild birds” pursuant to G.S. 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

(2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(3) Activities conducted for lawful veterinary purposes.

(4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.

(5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

N.C. GEN. STAT. § 14-360.1 (2012).Immunity for veterinarian reporting animal cruelty.

Any veterinarian licensed in this State who has reasonable cause to believe that an animal has been the subject of animal cruelty in violation of G.S. 14-360 and who makes a report of animal cruelty, or who participates in any investigation or testifies in any judicial proceeding that arises from a report of animal cruelty, shall be immune from civil liability, criminal liability, and liability from professional disciplinary action and shall not be in breach of any veterinarian-patient confidentiality, unless the veterinarian acted in bad faith or with a malicious purpose. It shall be a rebuttable presumption that the veterinarian acted in good faith. A failure by a veterinarian to make a report of animal cruelty shall not constitute grounds for disciplinary action under G.S. 90-187.8.

N.C. GEN. STAT.§ 14-361 (2012).Instigating or promoting cruelty to animals.

If any person shall willfully set on foot, or instigate, or move to, carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to any animal, he shall be guilty of a Class 1 misdemeanor.

N.C. GEN. STAT.§ 14-361.1 (2012).Abandonment of animals.

Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a Class 2 misdemeanor.

N.C. GEN. STAT.§14-362 (2012). Cockfighting.

A person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a Class I felony. A lease of property that is used or is intended to be used for an exhibition featuring the fighting of a cock is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

N.C. GEN. STAT.§14-362.1 (2012). Animal fights and baiting, other than cock fights, dog fights and dog baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides an animal for, allows property under his ownership or control to be used for, or profits from an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor. A lease of property that is used or is intended to be used for an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains an animal, other than a cock or a dog, with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal is guilty of a Class 2 misdemeanor.

(c) A person who participates as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor.

(d) A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class I felony.

(e) This section does not prohibit the lawful taking or training of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

N.C. GEN. STAT.§14-362.2 (2012).Dog fighting and baiting.

(a) A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.

(b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.

(c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.

(d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.

(e) This section does not prohibit the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of the dogs. Quarry at an earthdog trial shall at all times be kept separate from the dogs by a sturdy barrier, such as a cage, and have access to food and water.

(f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.

N.C. GEN. STAT. § 14-363 (2012). Conveying animals in a cruel manner.

If any person shall carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhuman manner, he shall be guilty of a Class 1 misdemeanor. Whenever an offender shall be taken into custody therefor by any officer, the officer may take charge of such vehicle or other conveyance and its contents, and deposit the same in some safe place of custody. The necessary expenses which may be incurred for taking charge of and keeping and sustaining the vehicle or other conveyance shall be a lien thereon, to be paid before the same can be lawfully reclaimed; or the said expenses, or any part thereof remaining unpaid, may be recovered by the person incurring the same of the owner of such animal in an action therefor.

N.C. GEN. STAT. § 14-363.2 (2012). Confiscation of cruelly treated animals.

Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals.

N.C. GEN. STAT. § 15A-1340.17(2012). Punishment limits for each class of offense and prior record level.

(a) Offense Classification; Default Classifications.—The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.

(b) Fines.—Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described.—The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: “C” indicates that a community punishment is authorized; “I” indicates that an intermediate punishment is authorized; “A” indicates that an active punishment is authorized; and “Life Imprisonment Without Parole” indicates that the defendant shall be imprisoned for the remainder of the prisoner’s natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts
	A 240-300	AAAAA 276-345	DISPOSITION			
			317-397	365-456	Life Imprisonment Without Parole	
Aggravated						
B1	192-240	221-276	254-317	292-365	336-420	386-483
PRESUMPTIVE						
	144-192	166-221	190-254	219-292	252-336	290-386
Mitigated						
	A 157-196	AAAAA 180-225	DISPOSITION			
			207-258	238-297	273-342	314-393
Aggravated						
B2	125-157	144-180	165-207	190-238	219-273	251-314
PRESUMPTIVE						
	94-125	108-144	124-165	143-190	164-219	189-251
Mitigated						
	A 73-92	AAAAA 83-104	DISPOSITION			
			96-120	110-138	127-159	146-182
Aggravated						
C	58-73	67-83	77-96	88-110	101-127	117-146
PRESUMPTIVE						
	44-58	50-67	58-77	66-88	76-101	87-117
Mitigated						
	A 64-80	AAAAA 73-92	DISPOSITION			
			84-105	97-121	111-139	128-160
Aggravated						
D	51-64	59-73	67-84	78-97	89-111	103-128
PRESUMPTIVE						
	38-51	44-59	51-67	58-78	67-89	77-103
Mitigated						
	I/A	I/A	A	AAA		
DISPOSITION						
	25-31	29-36	33-41	38-48	44-55	50-63
Aggravated						
E	20-25	23-29	26-33	30-38	35-44	40-50
PRESUMPTIVE						
	15-20	17-23	20-26	23-30	26-35	30-40
Mitigated						
	I/A	I/AI/A	A	AA		
DISPOSITION						
	16-20	19-23	21-27	25-31	28-36	33-41
Aggravated						
F	13-16	15-19	17-21	20-25	23-28	26-33
PRESUMPTIVE						
	10-13	11-15	13-17	15-20	17-23	20-26
Mitigated						
	I/A	I/AI/AI/A	A	A		
DISPOSITION						
	13-16	14-18	17-21	19-24	22-27	25-31
Aggravated						

G	10-13	12-14	13-17	15-19	17-22	20-25
PRESUMPTIVE	8-10	9-12	10-13	11-15	13-17	15-20
Mitigated	C/I/A	I/A	I/AI/AI/A	A		
DISPOSITION	6-8	8-10	10-12	11-14	15-19	20-25
Aggravated	H	6-8	8-10	9-11	12-15	16-20
PRESUMPTIVE	4-5	4-6	6-8	7-9	9-12	12-16
Mitigated	C	C/I	I	I/A	I/AI/A	
DISPOSITION	6-8	6-86-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10
PRESUMPTIVE	3-4	3-4	4-5	4-6	5-7	6-8
Mitigated						

(d) Maximum Sentences Specified for Class F through Class I Felonies.— Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-13	4-14	5-15	6-17	7-18	8-19	9-20	10-21
11-23	12-24	13-25	14-26	15-27	16-29	17-30	18-31
19-32	20-33	21-35	22-36	23-37	24-38	25-39	26-41
27-42	28-43	29-44	30-45	31-47	32-48	33-49	34-50
35-51	36-53	37-54	38-55	39-56	40-57	41-59	42-60
43-61	44-62	45-63	46-65	47-66	48-67	49-68	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months.— Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-30	16-32	17-33	18-34	19-35	20-36	21-38	22-39
23-40	24-41	25-42	26-44	27-45	28-46	29-47	30-48
31-50	32-51	33-52	34-53	35-54	36-56	37-57	38-58
39-59	40-60	41-62	42-63	43-64	44-65	45-66	46-68
47-69	48-70	49-71	50-72	51-74	52-75	53-76	54-77
55-78	56-80	57-81	58-82	59-83	60-84	61-86	62-87
63-88	64-89	65-90	66-91	67-93	68-94	69-95	70-96
71-98	72-99	73-100	74-101	75-102	76-104	77-105	78-106
79-107	80-108	81-110	82-111	83-112	84-113	85-114	86-115
87-117	88-118	89-119	90-120	91-122	92-123	93-124	94-125
95-126	96-128	97-129	98-130	99-131	100-132	101-134	102-135
103-136	104-137	105-138	106-140	107-141	108-142	109-143	110-144

111-146	112-147	113-148	114-149	115-150	116-152	117-153	118-154
119-155	120-156	121-158	122-159	123-160	124-161	125-162	126-164
127-165	128-166	129-167	130-168	131-170	132-171	133-172	134-173
135-174	136-176	137-177	138-178	139-179	140-180	141-182	142-183
143-184	144-185	145-186	146-188	147-189	148-190	149-191	150-192
151-194	152-195	153-196	154-197	155-198	156-200	157-201	158-202
159-203	160-204	161-206	162-207	163-208	164-209	165-210	166-212
167-213	168-214	169-215	170-216	171-218	172-219	173-220	174-221
175-222	176-224	177-225	178-226	179-227	180-228	181-230	182-231
183-232	184-233	185-234	186-236	187-237	188-238	189-239	190-240
191-242	192-243	193-244	194-245	195-246	196-248	197-249	198-250
199-251	200-252	201-254	202-255	203-256	204-257	205-258	206-260
207-261	208-262	209-263	210-264	211-266	212-267	213-268	214-269
215-270	216-271	217-273	218-274	219-275	220-276	221-278	222-279
223-280	224-281	225-282	226-284	227-285	228-286	229-287	230-288
231-290	232-291	233-292	234-293	235-294	236-296	237-297	238-298
239-299	240-300	241-302	242-303	243-304	244-305	245-306	246-308
247-309	248-310	249-311	250-312	251-314	252-315	253-316	254-317
255-318	256-320	257-321	258-322	259-323	260-324	261-326	262-327
263-328	264-329	265-330	266-332	267-333	268-334	269-335	270-336
271-338	272-339	273-340	274-341	275-342	276-344	277-345	278-346
279-347	280-348	281-350	282-351	283-352	284-353	285-354	286-356
287-357	288-358	289-359	290-360	291-362	292-363	293-364	294-365
295-366	296-368	297-369	298-370	299-371	300-372	301-374	302-375
303-376	304-377	305-378	306-380	307-381	308-382	309-383	310-384
311-386	312-387	313-388	314-389	315-390	316-392	317-393	318-394
319-395	320-396	321-398	322-399	323-400	324-401	325-402	326-404
327-405	328-406	329-407	330-408	331-410	332-411	333-412	334-413
335-414	336-416	337-417	338-418	339-419			

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More.— Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 12 additional months.

(f) Maximum Sentences Specified for Class B1 Through Class E Sex Offenses.— Unless provided otherwise in a statute establishing a punishment for a specific crime, for offenders sentenced for a Class B1 through E felony that is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 60 additional months.

N.C. GEN. STAT. § 15A-1340.23 (2012). Punishment limits for each class of offense and prior conviction level.

(a) Offense Classification; Default Classifications.— The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.

(b) Fines.— Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars (\$200.00) for a Class 3 misdemeanor and one thousand dollars (\$1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.

(c) Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described.— Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:

(1) A sentence disposition or dispositions: “C” indicates that a community punishment is authorized; “I” indicates that an intermediate punishment is authorized; and “A” indicates that an active punishment is authorized; and

(2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

MISDEMEANOR OFFENSE CLASS	PRIOR CONVICTION LEVELS		
	LEVEL I -----	LEVEL II -----	LEVEL III -----
	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A
3	1-10 days C	1-15 days C/I	1-20 days C/I/A.

N.C. GEN. STAT. § 19A-1 (2012). Definitions.

The following definitions apply in this Article:

(1) The term “animals” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.

(2) The terms “cruelty” and “cruel treatment” include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

(3) The term “person” has the same meaning as in G.S. 12-3.

N.C. GEN. STAT.§ 19A-1.1 (2012). Exemptions.

This Article shall not apply to the following:

(1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this Article applies to those birds exempted by the Wildlife Resources Commission from its definition of “wild birds” pursuant to G.S. 113-129(15a).

(2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

(3) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

(4) Activities conducted for lawful veterinary purposes.

(5) The lawful destruction of any animal for the purposes of protecting the public, other animals, or the public health.

(6) Lawful activities for sport.

N.C. GEN. STAT.§ 19A-2 (2012). Purpose.

It shall be the purpose of this Article to provide a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available and it shall be proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. A real party in interest as plaintiff shall be held to include any person even though the person does not have a possessory or ownership right in an animal; a real party in interest as defendant shall include any person who owns or has possession of an animal.

N.C. GEN. STAT.§ 19A-3 (2012). Preliminary injunction.

(a) Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, as a matter of discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the plaintiff so requests, may give the plaintiff the right to provide suitable care for the animal. If it appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the plaintiff to take possession of the animal as custodian.

(b) The plaintiff as custodian may employ a veterinarian to provide necessary medical care for the animal without any additional court order. Prior to taking such action, the plaintiff as custodian shall consult with, or attempt to consult with, the defendant in the action, but the plaintiff as custodian may authorize such care without the defendant's consent. Notwithstanding the provisions of this subsection, the plaintiff as custodian may not have an animal euthanized without written consent of the defendant or a court order that authorizes euthanasia upon the court's finding that the animal is suffering due to terminal illness or terminal injury.

(c) The plaintiff as custodian may place an animal with a foster care provider. The foster care provider shall return the animal to the plaintiff as custodian on demand.

N.C. GEN. STAT. § 19A-4 (2012). Permanent injunction.

(a) In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as the court deems appropriate, including a permanent injunction and dismissal of the action along with dissolution of any preliminary injunction that had been issued.

(b) If the plaintiff prevails, the court in its discretion may include the costs of food, water, shelter, and care, including medical care, provided to the animal, less any amounts deposited by the defendant under G.S. 19A-70, as part of the costs allowed to the plaintiff under G.S. 6-18. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner. For good cause shown, the court may also enjoin the defendant from acquiring new animals for a specified period of time or limit the number of animals the defendant may own or possess during a specified period of time.

(c) If the final judgment entitles the defendant to regain possession of the animal, the custodian shall return the animal, including taking any necessary steps to retrieve the animal from a foster care provider.

(d) The court shall consider and may provide for custody and care of the animal until the time to appeal expires or all appeals have been exhausted.

N.C. GEN. STAT. § 19A-45 (2012). Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond.

(a) The board of county commissioners is authorized to appoint one or more animal cruelty investigators to serve without any compensation or other employee benefits in his county. In making these appointments, the board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the board of county commissioners is authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable pursuant to G.S. 19A-47 may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.

(b) Animal cruelty investigators shall serve a one-year term subject to removal for cause by the board of county commissioners. Animal cruelty investigators shall, while in the performance of their official duties, wear in plain view a badge of a design approved by the board identifying them as animal cruelty investigators, and provided at no cost to the county.

(c) Animal cruelty investigators shall take and subscribe the oath of office required of public officials. The oath shall be filed with the clerk of superior court. Animal cruelty investigators shall not be required to post any bond.

(d) Upon approval by the board of county commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the county.

N.C. GEN. STAT. § 19A-46 (2012). Powers; magistrate's order; execution of order; petition; notice to owner.

(a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge.

N.C. GEN. STAT. § 19A-47 (2012). Care of seized animal.

The investigator must take any animal he seizes directly to some safe and secure place and provide suitable care for it. The necessary expenses of caring for seized animals, including necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal to be enforced as provided by G.S. 44A-4.

N.C. GEN. STAT. § 19A-48 (2012). Interference unlawful.

It shall be a Class 1 misdemeanor, to interfere with an animal cruelty investigator in the performance of his official duties.

N.C. GEN. STAT. § 19A-49 (2012). Educational requirements.

Each animal cruelty investigator at his own expense must attend annually a course of at least six hours instruction offered by the North Carolina Humane Federation or some other agency. The course shall be designed to give the investigator expertise in the investigation of complaints relating to the care and treatment of animals. Failure to attend a course approved by the board of county commissioners shall be cause for removal from office.

N.C. GEN. STAT. §19A-70 (2012). Care of animal subjected to illegal treatment.

(a) In every arrest under any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of an animal, the operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal pending the disposition of the litigation. For purposes of this section, “reasonable expenses” includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.

(b) Upon receipt of a petition, the court shall set a hearing on the petition to determine the need to care for and provide for the animal pending the disposition of the litigation. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges or the complaint or summons by which a civil action was initiated. If the defendant is in a local detention facility at the time the petition is filed, the operator of the animal shelter shall also provide notice to the custodian of the detention facility.

(c) The court shall set the amount of funds necessary for 30 days’ care after taking into consideration all of the facts and circumstances of the case, including the need to care for and provide for the animal pending the disposition of the litigation, the recommendation of the operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant’s ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.

Any order for funds to be deposited pursuant to this section shall state that if the operator of the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of the affiant’s knowledge, the case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the case is resolved.

(d) If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the litigation is resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited by operation of law. If funds have been deposited in accordance with this section, the operator of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.

In the event of forfeiture, the animal shelter may determine whether the animal is suitable for adoption and whether adoption can be arranged for the animal. The animal may not be adopted by the defendant or by any person residing in the defendant's household. If the adopted animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the shelter shall humanely euthanize the animal.

(e) The deposit of funds shall not prevent the animal shelter from disposing of the animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.

(f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any animal that is the basis of the charges or claims against the defendant without the removal of the animal from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animal if it is not receiving those necessities.

N.C. GEN. STAT. § 50B-3 (2012). Relief.

(a) If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. A protective order may include any of the following types of relief:

- (1) Direct a party to refrain from such acts.
- (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household.
- (3) Require a party to provide a spouse and his or her children suitable alternate housing.
- (4) Award temporary custody of minor children and establish temporary visitation rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process.
- (5) Order the eviction of a party from the residence or household and assistance to the

victim in returning to it.

(6) Order either party to make payments for the support of a minor child as required by law.

(7) Order either party to make payments for the support of a spouse as required by law.

(8) Provide for possession of personal property of the parties, including the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.

(9) Order a party to refrain from doing any or all of the following:

a. Threatening, abusing, or following the other party.

b. Harassing the other party, including by telephone, visiting the home or workplace, or other means.

b1. Cruelly treating or abusing an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.

c. Otherwise interfering with the other party.

(10) Award attorney's fees to either party.

(11) Prohibit a party from purchasing a firearm for a time fixed in the order.

(12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence Commission.

(13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.

(a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:

(1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.

(2) For purposes of determining custody and visitation issues, the court shall consider:

a. Whether the minor child was exposed to a substantial risk of physical or

emotional injury or sexual abuse.

b. Whether the minor child was present during acts of domestic violence.

c. Whether a weapon was used or threatened to be used during any act of domestic violence.

d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.

e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.

f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.

g. Whether there is a pattern of abuse against an aggrieved party or the minor child.

h. Whether a party has abused or endangered the minor child during visitation.

i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.

j. Whether a party has improperly concealed or detained the minor child.

k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.

(3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:

a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.

b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.

c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.

d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an

exchange of the minor child.

e. Ordering the noncustodial parent to pay the costs of supervised visitation.

f. Prohibiting overnight visitation.

g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.

h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.

i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

(4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter.

(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed two years, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved.

(c) A copy of any order entered and filed under this Article shall be issued to each party. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides. If the defendant is ordered to stay away from the child's school, a copy of the order shall be delivered promptly by

the sheriff to the principal or, in the principal's absence, the assistant principal or the principal's designee of each school named in the order.

(c1) When a protective order issued under this Chapter is filed with the Clerk of Superior Court, the clerk shall provide to the applicant an informational sheet developed by the Administrative Office of the Courts that includes:

- (1) Domestic violence agencies and services.
- (2) Sexual assault agencies and services.
- (3) Victims' compensation services.
- (4) Legal aid services.
- (5) Address confidentiality services.
- (6) An explanation of the plaintiff's right to apply for a permit under G.S. 14-415.15.

(d) The sheriff of the county where a domestic violence order is entered shall provide for prompt entry of the order into the National Crime Information Center registry and shall provide for access of such orders to magistrates on a 24-hour-a-day basis. Modifications, terminations, renewals, and dismissals of the order shall also be promptly entered.

ANIMAL PROTECTION LAWS OF NORTH DAKOTA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains North Dakota's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

North Dakota may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NORTH DAKOTA

1. GENERAL PROHIBITIONS*	<p>(1) General cruelty N.D. CENT. CODE§ 36-21.1-02</p> <p>(2) Cruelty in transportation N.D. CENT. CODE§ 36-21.1-03</p> <p>(3) Poisoning animals N.D. CENT. CODE§ 36-21.1-04</p>
<i>Animals Covered in Definition</i>	<p>“[E]very living animal except the human race” N.D. CENT. CODE§ 36-21.1-01</p>
<i>Classification of Crimes</i>	<p>(1), (2), (3) Class A misdemeanor</p>
2. MAXIMUM PENALTIES**	<p>1 year imprisonment <i>and/or</i> \$2,000 fine N.D. CENT. CODE§ 12.1-32-01(5)</p>
3. EXEMPTIONS***	<p>2, 3, 4, 5, 7, 9 N.D. CENT. CODE § 36-21.1-01</p> <p>8, 9 N.D. CENT. CODE§ 36-21.1-02(8)</p> <p>9 N.D. CENT. CODE§36-21.1-15</p>
4. COUNSELING / EVALUATIONS^H	<p>-----</p>

NORTH DAKOTA*continued*

5. PROTECTIVE ORDERS^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>Person with custody of seized and abandoned animals has a lien against them for costs of care. N.D. CENT. CODE §§ 36-21.1-06, 36-21.1-13</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>Sheriff, police officers, licensed vets, and investigators may seize animals found abandoned, exposed to the elements, or not properly fed or watered. N.D. CENT. CODE §§ 36-21.1-06, 36-21.1-13</p>
8. FORFEITURE / POSSESSION^H	<p>Animals seized or abandoned may be sold if owner does not satisfy the lien for costs of care. N.D. CENT. CODE §§ 36-21.1-06, 36-21.1-13</p> <p>Before a seized animal is returned to its owner, the court shall determine whether the owner or the owner's agent can provide adequate care for the animal. N.D. CENT. CODE § 36.21.1-06(8)</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>A licensed veterinarian who has custody of an animal pursuant to the animal protection laws and who is acting in an official or professional capacity and making good-faith efforts to comply with the relevant laws is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with such laws. N.D. CENT. CODE § 36-21.1-14</p>
11. LAW ENFORCEMENT POLICIES	-----

NORTH DAKOTA*continued*

12. SEXUAL ASSAULT	The sexual assault of an animal is a Class A misdemeanor. N.D. CENT. CODE §12.1-20-12
13. FIGHTING	Various animal fighting activities are Class C felonies; being a spectator at an animal fight is a Class A misdemeanor. N.D. CENT. CODE §36-21.1-07
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

N.D. CENT. CODE § 36-21.1-01 (2012). Definitions.

In this chapter, unless the context otherwise requires:

1. *“Abandoned animal” means an animal that is or reasonably appears to have been deserted by its owner or keeper. The term may include an animal that is running loose on property other than that of its owner or the owner’s agent if the animal bears no identification indicating the owner or the owner’s agent and the owner or owner’s agent is not known to the sheriff, police officer, licensed veterinarian, or investigator taking custody of the animal under this chapter.*
2. *“Adequate care” means normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter, and health care, as necessary to maintain good health in a specific species of animal.*
3. *“Animal” includes every living animal except the human race.*
4. *“Commissioner” means the agriculture commissioner.*
5. *“Cruelty” or “torture” means any act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted. The term does not include:*
 - a. Any activity that requires a license or permit under chapter 20.1-03;
 - b. Any activity that is usual and customary practice in production agriculture;
 - c. Any scientific research conducted at a public or private facility or laboratory by or under the direction of a qualified researcher;
 - d. Any show, fair, competition, performance, or parade;
 - e. A rodeo;
 - f. A wagon or buggy ride;
 - g. Trail or pleasure riding; or
 - h. Any activity that involves the training or teaching of animals.
6. *“Investigator” means any person approved by the board to determine whether there has been a violation of this chapter.*

N.D. CENT. CODE§ 36-21.1-02 (2012). Overworking, mistreating, or abandoning animals.

1. *No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.*
2. *No person may deprive any animal over which the person has charge or control of necessary food, water, or shelter.*
3. *No person may keep any animal in any building, room, cage, or pen without adequate care.*
4. *No person may abandon any animal.*
5. *A person shall reclaim an animal within forty-eight hours of the agreed upon time for termination of a boarding contract and pay all charges for boarding the animal.*
6. *No person may allow any maimed, sick, infirm, or disabled animal of which he the person is the owner, or of which the person has custody, to lie in any street, road, or other public place for more than three hours after notice.*
7. *No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.*
8. *No person may cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements, and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. This subsection does not apply to the North Dakota state fair association, to agricultural fair associations, to any agricultural display of caged animals by any political subdivision, or to district, regional, or national educational livestock or poultry exhibitions. Zoos which have been approved by the health district or the governing body of the political subdivision which has jurisdiction over the zoos are exempt from this subsection.*

N.D. CENT. CODE§ 36-21.1-03 (2012). Cruelty in transportation.

No person may carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages, or other proper carrying container, nor may he carry an animal, or cause an animal to be carried, in any other cruel manner.

N.D. CENT. CODE§ 36-21.1-04 (2012).Poisoning animals.

No person may unjustifiably administer or expose any known poisonous substance or noxious drug, whether mixed with meat or other food or not, which may be eaten by any domestic animal.

2. PENALTIES

N.D. CENT. CODE § 12.1-32-01 (2012). Classification of offenses—Penalties.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.

2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.

3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.

4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of five thousand dollars, or both, may be imposed.

5. *Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of two thousand dollars, or both, may be imposed.*

6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand dollars, or both, may be imposed.

7. Infraction, for which a maximum fine of five hundred dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

N.D. CENT. CODE § 36-21.1-11 (2012). Penalty.

Any person knowingly and willfully violating any rule adopted by the board or violating any provision of this chapter for which a specific penalty is not provided is guilty of a class A misdemeanor.

3. EXEMPTIONS

N.D. CENT. CODE § 36-21.1-01 (2012). Definitions.

In this chapter, unless the context otherwise requires:

1. “Abandoned animal” means an animal that is or reasonably appears to have been deserted by its owner or keeper. The term may include an animal that is running loose on property other than that of its owner or the owner’s agent if the animal bears no identification indicating the owner or the owner’s agent and the owner or owner’s agent is not known to the sheriff, police officer, licensed veterinarian, or investigator taking custody of the animal under this chapter.
2. “Adequate care” means normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter, and health care, as necessary to maintain good health in a specific species of animal.
3. “Animal” includes every living animal except the human race.
4. “Commissioner” means the agriculture commissioner.
5. “Cruelty” or “torture” means any act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted. *The term does not include:*
 - a. Any activity that requires a license or permit under chapter 20.1-03;
 - b. Any activity that is usual and customary practice in production agriculture;
 - c. Any scientific research conducted at a public or private facility or laboratory by or under the direction of a qualified researcher;
 - d. Any show, fair, competition, performance, or parade;
 - e. A rodeo;
 - f. A wagon or buggy ride;
 - g. Trail or pleasure riding; or
 - h. Any activity that involves the training or teaching of animals.
6. “Investigator” means any person approved by the board to determine whether there has been a violation of this chapter.

N.D. CENT. CODE § 36-21.1-02 (2012). Overworking, mistreating, or abandoning animals.

1. No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.
2. No person may deprive any animal over which the person has charge or control of necessary food, water, or shelter.
3. No person may keep any animal in any building, room, cage, or pen without adequate care.
4. No person may abandon any animal.
5. A person shall reclaim an animal within forty-eight hours of the agreed upon time for termination of a boarding contract and pay all charges for boarding the animal.
6. No person may allow any maimed, sick, infirm, or disabled animal of which he the person is the owner, or of which the person has custody, to lie in any street, road, or other public place for more than three hours after notice.
7. No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.
8. No person may cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements, and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. *This subsection does not apply to the North Dakota state fair association, to agricultural fair associations, to any agricultural display of caged animals by any political subdivision, or to district, regional, or national educational livestock or poultry exhibitions. Zoos which have been approved by the health district or the governing body of the political subdivision which has jurisdiction over the zoos are exempt from this subsection.*

N.D. CENT. CODE § 36-21.1-15 (2012). Applicability of chapter.

This chapter does not apply to estrays covered under chapter 36-22.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

N.D. CENT. CODE §36-21.1-06 (2012). Exposure of animals—Authority of officers.

1. *Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal unjustifiably exposed to cold or inclement weather or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1.*
2. *A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until it is redeemed by the owner or authorized agent of the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.*
3. *If the owner or the owner's agent is known, the individual must be immediately notified. If the owner or the owner's agent is unknown, notice must be given by publication in the manner prescribed by law. The notice must inform the owner or the owner's agent that the animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days from the date of the notice.*
4. *The sheriff, police officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien on the animal and that lien is superior to any other claim or lien, for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after receipt of the notice, the person holding the claim may apply to the district court for an order to sell the animal and discharge the lien.*
5. *Upon order of the court, the animal may be sold at a public market to pay the charges for its keeping, and the title to the animal passes by the sale.*
6. *The court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, arrange for the adoption of the animal, or arrange for the destruction and disposal of the animal if no market exists for the animal or if the animal is a companion animal.*
7. *If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be paid over to the owner or the owner's agent, if known. If the owner or the owner's agent is not known, the remainder must be deposited in the county general fund. If no purchaser is found, the animal, at the discretion of the commissioner, may be offered for adoption or disposed of consistent with the law.*
8. *Before the animal is returned to its owner, the court shall determine whether the owner or the owner's agent can provide adequate care for the animal. The court has ten days within which to make this determination. The owner shall pay the cost of taking the animal into custody before the animal is released to the owner or the owner's agent.*

N.D. CENT. CODE §36-21.1-13 (2012). Abandoned animals—Assumption of custody.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal found abandoned. The individual taking custody shall take reasonable steps to determine the ownership of the abandoned animal.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until the animal is redeemed by the owner or the owner's agent or may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.
3. Notice must be given by publication in the official newspaper of the jurisdiction. The notice must provide that the animal may be sold, placed for adoption, or otherwise disposed of if the animal is not redeemed within five days from the date of the notice.
4. *The person having custody of the animal has a lien on the animal for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. The lien is superior to any other claim or lien. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after publication of the notice, the person holding the claim may sell the animal and discharge the lien.*
5. *The court may award reasonable attorney's fees to the person bringing the action to enforce the lien and may award costs, which include the costs of arranging for the adoption of the animal or the costs of the destruction and disposal of the animal.*
6. *If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be deposited in the county general fund.*

7. SEIZURE / ON-SITE SUPERVISION

N.D. CENT. CODE §36-21.1-06 (2012). Exposure of animals—Authority of officers.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal unjustifiably exposed to cold or inclement weather or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1.

2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until it is redeemed by the owner or authorized agent of the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.

3. If the owner or the owner's agent is known, the individual must be immediately notified. If the owner or the owner's agent is unknown, notice must be given by publication in the manner prescribed by law. The notice must inform the owner or the owner's agent that the animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days from the date of the notice.

4. The sheriff, police officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien on the animal and that lien is superior to any other claim or lien, for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after receipt of the notice, the person holding the claim may apply to the district court for an order to sell the animal and discharge the lien.

5. Upon order of the court, the animal may be sold at a public market to pay the charges for its keeping, and the title to the animal passes by the sale.

6. The court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, arrange for the adoption of the animal, or arrange for the destruction and disposal of the animal if no market exists for the animal or if the animal is a companion animal.

7. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be paid over to the owner or the owner's agent, if known. If the owner or the owner's agent is not known, the remainder must be deposited in the county general fund. If no purchaser is found, the animal, at the discretion of the commissioner, may be offered for adoption or disposed of consistent with the law.

8. Before the animal is returned to its owner, the court shall determine whether the owner or the owner's agent can provide adequate care for the animal. The court has ten days within which to make this determination. The owner shall pay the cost of taking the animal into custody before the animal is released to the owner or the owner's agent.

N.D. CENT. CODE §36-21.1-13 (2012). Abandoned animals—Assumption of custody.

- 1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal found abandoned. The individual taking custody shall take reasonable steps to determine the ownership of the abandoned animal.*
- 2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until the animal is redeemed by the owner or the owner's agent or may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.*
3. Notice must be given by publication in the official newspaper of the jurisdiction. The notice must provide that the animal may be sold, placed for adoption, or otherwise disposed of if the animal is not redeemed within five days from the date of the notice.
4. The person having custody of the animal has a lien on the animal for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. The lien is superior to any other claim or lien. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after publication of the notice, the person holding the claim may sell the animal and discharge the lien.
5. The court may award reasonable attorney's fees to the person bringing the action to enforce the lien and may award costs, which include the costs of arranging for the adoption of the animal or the costs of the destruction and disposal of the animal.
6. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be deposited in the county general fund.

8. FORFEITURE / POSSESSION

N.D. CENT. CODE §36-21.1-06 (2012). Exposure of animals—Authority of officers.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal unjustifiably exposed to cold or inclement weather or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until it is redeemed by the owner or authorized agent of the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.
3. If the owner or the owner's agent is known, the individual must be immediately notified. If the owner or the owner's agent is unknown, notice must be given by publication in the manner prescribed by law. The notice must inform the owner or the owner's agent that the animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days from the date of the notice.
4. The sheriff, police officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien on the animal and that lien is superior to any other claim or lien, for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. *If the lien is not discharged and satisfied by the owner or the owner's agent within five days after receipt of the notice, the person holding the claim may apply to the district court for an order to sell the animal and discharge the lien.*
5. *Upon order of the court, the animal may be sold at a public market to pay the charges for its keeping, and the title to the animal passes by the sale.*
6. *The court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, arrange for the adoption of the animal, or arrange for the destruction and disposal of the animal if no market exists for the animal or if the animal is a companion animal.*
7. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be paid over to the owner or the owner's agent, if known. If the owner or the owner's agent is not known, the remainder must be deposited in the county general fund. If no purchaser is found, the animal, at the discretion of the commissioner, may be offered for adoption or disposed of consistent with the law.
8. *Before the animal is returned to its owner, the court shall determine whether the owner or the owner's agent can provide adequate care for the animal. The court has ten days within which to make this determination.* The owner shall pay the cost of taking the animal into custody before the animal is released to the owner or the owner's agent.

N.D. CENT. CODE §36-21.1-13 (2012). Abandoned animals—Assumption of custody.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal found abandoned. The individual taking custody shall take reasonable steps to determine the ownership of the abandoned animal.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until the animal is redeemed by the owner or the owner's agent or may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.
3. Notice must be given by publication in the official newspaper of the jurisdiction. The notice must provide that the animal may be sold, placed for adoption, or otherwise disposed of if the animal is not redeemed within five days from the date of the notice.
4. The person having custody of the animal has a lien on the animal for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. The lien is superior to any other claim or lien. *If the lien is not discharged and satisfied by the owner or the owner's agent within five days after publication of the notice, the person holding the claim may sell the animal and discharge the lien.*
5. The court may award reasonable attorney's fees to the person bringing the action to enforce the lien and may award costs, which include the costs of arranging for the adoption of the animal or the costs of the destruction and disposal of the animal.
6. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be deposited in the county general fund.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

N.D. CENT. CODE §36-21.1-14 (2012). Assumption of custody—Immunity from liability.

Any sheriff, police officer, licensed veterinarian, investigator, or person who has custody of an animal under this chapter and who is acting in an official or professional capacity and making a good-faith effort to comply with this chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with this chapter.

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

N.D. CENT. CODE §12.1-20-02 (2012). Definitions.

In sections 12.1-20-03 through 12.1-20-12:

1. “Coercion” means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance.
2. “Deviate sexual act” means any form of sexual contact with an animal, bird, or dead person.
3. “Object” means anything used in commission of a sexual act other than the person of the actor.
4. “Sexual act” means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, anus, or vulva; or the use of an object which comes in contact with the victim’s anus, vulva, or penis. For the purposes of this subsection, sexual contact between the penis and the vulva, the penis and the anus, any other portion of the human body and the anus or vulva, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.
5. “Sexual contact” means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.

N.D. CENT. CODE §12.1-20-12 (2012). Deviate sexual act.

A person who performs a deviate sexual act with the intent to arouse or gratify his sexual desire is guilty of a class A misdemeanor.

13. FIGHTING

N.D. CENT. CODE §36-21.1-07 (2012). Cockfights, dogfights, and other exhibitions prohibited—Penalties.

1. No person may engage in or be employed at cockfighting, dogfighting, bearbaiting, pitting one animal against another, or any other similar cruelty, such as bear fighting, kangaroo boxing, or similar activity, to animals; nor may a person receive money for the admission of any person to any place used, or about to be used, for any such purpose, nor may a person willfully permit anyone to enter or use, for any such purpose, premises of which that person is the owner, agent, or occupant; nor may a person use, train, or possess a dog or other animal for the purpose of maltreating any domestic animal. Any person who violates this subsection is guilty of a class C felony.

2. No person may knowingly purchase a ticket of admission to, be present at, or witness the activities prohibited by subsection 1. Any person who violates this subsection is guilty of a class A misdemeanor.

14. REFERENCED STATUTES

N.D. CENT. CODE §12.1-20-02 (2012). Definitions.

In sections 12.1-20-03 through 12.1-20-12:

1. “Coercion” means to exploit fear or anxiety through intimidation, compulsion, domination, or control with the intent to compel conduct or compliance.
2. “Deviate sexual act” means any form of sexual contact with an animal, bird, or dead person.
3. “Object” means anything used in commission of a sexual act other than the person of the actor.
4. “Sexual act” means sexual contact between human beings consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any other portion of the human body and the penis, anus, or vulva; or the use of an object which comes in contact with the victim’s anus, vulva, or penis. For the purposes of this subsection, sexual contact between the penis and the vulva, the penis and the anus, any other portion of the human body and the anus or vulva, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.
5. “Sexual contact” means any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.

N.D. CENT. CODE §12.1-20-12 (2012). Deviate sexual act.

A person who performs a deviate sexual act with the intent to arouse or gratify his sexual desire is guilty of a class A misdemeanor.

N.D. CENT. CODE § 12.1-32-01 (2012). Classification of offenses—Penalties.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of five thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of two thousand dollars, or both, may be imposed.
6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand dollars, or both, may be imposed.
7. Infraction, for which a maximum fine of five hundred dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

N.D. CENT. CODE §36-21.1-01 (2012). Definitions.

In this chapter, unless the context otherwise requires:

1. “Abandoned animal” means an animal that is or reasonably appears to have been deserted by its owner or keeper. The term may include an animal that is running loose on property other than that of its owner or the owner’s agent if the animal bears no identification indicating the owner or the owner’s agent and the owner or owner’s agent is not known to the sheriff, police officer, licensed veterinarian, or investigator taking custody of the animal under this chapter.
2. “Adequate care” means normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter, and health care, as necessary to maintain good health in a specific species of animal.
3. “Animal” includes every living animal except the human race.
4. “Commissioner” means the agriculture commissioner.
5. “Cruelty” or “torture” means any act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted. The term does not include:
 - a. Any activity that requires a license or permit under chapter 20.1-03;
 - b. Any activity that is usual and customary practice in production agriculture;
 - c. Any scientific research conducted at a public or private facility or laboratory by or under the direction of a qualified researcher;
 - d. Any show, fair, competition, performance, or parade;
 - e. A rodeo;
 - f. A wagon or buggy ride;
 - g. Trail or pleasure riding; or
 - h. Any activity that involves the training or teaching of animals.
6. “Investigator” means any person approved by the board to determine whether there has been a violation of this chapter.

N.D. CENT. CODE§ 36-21.1-02 (2012). Overworking, mistreating, or abandoning animals.

1. No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.
2. No person may deprive any animal over which the person has charge or control of necessary food, water, or shelter.
3. No person may keep any animal in any building, room, cage, or pen without adequate care.
4. No person may abandon any animal.
5. A person shall reclaim an animal within forty-eight hours of the agreed upon time for termination of a boarding contract and pay all charges for boarding the animal.
6. No person may allow any maimed, sick, infirm, or disabled animal of which he the person is the owner, or of which the person has custody, to lie in any street, road, or other public place for more than three hours after notice.
7. No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.
8. No person may cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements, and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. This subsection does not apply to the North Dakota state fair association, to agricultural fair associations, to any agricultural display of caged animals by any political subdivision, or to district, regional, or national educational livestock or poultry exhibitions. Zoos which have been approved by the health district or the governing body of the political subdivision which has jurisdiction over the zoos are exempt from this subsection.

N.D. CENT. CODE§ 36-21.1-03 (2012). Cruelty in transportation.

No person may carry, or cause to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages, or other proper carrying container, nor may he carry an animal, or cause an animal to be carried, in any other cruel manner.

N.D. CENT. CODE§ 36-21.1-04 (2012).Poisoning animals.

No person may unjustifiably administer or expose any known poisonous substance or noxious drug, whether mixed with meat or other food or not, which may be eaten by any domestic animal.

N.D. CENT. CODE §36-21.1-06 (2012). Exposure of animals—Authority of officers

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal unjustifiably exposed to cold or inclement weather or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until it is redeemed by the owner or authorized agent of the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.
3. If the owner or the owner's agent is known, the individual must be immediately notified. If the owner or the owner's agent is unknown, notice must be given by publication in the manner prescribed by law. The notice must inform the owner or the owner's agent that the animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days from the date of the notice.
4. The sheriff, police officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien on the animal and that lien is superior to any other claim or lien, for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after receipt of the notice, the person holding the claim may apply to the district court for an order to sell the animal and discharge the lien.
5. Upon order of the court, the animal may be sold at a public market to pay the charges for its keeping, and the title to the animal passes by the sale.
6. The court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, arrange for the adoption of the animal, or arrange for the destruction and disposal of the animal if no market exists for the animal or if the animal is a companion animal.
7. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be paid over to the owner or the owner's agent, if known. If the owner or the owner's agent is not known, the remainder must be deposited in the county general fund. If no purchaser is found, the animal, at the discretion of the commissioner, may be offered for adoption or disposed of consistent with the law.
8. Before the animal is returned to its owner, the court shall determine whether the owner or the owner's agent can provide adequate care for the animal. The court has ten days within which to make this determination. The owner shall pay the cost of taking the animal into custody before the animal is released to the owner or the owner's agent.

N.D. CENT. CODE§36-21.1-07 (2012). Cockfights, dogfights, and other exhibitions prohibited—Penalties.

1. No person may engage in or be employed at cockfighting, dogfighting, bearbaiting, pitting one animal against another, or any other similar cruelty, such as bear fighting, kangaroo boxing, or similar activity, to animals; nor may a person receive money for the admission of any person to any place used, or about to be used, for any such purpose, nor may a person willfully permit anyone to enter or use, for any such purpose, premises of which that person is the owner, agent, or occupant; nor may a person use, train, or possess a dog or other animal for the purpose of mistreating any domestic animal. Any person who violates this subsection is guilty of a class C felony.

2. No person may knowingly purchase a ticket of admission to, be present at, or witness the activities prohibited by subsection 1. Any person who violates this subsection is guilty of a class A misdemeanor.

N.D. CENT. CODE§ 36-21.1-11 (2012).Penalty.

Any person knowingly and willfully violating any rule adopted by the board or violating any provision of this chapter for which a specific penalty is not provided is guilty of a class A misdemeanor.

N.D. CENT. CODE§36-21.1-13 (2012). Abandoned animals—Assumption of custody.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal found abandoned. The individual taking custody shall take reasonable steps to determine the ownership of the abandoned animal.

2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until the animal is redeemed by the owner or the owner's agent or may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.

3. Notice must be given by publication in the official newspaper of the jurisdiction. The notice must provide that the animal may be sold, placed for adoption, or otherwise disposed of if the animal is not redeemed within five days from the date of the notice.

4. The person having custody of the animal has a lien on the animal for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. The lien is superior to any other claim or lien. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after publication of the notice, the person holding the claim may sell the animal and discharge the lien.

5. The court may award reasonable attorney's fees to the person bringing the action to enforce the lien and may award costs, which include the costs of arranging for the adoption of the animal or the costs of the destruction and disposal of the animal.

6. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be deposited in the county general fund.

N.D. CENT. CODE §36-21.1-14 (2012). Assumption of custody—Immunity from liability.

Any sheriff, police officer, licensed veterinarian, investigator, or person who has custody of an animal under this chapter and who is acting in an official or professional capacity and making a good-faith effort to comply with this chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with this chapter.

N.D. CENT. CODE §36-21.1-15 (2012). Applicability of chapter.

This chapter does not apply to estrays covered under chapter 36-22.

ANIMAL PROTECTION LAWS OF THE NORTHERN MARIANA ISLANDS

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains NMI's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

NMI may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

NORTHERN MARIANA ISLANDS

1. GENERAL PROHIBITIONS*	-----
<i>Animals Covered in Definition</i>	-----
<i>Classification of Crimes</i>	-----
2. MAXIMUM PENALTIES**	-----
3. EXEMPTIONS***	-----
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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS†	-----
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10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	-----
12. SEXUAL ASSAULT	Sexual contact with an animal is punishable by not more than one year imprisonment. 6 N. MAR. I. CODE § 1308

NORTHERN MARIANA ISLANDS <i>continued</i>	
13. FIGHTING	-----
<i>Other Felony Provisions Affecting Animals</i> [‡]	-----

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states and territories may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡ This list is not exhaustive; states and territories may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

2. PENALTIES

3. EXEMPTIONS

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

7. SEIZURE / ON-SITE SUPERVISION

8. FORFEITURE / POSSESSION

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

6 N. MAR. I. CODE § 1308(2012).Sexual Assault of an Animal.

Any person who has sexual contact with any animal for the purpose of arousing or gratifying the sexual desire of the person may be punished by imprisonment for not more than one year.

13. FIGHTING

14. REFERENCED STATUTES

6 N. MAR. I. CODE § 1308(2012).Sexual Assault of an Animal.

Any person who has sexual contact with any animal for the purpose of arousing or gratifying the sexual desire of the person may be punished by imprisonment for not more than one year.

ANIMAL PROTECTION LAWS OF THE NORTHWEST TERRITORIES

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains the Northwest Territories' animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

The Northwest Territories may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Canada's federal animal protection laws also apply in the Northwest Territories. Because the law is continually evolving, always review an official source for the most current language of any statute.

NORTHWEST TERRITORIES

1. GENERAL PROHIBITIONS*

An owner of a dog shall ensure that the dog has adequate food, water, care, shelter, protection from the elements, and space
R.S.N.W.T., c. D-7, s.4

A person who destroys a dog shall do so in a manner that prevents undue suffering
R.S.N.W.T., c. D-7, s.5

No owner shall permit a dog in his or her charge to be in distress
R.S.N.W.T., c. D-7, s.6(1)

No person shall cause a dog to be in distress
R.S.N.W.T., c. D-7, s.6(2)

Abandoned dogs
R.S.N.W.T., c. D-7, s.9

No owner shall permit a dog to run at large
R.S.N.W.T., c. D-7, s.10

No person shall leave a dog in harness
R.S.N.W.T., c. D-7, s.11

Animals Covered in Definition

These provisions apply to dogs only. "Dog" includes male and female dogs and an animal that is a cross between a dog and a wolf."
R.S.N.W.T., c. D-7, s.1

Classification of Crimes

Summary conviction offence
R.S.N.W.T., c. D-7, s.25(1)

NORTHWEST TERRITORIES*continued*

<p>2. MAXIMUM PENALTIES^{**}</p>	<p>[1st offence]: 3 months imprisonment <i>and/or</i> \$2,500 fine R.S.N.W.T., c. D-7, s. 25(1)</p> <p>[2nd or subsequent offence]: 6 months imprisonment <i>and/or</i> \$10,000 fine R.S.N.W.T., c. D-7, s. 25(1)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>A person does not contravene requirement to provide care by treating a dog in accordance with the regulations or in accordance with standards of animal care set out in an applicable municipal bylaw R.S.N.W.T., c. D-7, s. 4(2)</p> <p>Prohibition on causing distress does not apply if the distress is caused by a treatment, process or condition that occurs in the course of an accepted activity R.S.N.W.T., c. D-7, s. 6</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>

NORTHWEST TERRITORIES*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>A person acting as a caretaker under subsection may recover any expenses incurred in respect of the dog from the owner, and may require payment of those expenses before the dog is returned to the owner R.S.N.W.T., c. D-7, s. 13(2)</p> <p>Any unpaid expenses incurred by a caretaker in respect of a dog are a debt due to the caretaker and are recoverable in an action against the owner R.S.N.W.T., c. D-7, s. 13(3)</p> <p>The owner of a dog destroyed is liable for the costs of destruction. R.S.N.W.T., c. D-7, ss. 14, 17(2)</p> <p>If the owner of a dog taken into custody is not located or does not pay the costs of care, an officer may sell or give the dog to any person, and it becomes the property of that person R.S.N.W.T., c. D-7, s. 16(1)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>An officer may seize a dog in distress R.S.N.W.T., c. D-7, s. 7</p> <p>An officer who has reasonable grounds to believe that a dog is in distress in any place, may obtain a warrant to enter the place R.S.N.W.T., c. D-7, s. 8(1)</p> <p>An officer may enter without a warrant if conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practical to obtain a warrant R.S.N.W.T., c. D-7, s. 8(2)</p> <p>An officer may seize an abandoned dog whether or not it is in distress R.S.N.W.T., c. D-7, s. 9</p>

NORTHWEST TERRITORIES*continued*

<p>7. SEIZURE / ON-SITE SUPERVISION <i>continued</i></p>	<p>An officer may take custody of a dog that is running at large R.S.N.W.T., c. D-7, s. 12</p> <p>An officer who takes custody of a dog shall take reasonable measures to ensure that the dog is provided with necessary transportation, food, water, shelter, and veterinary treatment R.S.N.W.T., c. D-7, s. 13(1)</p> <p>For the purposes of enforcing this Act, an officer may, without a warrant, enter and inspect any place where dogs are kept for sale, hire or exhibition R.S.N.W.T., c. D-7, s. 18(1)</p> <p>Where a dog is seized in respect of a contravention of a municipal bylaw respecting dogs, the provisions of the bylaw respecting the impounding, sale or destruction of dogs prevail over this Act R.S.N.W.T., c. D-7, s. 19</p> <p>An officer may apply to a court for an order granting the officer custody of a dog in respect of which a charge has been laid R.S.N.W.T., c. D-7, s. 26(1)</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>An officer who is unable to capture a dog that is running at large may destroy the dog R.S.N.W.T., c. D-7, s. 12(3)</p> <p>If a dog taken into custody is in such distress that it cannot be relieved of its distress and live without undue suffering, the dog may be destroyed R.S.N.W.T., c. D-7, s. 14</p>

NORTHWEST TERRITORIES*continued*

8. FORFEITURE / POSSESSION^H*continued*

If the owner of a dog taken into custody is not located or does not pay the costs of care, an officer may sell or give the dog to any person, and it becomes the property of that person
R.S.N.W.T., c. D-7, s. 16(1)

An officer may destroy a dog or authorize its destruction if the dog has not been claimed by its owner and the officer is of the opinion that the dog is not suitable to be sold or given away, or the officer is unable to sell or give away the dog
R.S.N.W.T., c. D-7, s. 17(1)

Where a dog is seized in respect of a contravention of a municipal bylaw respecting dogs, the provisions of the bylaw respecting the impounding, sale or destruction of dogs prevail over this Act
R.S.N.W.T., c. D-7, s. 19

If an owner is convicted, the court may make an order restraining the owner from having or continuing to have custody of dogs for such period of time as is specified by the court
R.S.N.W.T., c. D-7, s. 25(3)

The court may, on conviction of an owner, order the destruction of any dog of that owner that the court considers should be destroyed for humane reasons or for the safety of the public
R.S.N.W.T., c. D-7, s. 25(5)

9. CROSS ENFORCEMENT / REPORTING

NORTHWEST TERRITORIES*continued*

<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>No action lies against the Minister, an officer, veterinarian, caretaker or, if a caretaker is a corporation, an officer or employee of the caretaker, for anything done in good faith under this Act R.S.N.W.T., c. D-7, s. 24(1)</p> <p>No action lies against a person who believes in good faith that a dog is in distress and reports the distress to an officer R.S.N.W.T., c. D-7, s. 24(2)</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>The Minister may appoint officers for the purposes of this Act R.S.N.W.T., c. D-7, s. 2(1)</p> <p>Members of the Royal Canadian Mounted Police and bylaw officers appointed under the Charter Communities Act, Cities, Towns and Villages Act and Hamlets Act are ex officio officers under this Act R.S.N.W.T., c. D-7, s. 2(2)</p> <p>A bylaw officer may only perform the duties and exercise the powers of an officer under this Act within the municipality for which he or she is appointed R.S.N.W.T., c. D-7, s. 2(3)</p> <p>No person shall knowingly make a false or misleading statement; or otherwise obstruct or hinder an officer R.S.N.W.T., c. D-7, s. 3</p> <p>An officer shall use no more force than is reasonably required to enter or search any place, premises or vehicle R.S.N.W.T., c. D-7, s. 8</p>

NORTHWEST TERRITORIES <i>continued</i>	
12. SEXUAL ASSAULT	-----
13. FIGHTING	-----

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Dog Act, R.S.N.W.T. 1988, c. D-7, ss. 1, 4-6, 9-11(2012)

Interpretation

1

(1) *In this Act,*

"caretaker" means a person who has appropriate facilities for keeping a dog;

"court" means the Territorial Court or a justice of the peace;

"dog" includes male and female dogs and an animal that is a cross between a dog and a wolf;

"immediate control" means control of a dog by

(a) leash, tether, lead or another device, or

(b) hand, voice or the use of visual or audible signals;

"muzzle" means to secure the mouth of a dog in such a fashion that it cannot bite anything;

"officer" means an officer appointed under subsection 2(1) and a person who, by virtue of his or her office, is an officer under subsection 2(2);

"owner" means a person who owns, harbours, possesses or has control or custody of a dog;

"vehicle" means a device in, on or by which a person may be transported on land or water;

"veterinarian" means a veterinarian as defined in the Veterinary Profession Act.

(2) *For the purposes of this Act, a dog is in distress if it is*

(a) deprived of adequate shelter, ventilation, space, food, water, reasonable veterinary care or reasonable protection from injurious heat or cold;

(b) injured, sick, in pain or suffering; or

(c) abused or subjected to undue hardship, privation or neglect.

(3) For the purposes of this Act, a dog is running at large if it is off the premises of its owner and is not

(a) muzzled; or

(b) under the physical control of a person.

* * * * *

Protection of Dogs

Duty of Care

4

(1) An owner of a dog shall

(a) ensure that the dog has adequate food and water;

(b) provide it with adequate care when it is wounded or ill;

(c) provide it with reasonable protection, having regard to the physical characteristics of the dog, from injurious heat or cold; and

(d) provide it with adequate shelter, ventilation and space.

(2) A person does not contravene subsection (1) by treating a dog in accordance with the regulations or in accordance with standards of animal care set out in an applicable municipal bylaw.

5

A person who destroys a dog shall do so in a manner that prevents undue suffering.

Dogs in Distress

6

(1) No owner shall permit a dog in his or her charge to be in distress.

(2) No person shall cause a dog to be in distress.

(3) This section does not apply if the distress is caused by a treatment, process or condition that occurs in the course of an accepted activity.

(4) Subject to subsection (5), for the purposes of this Act, an accepted activity includes the use, care and management of a dog in the course of the following activities:

- (a) harvesting, including gathering, hunting, trapping and fishing;
- (b) protection of people from wildlife;
- (c) any other activity designated as an accepted activity by the regulations.

(5) An activity is an accepted activity under subsection (4) only if it is carried out in a manner

- (a) consistent with a generally accepted practice or procedure for the activity that
 - (i) is not designated as a prohibited practice or procedure by the regulations, and
 - (ii) does not cause undue suffering; or
- (b) that is otherwise reasonable in the circumstances, and that does not cause undue suffering.

* * * * *

Abandoned Dogs

9

(1) *In this section, "abandoned dog" includes a dog that is*

- (a) left for more than 24 hours without adequate food, water or shelter;*
- (b) left for five days or more after the expected retrieval time from a veterinarian or from a person who boards or cares for the dog for money or other consideration; or*
- (c) found on premises in respect of which a tenancy agreement has been terminated.*

(2) *An officer may take an abandoned dog into whether or not it is in distress.*

(3) *An officer who takes a dog into custody under subsection (2) may act as caretaker or may deliver the dog to a caretaker.*

Public Safety

Prohibitions

10

No owner shall permit a dog to run at large

(a) contrary to a municipal bylaw;

(b) in an unincorporated community; or

(c) in an area that is not within a municipality or an unincorporated community, unless the dog is under the immediate control of a person.

11

No person shall leave a dog in harness

(a) contrary to a municipal bylaw; or

(b) in an area that is not within a municipality, unless the dog is under the immediate control of a person capable of ensuring that the dog will not harm the public or create a nuisance.

2. PENALTIES

Dog Act, R.S.N.W.T. 1988, c. D-7, s. 25(2012)

Offence and Punishment

25

(1) A person who contravenes a provision of this Act or the regulations is liable on summary conviction

(a) for the first offence, to a fine of not more than \$2,500, to imprisonment for a term not exceeding three months, or to both; and

(b) for a second or subsequent offence, to a fine of not more than \$10,000, to imprisonment for a term not exceeding six months, or to both.

(2) If an offence under this Act or the regulations is committed on more than one day or is continued for more than one day,

(a) the offence is a separate offence for each day on which the offence is committed or continued; and

(b) separate fines, each not exceeding the maximum fine for that offence, may be imposed for each day the offence is committed or continued.

(3) If an owner is convicted of an offence under this Act or the regulations, the court may make an order restraining the owner from having or continuing to have custody of dogs for such period of time as is specified by the court.

(4) A person who contravenes an order under subsection (3) is guilty of an offence and liable to the penalties set out in subsection (1).

(5) The court may, on conviction of an owner for an offence under this Act, order the destruction of any dog of that owner that the court considers should be destroyed for humane reasons or for the safety of the public.

3. EXEMPTIONS

Dog Act, R.S.N.W.T. 1988, c. D-7, ss. 4, 6(2012)

Protection of Dogs

Duty of Care

4

(1) An owner of a dog shall

- (a) ensure that the dog has adequate food and water;
- (b) provide it with adequate care when it is wounded or ill;
- (c) provide it with reasonable protection, having regard to the physical characteristics of the dog, from injurious heat or cold; and
- (d) provide it with adequate shelter, ventilation and space.

(2) A person does not contravene subsection (1) by treating a dog in accordance with the regulations or in accordance with standards of animal care set out in an applicable municipal bylaw.

Dogs in Distress

6

(1) No owner shall permit a dog in his or her charge to be in distress.

(2) No person shall cause a dog to be in distress.

(3) This section does not apply if the distress is caused by a treatment, process or condition that occurs in the course of an accepted activity.

(4) Subject to subsection (5), for the purposes of this Act, an accepted activity includes the use, care and management of a dog in the course of the following activities:

- (a) harvesting, including gathering, hunting, trapping and fishing;*
- (b) protection of people from wildlife;*
- (c) any other activity designated as an accepted activity by the regulations.*

(5) An activity is an accepted activity under subsection (4) only if it is carried out in a manner

(a) consistent with a generally accepted practice or procedure for the activity that

(i) is not designated as a prohibited practice or procedure by the regulations, and

(ii) does not cause undue suffering; or

(b) that is otherwise reasonable in the circumstances, and that does not cause undue suffering.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Dog Act, R.S.N.W.T. 1988, c. D-7, ss. 13, 14, 16, 17 (2012)

Care of Dogs in Custody

13

(1) An officer who takes custody of a dog under subsection 7(1), 9(2) or 12(1)

(a) shall take reasonable measures to ensure that the dog is provided with necessary transportation, food, water and shelter; and

(b) may take measures to ensure the dog is provided with veterinary treatment, if practicable to do so.

(2) Subject to the regulations, a person acting as caretaker under subsection 7(2), 9(3) or 12(2) may recover any expenses incurred in respect of the dog from the owner, and may require payment of those expenses before the dog is returned to the owner.

(3) Any unpaid expenses incurred by a caretaker in respect of a dog are a debt due to the caretaker and are recoverable in an action against the owner.

Disposition of Dogs in Custody

14

(1) If a dog taken into custody under subsection 7(1), 9(2) or 12(1) is in such distress that it cannot, in the opinion of a veterinarian, be relieved of its distress and live without undue suffering, the veterinarian may destroy the dog or authorize its destruction.

(2) If a veterinarian is not readily available to examine a dog that is taken into custody and an officer is of the opinion that the dog cannot be relieved of its distress and live without undue suffering, the officer may destroy the dog or authorize its destruction.

(3) An officer may destroy a dog taken into custody if he or she is of the opinion that the dog should be destroyed without delay for the safety of the public.

(4) The owner of a dog destroyed under this section is liable for the costs of destruction.

15

An officer who takes custody of a dog under subsection 7(1), 9(2) or 12(1) shall take reasonable

measures to locate the owner and notify him or her of the actions taken in respect of the dog.

16

(1) *If the owner of a dog that has been taken into custody*

(a) is not located and notified within five days after the date the dog was taken into custody, or

(b) is located and notified but does not, within five days after the date the dog was taken into custody, pay the expenses incurred in respect of the dog under section 7, 9 or 12, and section 13, or enter into an agreement with the caretaker for the payment of the expenses,

an officer may sell or give the dog to any person, and it becomes the property of that person.

(2) *The proceeds of a sale of a dog under subsection (1) must be disbursed in the following order of priority:*

(a) to pay the expenses of selling the dog;

(b) to pay the expenses incurred in respect of the dog under section 7, 9 or 12, and section 13.

(3) *Any balance of sale proceeds remaining after the payment of the expenses referred to in subsection (2) must be paid to the former owner of the dog.*

(4) *If the former owner cannot be located at the date of distribution of the sale proceeds, the Minister shall retain the money and pay the remaining balance*

(a) to a person who establishes to the satisfaction of the Minister that he or she was the former owner of the dog; or

(b) if no claim is made under paragraph (a) within one year after the date of sale, into the Consolidated Revenue Fund.

17

(1) An officer may destroy a dog or authorize its destruction if

(a) the dog has not been claimed by its owner and the officer is of the opinion that the dog is not suitable to be sold or given away in accordance with section 16; or

(b) the officer is unable to sell or give away

the dog in accordance with section 16.

(2) The owner of a dog destroyed under subsection (1) is liable for the costs of destruction.

7. SEIZURE / ON-SITE SUPERVISION

Dog Act, R.S.N.W.T. 1988, c. D-7, ss. 7-9, 12, 13, 18, 19 , 26 (2012)

Dogs in Distress

7

(1) If a dog is in distress and

(a) the owner does not immediately take measures that will relieve its distress,

(b) an officer has reasonable grounds to believe that the owner is not likely to ensure that the dog's distress is relieved or to ensure that the distress will continue to be relieved, or

(c) the owner cannot be found immediately and informed of the dog's distress,

an officer may, in accordance with section 8, take any action he or she considers necessary to locate the dog and relieve its distress, including taking custody of the dog in accordance with the regulations and taking reasonable measures to arrange for necessary transportation, food, water, shelter and veterinary care.

(2) An officer who takes custody of a dog under subsection (1) may act as caretaker or may deliver the dog to a caretaker.

Entry to Relieve Distress of a Dog

8

(1) An officer who has reasonable grounds to believe that a dog is in distress in any place, premises or vehicle may obtain a warrant to enter the place, premises or vehicle for the purpose of carrying out his or her duties under section 7.

(2) An officer may take any action authorized under subsection (1) without a warrant, except entry into a dwelling-house, if conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practical to obtain a warrant.

(3) An officer acting under the authority of this section shall, on request, produce his or her certificate of appointment to a person who owns or occupies any place, premises or vehicle entered under this section.

(4) An officer shall use no more force than is reasonably required to enter or search any place,

premises or vehicle.

Abandoned Dogs

9

(1) *In this section, "abandoned dog" includes a dog that is*

(a) left for more than 24 hours without adequate food, water or shelter;

(b) left for five days or more after the expected retrieval time from a veterinarian or from a person who boards or cares for the dog for money or other consideration; or

(c) found on premises in respect of which a tenancy agreement has been terminated.

(2) *An officer may take an abandoned dog into custody whether or not it is in distress.*

(3) *An officer who takes a dog into custody under subsection (2) may act as caretaker or may deliver the dog to a caretaker.*

* * * * *

Custody of Dogs Running at Large

12

(1) *An officer may take custody of a dog that is running at large.*

(2) *An officer who takes a dog into custody under subsection (1) may act as caretaker or may deliver the dog to a caretaker.*

(3) *An officer who is unable to capture a dog that is running at large contrary to this Act may destroy the dog.*

Care of Dogs in Custody

13

(1) *An officer who takes custody of a dog under subsection 7(1), 9(2) or 12(1)*

(a) shall take reasonable measures to ensure that the dog is provided with necessary transportation, food, water and shelter; and

(b) may take measures to ensure the dog is provided with veterinary treatment, if practicable to do so.

(2) Subject to the regulations, a person acting as caretaker under subsection 7(2), 9(3) or 12(2) may recover any expenses incurred in respect of the dog from the owner, and may require payment of those expenses before the dog is returned to the owner.

(3) Any unpaid expenses incurred by a caretaker in respect of a dog are a debt due to the caretaker and are recoverable in an action against the owner.

* * * * *

18

(1) *For the purposes of enforcing this Act and the regulations, an officer may, without a warrant,*

(a) during ordinary business hours, enter and inspect any place or premises, other than a dwelling-house, where dogs are kept for sale, hire or exhibition;

(b) enter and inspect any vehicle used to transport dogs.

(2) *In order to conduct an inspection under paragraph (1)(b), an officer may signal or otherwise order a person operating a moving vehicle to stop immediately or to move the vehicle to a particular location and then stop it, and the person shall immediately comply with that signal or order and shall not proceed until permitted to do so by the officer.*

(3) An officer acting under the authority of this section shall, on request, produce his or her certificate of appointment to a person who owns or occupies any place, premises or vehicle entered under subsection (1).

19

Where a dog is seized in respect of a contravention of a municipal bylaw respecting dogs, the provisions of the bylaw respecting the impounding, sale or destruction of dogs prevail over this Act.

* * * * *

Interim Custody Order

26

(1) An officer may apply to a court for an order granting the officer custody of a dog in respect of which a charge has been laid under section 25.

(2) An officer granted custody under subsection (1) may retain custody of a dog in respect of which the application is made pending the outcome of any proceedings under section 25, notwithstanding that the owner

(a) pays the expenses incurred in respect of the dog under subsection 7(1), 9(2) or 12(1); and

(b) requests that the officer or the caretaker to whom the dog has been delivered, as the case may be, return the dog to the owner.

(3) The court may make an order under this section on any terms and conditions it considers appropriate.

8. FORFEITURE / POSSESSION

Dog Act, R.S.N.W.T. 1988, c. D-7, ss. 12, 14, 16, 17, 19, 25 (2012)

Custody of Dogs Running at Large

12

- (1) An officer may take custody of a dog that is running at large.
- (2) An officer who takes a dog into custody under subsection (1) may act as caretaker or may deliver the dog to a caretaker.
- (3) *An officer who is unable to capture a dog that is running at large contrary to this Act may destroy the dog.*

Disposition of Dogs in Custody

14

- (1) *If a dog taken into custody under subsection 7(1), 9(2) or 12(1) is in such distress that it cannot, in the opinion of a veterinarian, be relieved of its distress and live without undue suffering, the veterinarian may destroy the dog or authorize its destruction.*
- (2) *If a veterinarian is not readily available to examine a dog that is taken into custody and an officer is of the opinion that the dog cannot be relieved of its distress and live without undue suffering, the officer may destroy the dog or authorize its destruction.*
- (3) *An officer may destroy a dog taken into custody if he or she is of the opinion that the dog should be destroyed without delay for the safety of the public.*
- (4) The owner of a dog destroyed under this section is liable for the costs of destruction.

16

- (1) *If the owner of a dog that has been taken into custody*
 - (a) is not located and notified within five days after the date the dog was taken into custody, or*
 - (b) is located and notified but does not, within five days after the date the dog was taken into custody, pay the expenses incurred in respect of the dog under section 7, 9 or 12,*

and section 13, or enter into an agreement with the caretaker for the payment of the expenses,

an officer may sell or give the dog to any person, and it becomes the property of that person.

(2) The proceeds of a sale of a dog under subsection (1) must be disbursed in the following order of priority:

(a) to pay the expenses of selling the dog;

(b) to pay the expenses incurred in respect of the dog under section 7, 9 or 12, and section 13.

(3) Any balance of sale proceeds remaining after the payment of the expenses referred to in subsection (2) must be paid to the former owner of the dog.

(4) If the former owner cannot be located at the date of distribution of the sale proceeds, the Minister shall retain the money and pay the remaining balance

(a) to a person who establishes to the satisfaction of the Minister that he or she was the former owner of the dog; or

(b) if no claim is made under paragraph (a) within one year after the date of sale, into the Consolidated Revenue Fund.

17

(1) *An officer may destroy a dog or authorize its destruction if*

(a) the dog has not been claimed by its owner and the officer is of the opinion that the dog is not suitable to be sold or given away in accordance with section 16; or

(b) the officer is unable to sell or give away the dog in accordance with section 16.

(2) The owner of a dog destroyed under subsection (1) is liable for the costs of destruction.

19

Where a dog is seized in respect of a contravention of a municipal bylaw respecting dogs, the provisions of the bylaw respecting the impounding, sale or destruction of dogs prevail over this Act.

* * * * *

Offence and Punishment

25

(1) A person who contravenes a provision of this Act or the regulations is liable on summary conviction

(a) for the first offence, to a fine of not more than \$2,500, to imprisonment for a term not exceeding three months, or to both; and

(b) for a second or subsequent offence, to a fine of not more than \$10,000, to imprisonment for a term not exceeding six months, or to both.

(2) If an offence under this Act or the regulations is committed on more than one day or is continued for more than one day,

(a) the offence is a separate offence for each day on which the offence is committed or continued; and

(b) separate fines, each not exceeding the maximum fine for that offence, may be imposed for each day the offence is committed or continued.

(3) If an owner is convicted of an offence under this Act or the regulations, the court may make an order restraining the owner from having or continuing to have custody of dogs for such period of time as is specified by the court.

(4) A person who contravenes an order under subsection (3) is guilty of an offence and liable to the penalties set out in subsection (1).

(5) The court may, on conviction of an owner for an offence under this Act, order the destruction of any dog of that owner that the court considers should be destroyed for humane reasons or for the safety of the public.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Dog Act, R.S.N.W.T. 1988, c. D-7, s. 24

Protection from Action

24

(1) No action lies against the Minister, an officer, veterinarian, caretaker or, if a caretaker is a corporation, an officer or employee of the caretaker, for anything done in good faith under this Act or the regulations.

(2) No action lies against a person who believes in good faith that a dog is in distress and reports the distress to an officer.

11. LAW ENFORCEMENT POLICIES

Dog Act, R.S.N.W.T. 1988, c. D-7, ss. 2, 8(2012)

Officers

2

(1) *The Minister may appoint officers for the purposes of this Act and the regulations.*

(2) *Members of the Royal Canadian Mounted Police and bylaw officers appointed under the CharterCommunities Act, Cities, Towns and Villages Act and Hamlets Act are, by virtue of their office, officers under this Act.*

(3) *A bylaw officer may only perform the duties and exercise the powers of an officer under this Act within the municipality for which he or she is appointed.*

3

No person shall

(a) knowingly make a false or misleading statement, either orally or in writing, or fail to disclose a material fact, to an officer; or

(b) otherwise obstruct or hinder an officer.

* * * * *

Entry to Relieve Distress of a Dog

8

(1) An officer who has reasonable grounds to believe that a dog is in distress in any place, premises or vehicle may obtain a warrant to enter the place, premises or vehicle for the purpose of carrying out his or her duties under section 7.

(2) An officer may take any action authorized under subsection (1) without a warrant, except entry into a dwelling-house, if conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practical to obtain a warrant.

(3) An officer acting under the authority of this section shall, on request, produce his or her certificate of appointment to a person who owns or occupies any place, premises or vehicle entered under this section.

(4) An officer shall use no more force than is reasonably required to enter or search any place, premises or vehicle.

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES

Dog Act, R.S.N.W.T. 1988, c. D-7(2012)

Interpretation

1

(1) In this Act,

"caretaker" means a person who has appropriate facilities for keeping a dog;

"court" means the Territorial Court or a justice of the peace;

"dog" includes male and female dogs and an animal that is a cross between a dog and a wolf;

"immediate control" means control of a dog by

(a) leash, tether, lead or another device, or

(b) hand, voice or the use of visual or audible signals;

"muzzle" means to secure the mouth of a dog in such a fashion that it cannot bite anything;

"officer" means an officer appointed under subsection 2(1) and a person who, by virtue of his or her office, is an officer under subsection 2(2);

"owner" means a person who owns, harbours, possesses or has control or custody of a dog;

"vehicle" means a device in, on or by which a person may be transported on land or water;

"veterinarian" means a veterinarian as defined in the Veterinary Profession Act.

(2) For the purposes of this Act, a dog is in distress if it is

(a) deprived of adequate shelter, ventilation, space, food, water, reasonable veterinary care or reasonable protection from injurious heat or cold;

(b) injured, sick, in pain or suffering; or

(c) abused or subjected to undue hardship, privation or neglect.

(3) For the purposes of this Act, a dog is running at large if it is off the premises of its owner and is not

- (a) muzzled; or
- (b) under the physical control of a person.

Officers

2

(1) The Minister may appoint officers for the purposes of this Act and the regulations.

(2) Members of the Royal Canadian Mounted Police and bylaw officers appointed under the Charter Communities Act, Cities, Towns and Villages Act and Hamlets Act are, by virtue of their office, officers under this Act.

(3) A bylaw officer may only perform the duties and exercise the powers of an officer under this Act within the municipality for which he or she is appointed.

3

No person shall

- (a) knowingly make a false or misleading statement, either orally or in writing, or fail to disclose a material fact, to an officer; or
- (b) otherwise obstruct or hinder an officer.

Protection of Dogs

Duty of Care

4

(1) An owner of a dog shall

- (a) ensure that the dog has adequate food and water;
- (b) provide it with adequate care when it is wounded or ill;
- (c) provide it with reasonable protection, having regard to the physical characteristics of

the dog, from injurious heat or cold; and

(d) provide it with adequate shelter, ventilation and space.

(2) A person does not contravene subsection (1) by treating a dog in accordance with the regulations or in accordance with standards of animal care set out in an applicable municipal bylaw.

5

A person who destroys a dog shall do so in a manner that prevents undue suffering.

Dogs in Distress

6

(1) No owner shall permit a dog in his or her charge to be in distress.

(2) No person shall cause a dog to be in distress.

(3) This section does not apply if the distress is caused by a treatment, process or condition that occurs in the course of an accepted activity.

(4) Subject to subsection (5), for the purposes of this Act, an accepted activity includes the use, care and management of a dog in the course of the following activities:

(a) harvesting, including gathering, hunting, trapping and fishing;

(b) protection of people from wildlife;

(c) any other activity designated as an accepted activity by the regulations.

(5) An activity is an accepted activity under subsection (4) only if it is carried out in a manner

(a) consistent with a generally accepted practice or procedure for the activity that

(i) is not designated as a prohibited practice or procedure by the regulations, and

(ii) does not cause undue suffering; or

(b) that is otherwise reasonable in the circumstances, and that does not cause undue suffering.

7

(1) If a dog is in distress and

- (a) the owner does not immediately take measures that will relieve its distress,
- (b) an officer has reasonable grounds to believe that the owner is not likely to ensure that the dog's distress is relieved or to ensure that the distress will continue to be relieved, or
- (c) the owner cannot be found immediately and informed of the dog's distress,

an officer may, in accordance with section 8, take any action he or she considers necessary to locate the dog and relieve its distress, including taking custody of the dog in accordance with the regulations and taking reasonable measures to arrange for necessary transportation, food, water, shelter and veterinary care.

(2) An officer who takes custody of a dog under subsection (1) may act as caretaker or may deliver the dog to a caretaker.

Entry to Relieve Distress of a Dog

8

(1) An officer who has reasonable grounds to believe that a dog is in distress in any place, premises or vehicle may obtain a warrant to enter the place, premises or vehicle for the purpose of carrying out his or her duties under section 7.

(2) An officer may take any action authorized under subsection (1) without a warrant, except entry into a dwelling-house, if conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practical to obtain a warrant.

(3) An officer acting under the authority of this section shall, on request, produce his or her certificate of appointment to a person who owns or occupies any place, premises or vehicle entered under this section.

(4) An officer shall use no more force than is reasonably required to enter or search any place, premises or vehicle.

Abandoned Dogs

9

(1) In this section, "abandoned dog" includes a dog that is

(a) left for more than 24 hours without adequate food, water or shelter;

(b) left for five days or more after the expected retrieval time from a veterinarian or from a person who boards or cares for the dog for money or other consideration; or

(c) found on premises in respect of which a tenancy agreement has been terminated.

(2) An officer may take an abandoned dog into whether or not it is in distress.

(3) An officer who takes a dog into custody under subsection (2) may act as caretaker or may deliver the dog to a caretaker.

Public Safety

Prohibitions

10

No owner shall permit a dog to run at large

(a) contrary to a municipal bylaw;

(b) in an unincorporated community; or

(c) in an area that is not within a municipality or an unincorporated community, unless the dog is under the immediate control of a person.

11

No person shall leave a dog in harness

(a) contrary to a municipal bylaw; or

(b) in an area that is not within a municipality, unless the dog is under the immediate control of a person capable of ensuring that the dog will not harm the public or create a nuisance.

Custody of Dogs Running at Large

12

(1) An officer may take custody of a dog that is running at large.

(2) An officer who takes a dog into custody under subsection (1) may act as caretaker or may deliver the dog to a caretaker.

(3) An officer who is unable to capture a dog that is running at large contrary to this Act may destroy the dog.

Care of Dogs in Custody

13

(1) An officer who takes custody of a dog under subsection 7(1), 9(2) or 12(1)

(a) shall take reasonable measures to ensure that the dog is provided with necessary transportation, food, water and shelter; and

(b) may take measures to ensure the dog is provided with veterinary treatment, if practicable to do so.

(2) Subject to the regulations, a person acting as caretaker under subsection 7(2), 9(3) or 12(2) may recover any expenses incurred in respect of the dog from the owner, and may require payment of those expenses before the dog is returned to the owner.

(3) Any unpaid expenses incurred by a caretaker in respect of a dog are a debt due to the caretaker and are recoverable in an action against the owner.

Disposition of Dogs in Custody

14

(1) If a dog taken into custody under subsection 7(1), 9(2) or 12(1) is in such distress that it cannot, in the opinion of a veterinarian, be relieved of its distress and live without undue suffering, the veterinarian may destroy the dog or authorize its destruction.

(2) If a veterinarian is not readily available to examine a dog that is taken into custody and an officer is of the opinion that the dog cannot be relieved of its distress and live without undue suffering, the officer may destroy the dog or authorize its destruction.

(3) An officer may destroy a dog taken into custody if he or she is of the opinion that the dog should be destroyed without delay for the safety of the public.

(4) The owner of a dog destroyed under this section is liable for the costs of destruction.

15

An officer who takes custody of a dog under subsection 7(1), 9(2) or 12(1) shall take reasonable measures to locate the owner and notify him or her of the actions taken in respect of the dog.

16

(1) If the owner of a dog that has been taken into custody

(a) is not located and notified within five days after the date the dog was taken into custody, or

(b) is located and notified but does not, within five days after the date the dog was taken into custody, pay the expenses incurred in respect of the dog under section 7, 9 or 12, and section 13, or enter into an agreement with the caretaker for the payment of the expenses,

an officer may sell or give the dog to any person, and it becomes the property of that person.

(2) The proceeds of a sale of a dog under subsection (1) must be disbursed in the following order of priority:

(a) to pay the expenses of selling the dog;

(b) to pay the expenses incurred in respect of the dog under section 7, 9 or 12, and section 13.

(3) Any balance of sale proceeds remaining after the payment of the expenses referred to in subsection (2) must be paid to the former owner of the dog.

(4) If the former owner cannot be located at the date of distribution of the sale proceeds, the Minister shall retain the money and pay the remaining balance

(a) to a person who establishes to the satisfaction of the Minister that he or she was the former owner of the dog; or

(b) if no claim is made under paragraph (a) within one year after the date of sale, into the Consolidated Revenue Fund.

17

(1) An officer may destroy a dog or authorize its destruction if

(a) the dog has not been claimed by its owner and the officer is of the opinion that the dog is not suitable to be sold or given away in accordance with section 16; or

(b) the officer is unable to sell or give away the dog in accordance with section 16.

(2) The owner of a dog destroyed under subsection (1) is liable for the costs of destruction.

18

(1) For the purposes of enforcing this Act and the regulations, an officer may, without a warrant,

(a) during ordinary business hours, enter and inspect any place or premises, other than a dwelling-house, where dogs are kept for sale, hire or exhibition;

(b) enter and inspect any vehicle used to transport dogs.

(2) In order to conduct an inspection under paragraph (1)(b), an officer may signal or otherwise order a person operating a moving vehicle to stop immediately or to move the vehicle to a particular location and then stop it, and the person shall immediately comply with that signal or order and shall not proceed until permitted to do so by the officer.

(3) An officer acting under the authority of this section shall, on request, produce his or her certificate of appointment to a person who owns or occupies any place, premises or vehicle entered under subsection (1).

19

Where a dog is seized in respect of a contravention of a municipal bylaw respecting dogs, the provisions of the bylaw respecting the impounding, sale or destruction of dogs prevail over this Act.

* * * * *

Protection from Action

24

(1) No action lies against the Minister, an officer, veterinarian, caretaker or, if a caretaker is a corporation, an officer or employee of the caretaker, for anything done in good faith under this Act or the regulations.

(2) No action lies against a person who believes in good faith that a dog is in distress and reports the distress to an officer.

Offence and Punishment

(1) A person who contravenes a provision of this Act or the regulations is liable on summary conviction

(a) for the first offence, to a fine of not more than \$2,500, to imprisonment for a term not exceeding three months, or to both; and

(b) for a second or subsequent offence, to a fine of not more than \$10,000, to imprisonment for a term not exceeding six months, or to both.

(2) If an offence under this Act or the regulations is committed on more than one day or is continued for more than one day,

(a) the offence is a separate offence for each day on which the offence is committed or continued; and

(b) separate fines, each not exceeding the maximum fine for that offence, may be imposed for each day the offence is committed or continued.

(3) If an owner is convicted of an offence under this Act or the regulations, the court may make an order restraining the owner from having or continuing to have custody of dogs for such period of time as is specified by the court.

(4) A person who contravenes an order under subsection (3) is guilty of an offence and liable to the penalties set out in subsection (1).

(5) The court may, on conviction of an owner for an offence under this Act, order the destruction of any dog of that owner that the court considers should be destroyed for humane reasons or for the safety of the public.

Interim Custody Order

(1) An officer may apply to a court for an order granting the officer custody of a dog in respect of which a charge has been laid under section 25.

(2) An officer granted custody under subsection (1) may retain custody of a dog in respect of which the application is made pending the outcome of any proceedings under section 25, notwithstanding that the owner

(a) pays the expenses incurred in respect of the dog under subsection 7(1), 9(2) or

12(1); and

(b) requests that the officer or the caretaker to whom the dog has been delivered, as the case may be, return the dog to the owner.

(3) The court may make an order under this section on any terms and conditions it considers appropriate.

Regulations

27

(1) The Commissioner, on the recommendation of the Minister, may make regulations

(a) respecting the taking of dogs into custody;

(b) respecting the care and treatment of dogs, including

(i) designating an activity as an accepted activity for the purposes of subsection 4(4), and

(ii) designating a practice or procedure as prohibited for the purposes of subsection 4(5);

(c) respecting a tariff of expenses that may be charged by a caretaker for the care provided to a dog taken into custody;

(d) respecting any other matter the Commissioner considers necessary or advisable for carrying out the purposes and provisions of this Act.

(2) Where a code of rules or standards respecting a matter referred to in this Act has been established by an association, person or body of persons and is available in printed form, the Commissioner, on the recommendation of the Minister, may by regulation adopt the code as established or as amended from time to time, and upon adoption the code is in force in whole or in part or with such variations as may be specified in the regulations.

ANIMAL PROTECTION LAWS OF NOVA SCOTIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Nova Scotia's animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Nova Scotia may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Canada's federal animal protection laws also apply in Nova Scotia. Because the law is continually evolving, always review an official source for the most current language of any statute.

NOVA SCOTIA

<p>1. GENERAL PROHIBITIONS*</p>	<p>No person shall cause an animal to be in distress S.N.S., c. 33,s. 21(1)</p> <p>No owner of an animal or person in charge of an animal shall permit the animal to be in distress S.N.S., c. 33,s. 21(2)</p> <p>Duties of owners of animals other than farm animals S.N.S., c. 33,s. 22</p> <p>Abandoned farm animal S.N.S., c. 33,s. 22A</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[A] non-human vertebrate” S.N.S., c. 33,s. 2(1)(a)</p>
<p><i>Classification of Crimes</i></p>	<p>Summary conviction offence S.N.S., c. 33,s. 35(1)</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>[1st offence]: \$10,000 fine <i>and/or</i> 6 months imprisonment</p> <p>[2nd offence]: \$25,000 fine <i>and/or</i> 6 months imprisonment</p> <p>[3rd or subsequent offence]: \$50,000 fine <i>and/or</i> 6 months imprisonment S.N.S., c. 33,s. 35(1)</p>

NOVA SCOTIA*continued*

<p>3. EXEMPTIONS ***</p>	<p>2, 3, 4 S.N.S., c. 33, s. 3</p> <p>1, 4, 5, S.N.S., c. 33, s. 21(4)</p> <p>The owner of an animal does not permit the animal to be in distress if the owner takes immediate appropriate steps to relieve the distress S.N.S., c. 33, s. 21(3)</p> <p>2, 4, 9 S.N.S., c. 33, s. 40</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS ^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>The owner of an animal shall pay, when requested to, all expenses incurred in the transportation, food, care, shelter or medical treatment provided for the animal and, if the animal is euthanised, its euthanasia S.N.S., c. 33,s. 26(2)</p> <p>Expenses are due and payable as soon as the request is made and before the animal is restored to the owner S.N.S., c. 33,s. 26(3)</p> <p>When an animal comes into custody and the owner is deemed unfit, the owner shall pay for expenses incurred with respect to taking the animal into custody, or keeping the animal in custody S.N.S., c. 33,s. 26(6)</p>

NOVA SCOTIA <i>continued</i>	
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H <i>continued</i>	<p>The expenses payable to the Society pursuant to this Act may be recovered as a debt S.N.S., c. 33,s. 27A(3)</p> <p>The Minister may sell an animal delivered to it under a court order stating the owner is unfit to care for the animal; proceeds from such sale first go to cover the expenses properly incurred for the animal S.N.S., c. 33,s. 30(2)</p> <p>Upon conviction, the court may order the offender to pay the costs of transportation, food, care, shelter or medical treatment provided to that animal and, where the animal is euthanized, its euthanasia S.N.S., c. 33,s. 35(4)</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>The Chief Inspector may investigate cruelty to non-farm animals and inspect and monitor facilities where animals are housed or handled S.N.S., c. 33,s. 13</p> <p>The Minister may investigate cruelty to farm animals and inspect and monitor facilities where animals are housed or handled S.N.S., c. 33,s.18</p> <p>An inspector or peace officer may inspect any premises, other than a private dwelling house, in which animals are kept for slaughter; food production; sale; hire; exhibition; sport; transportation; boarding; breeding; training; or research activities S.N.S., c. 33,s. 18A</p> <p>An inspector may enter any site and inspect any place, seize any animal or carcass, and make any investigations considered necessary</p>

	S.N.S., c. 33,s. 18AA
NOVA SCOTIA <i>continued</i>	
<p>7. SEIZURE / ON-SITE SUPERVISION <i>continued</i></p>	<p>An inspector may give directions orally or in writing for the carrying out of this Act S.N.S., c. 33,s. 18C</p> <p>An owner shall comply with every direction given pursuant to this Act S.N.S., c. 33,s. 18D</p> <p>The Minister, or a representative of the Minister, may enter upon the lands where an abandoned farm animal is located to take custody of the animal S.N.S., c. 33,s. 22A(2)</p> <p>An inspector may take steps to relieve a distressed animal, including taking the animal into custody, arranging for any necessary care, food, water or transportation for the animal, and may deliver the animal into the custody of the Society S.N.S., c. 33,s. 23 (1)</p> <p>An inspector may, without a warrant, enter any premises or vehicle, other than a dwelling house, to aid an animal in distress S.N.S., c. 33,s. 23(4)</p> <p>A court may issue a warrant for an inspector to enter any premises when there are reasonable and probable grounds for believing there is an animal in distress S.N.S., c. 33,s. 23(5)</p> <p>An inspector may enter land on which a private dwelling is located, or order a vehicle to stop, and require production of any animal for examination, in order to determine compliance with this Act S.N.S., c. 33,s. 23(8-10)</p>

NOVA SCOTIA*continued*

7. SEIZURE / ON-SITE SUPERVISION
continued

An inspector, lawfully in premises, may seize any thing that is produced or in plain view as evidence or if there are reasonable grounds to believe it was used in the commission of an offence and that seizure is necessary to prevent additional offences

S.N.S., c. 33,s. 24(1)

An inspector may remove a thing that is seized or may detain it in the place where it is seized

S.N.S., c. 33,s. 24(2)

Where an animal in the custody of the Society gives birth, any animal born to the animal is also in the custody of the Society

S.N.S., c. 33,s. 27A(2)

The court may order a person who owns or cares for an animal to surrender custody of the animal, if the court is of the opinion that the person is not fit to care for the animal

S.N.S., c. 33,s. 30

8. FORFEITURE / POSSESSION^H

The Minister may sell, give away or euthanize an abandoned farm animal

S.N.S., c. 33,s.22A(3)

A peace officer may euthanize, or cause to be euthanized, an animal that is in critical distress

S.N.S., c. 33,s.25(3)

If the the owner of a seized animal is not found, or if the owner does not pay or make arrangement to pay for the care and expenses of the seized animal, the animal is forfeited.

The time period extends to 10 days for animals with identification

	S.N.S., c. 33,ss.26(4), 27(1)
NOVA SCOTIA <i>continued</i>	
<p>8. FORFEITURE / POSSESSION^H <i>continued</i></p>	<p>Where the inspector is of the opinion that the owner of an animal in custody is not a fit person to care for the animal, the Society shall notify the owner that the animal will not be returned, and if the owner is not found or does not request a review, the Society may sell or give the animal S.N.S., c. 33,s. 26(5)</p> <p>When an animal is in the custody of the Society and time limits have expired, and the Society is unable to sell or give the animal away, the Society may euthanize the animal S.N.S., c. 33,s.27(3)</p> <p>Upon application or in a proceeding for an offence, the court, if of the opinion that the person is not fit to care for an animal, may order the person to deliver that animal into custody and forfeit interest in the animal S.N.S., c. 33,s.30</p> <p>Where an application is made for judicial review of the actions taken by the inspector with respect to a farm animal, the Minister may retain custody of or sell the animal S.N.S., c. 33,s.30A(1)</p> <p>The Minister may sell, give away or euthanize an animal that has been taken into custody if no application has been filed for judicial review by the required deadline S.N.S., c. 33,ss. 30A(4), 32A</p> <p>Upon conviction, the court may, as a part of sentencing, order that the offender be restrained from having custody of animals for</p>

	any time the court specifies S.N.S., c. 33,s.35(2)
NOVA SCOTIA <i>continued</i>	
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING / IMMUNITY	<p>Veterinarians shall report suspected neglect or abuse and are immune from liability for so reporting S.N.S., c. 33,s.29</p> <p>No action lies against any person acting in good faith for anything done pursuant to this Act S.N.S., c. 33,s.37</p>
11. LAW ENFORCEMENT POLICIES	<p>The Society and Minister may recommend individuals for appointment as special constables under the Police Act; and seek the aid of, when necessary, and co-operate with municipal police forces, the Royal Canadian Mounted Police, agricultural representatives and veterinarians S.N.S., c. 33, ss. 7, 18, 34</p> <p>Chief Inspector appointment, powers & duties S.N.S., c. 33,ss. 11, 12, 13, 14, 15</p> <p>The Minister is responsible for all investigations relating to farm animals, and may appoint a Provincial Inspector for such purposes S.N.S., c. 33,ss. 16, 17, 18</p> <p>No person shall interfere with or obstruct a person in the exercise of the powers given to the person by this Act or the regulations S.N.S., c. 33,s. 18B(1)</p>

	No person shall knowingly furnish an inspector or peace officer with false information S.N.S., c. 33,s. 18B(2)
NOVA SCOTIA <i>continued</i>	
11. LAW ENFORCEMENT POLICIES <i>continued</i>	The Governor in Council may appoint a person as Administrator of the Society for the purpose of investigations and inspections under this Act, or appoint a person or organization other than the Society to enforce the Act S.N.S., c. 33,ss. 19, 20 No person shall obstruct a peace officer in the exercise of any powers pursuant to this Act. S.N.S., c. 33, s. 36 Where a conflict exists between any provision of this Act and any other enactment, other than the Animal Health and Protection Act, the provisions of this Act prevail S.N.S., c. 33, s. 38
12. SEXUAL ASSAULT	-----
13. FIGHTING	-----

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Animal Protection Act, S.N.S. 2008, c. 33, ss. 2, 21, 22, 22A (2012)

Interpretation

2

(1) *In this Act,*

(a) *"animal" means a non-human vertebrate;*

(b) *"Board" means, unless the context requires otherwise, the Animal Cruelty Appeal Board established by this Act;*

(c) *"Chief Inspector" means the person appointed as Chief Inspector for the Society by the Society pursuant to this Act;*

(d) *"farm animal" includes*

(i) *cattle, horses, sheep, swine and poultry,*

(ii) *game farm animals including cervids, wild boar, bison, buffalo, ratites, llamas and alpacas,*

(iii) *foxes, chinchilla and mink raised for fur production,*

(iv) *rabbits raised for meat production,*

(v) *fin fish raised in an aquaculture site for commercial purposes, and*

(vi) *any animals designated as farm animals in the regulations;*

(e) *"former Act" means Chapter 22 of the Acts of 1996, the Animal Cruelty Prevention Act;*

(f) *"judge" means a judge of the provincial court;*

(g) *"Minister" means the member of the Executive Council charged by the Governor in Council with the administration of this Act;*

(h) *"peace officer" means a member of the Royal Canadian Mounted Police, a police officer appointed by a regional municipality, town or municipality of a county or district or a special constable appointed under the Police Act for the purpose of this Act;*

(i) "premises" includes any place, building, vehicle, vessel, receptacle or thing;

(j) "Provincial Inspector" means the person appointed as Provincial Inspector by the Minister pursuant to this Act;

(k) "research activities" means the use of animals in

(i) scientific investigation,

(ii) scientific teaching or training, or

(iii) the testing of products including medical devices and biological, chemical and pharmacological products, that are subject to prescribed standards and guidelines with respect to the care of animals used in those activities;

(l) "Society" means the Society for the Prevention of Cruelty;

(m) "veterinarian" means a person who is permitted to practise veterinary medicine in the Province under the Veterinary Medical Act.

(2) An animal is in distress, for the purpose of this Act, where the animal is

(a) in need of adequate care, food, water or shelter or in need of reasonable protection from injurious heat or cold; or

(b) injured, sick, in pain, or suffering undue hardship, privation or neglect;

(c) deprived of adequate ventilation, space, veterinary care or medical treatment; or

(d) abused.

Prohibitions

21

(1) No person shall cause an animal to be in distress.

(2) No owner of an animal or person in charge of an animal shall permit the animal to be in distress.

(3) For the purpose of subsection (2), the owner of an animal or the person in charge of an animal does not permit the animal to be in distress if the owner or person in charge takes immediate appropriate steps to relieve the distress.

(4) Subsections (1) and (2) do not apply if the distress, pain, suffering or injury results from an activity carried on in the practise of veterinary medicine, or in accordance with reasonable and generally accepted practices of animal management, husbandry or slaughter or an activity exempted by the regulations.

(5) Subsection (3) does not apply if the owner of an animal or the person in charge of an animal has demonstrated a pattern of causing or permitting any animal to be in distress.

(6) repealed 2011, c. 50, s. 8

Duties of owners of animals other than farm animals

22

A person who owns or is in charge of an animal other than a farm animal shall

(a) ensure that the animal has an adequate source of food and water;

(b) provide the animal with adequate medical attention when the animal is wounded or ill;

(c) provide the animal with reasonable protection from injurious heat or cold;

(d) not confine the animal to an enclosure or area with inadequate space, unsanitary conditions, inadequate ventilation or without providing an opportunity for exercise so as to significantly impair the animal's health or well-being.

Abandoned farm animal

22A

(1) Where the Minister, or a representative of the Minister, suspects a farm animal has been abandoned and the farm animal's owner or custodian cannot be found, the Minister may inquire about the animal's ownership by publishing an advertisement in the Royal Gazette or in a newspaper circulated in the county where the farm animal is located, once a week for two consecutive weeks, with a description of the farm animal and its location.

(2) Where no person is identified as the farm animal's owner or custodian within seven days after the last advertisement under subsection (1), the Minister, or a representative of the Minister, may enter upon the lands where the animal is located to take custody of the animal.

(3) The Minister may sell, give away or euthanize a farm animal that has been taken into custody under subsection (2).

(4) Where more than one person identifies himself or herself as the owner of the farm animal, the Minister may select one of those persons to be responsible for care of the farm animal until such time as those persons determine the question of ownership .

2. PENALTIES

Animal Protection Act, S.N.S. 2008, c. 33, s. 35 (2012)

Offence and penalties

35

(1) *Any person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction*

(a) for a first offence, to a fine of not more than ten thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(b) for a second offence, to a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(c) for a third or subsequent offence, to a fine of not more than fifty thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment; or

(d) for a first offence involving harm to a law enforcement animal, a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(1A) Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, the judge may make an order requiring the person to comply with such conditions as the judge considers appropriate and just, in the circumstances for securing the person's good conduct and for preventing the person from repeating the same offence or committing other offences, which conditions may be in lieu of or in addition to the penalties set out in subsection (1).

(2) Where an owner of an animal is found guilty of an offence under this Act or the regulations, the judge may make an order restraining the owner from continuing to have custody of animals for such period of time as is specified by the court.

(3) A person who contravenes an order made by a judge pursuant to subsection (2) is guilty of an offence and liable to the penalties set out in subsection (1).

(4) A person who is found guilty of an offence under this Act with respect to an animal may be ordered by the court to pay the whole or any part of the cost of transportation, food, care, shelter or medical treatment provided to that animal and, where the animal is euthanized, its euthanasia, to the Society or to the Minister.

3. EXEMPTIONS

Animal Protection Act, S.N.S. 2008, c. 33, ss. 3, 21, 40 (2012)

Exceptions from application of Act

3

(1) This Act does not apply to wildlife as defined in the Wildlife Act that is not in captivity.

(2) For greater certainty, nothing in this Act overrides Section 193 of the Agriculture and Marketing Act or Sections 7 and 10 of the Sheep Protection Act.

(3) This Act does not apply to mandatory testing procedures undertaken by a research laboratory that are required by Health Canada or the World Health Organization or an organization prescribed in the regulations.

Prohibitions

21

(1) No person shall cause an animal to be in distress.

(2) No owner of an animal or person in charge of an animal shall permit the animal to be in distress.

(3) For the purpose of subsection (2), the owner of an animal or the person in charge of an animal does not permit the animal to be in distress if the owner or person in charge takes immediate appropriate steps to relieve the distress.

(4) Subsections (1) and (2) do not apply if the distress, pain, suffering or injury results from an activity carried on in the practise of veterinary medicine, or in accordance with reasonable and generally accepted practices of animal management, husbandry or slaughter or an activity exempted by the regulations.

(5) Subsection (3) does not apply if the owner of an animal or the person in charge of an animal has demonstrated a pattern of causing or permitting any animal to be in distress.

(6) repealed 2011, c. 50, s. 8

Regulations

(1) The Governor in Council may make regulations

(a) prescribing, with respect to animals kept for sale, hire, exhibition, research, or that are impounded, boarded or kept for breeding

(i) standards of design, construction and maintenance of facilities in which the animals are kept,

(ii) the standard of care with which the animals are to be maintained;

(b) defining what are reasonable steps to find and notify an owner;

(c) determining reasonable expenses to be charged to the owner of an animal taken into custody pursuant to this Act for transportation of the animal, food, care, shelter and veterinary medical treatment provided to the animal and for the euthanasia of an animal;

(d) prescribing acceptable methods of euthanasia;

(e) prescribing societies, organizations, institutions or persons to which this Act applies for the purpose of enforcing this Act and determining the extent to which this Act applies to the society, organization, institution or person;

(f) exempting research activities from the requirements of subsection 23 (1) if the research activities are being conducted pursuant to an audit program approved by the Canadian Council on Animal Care or an organization prescribed in the regulations;

(g) prescribing activities for the purpose of subsection 21(4) or 28 (1);

(h) prescribing procedures and time periods for appeals to the Board;

(i) prescribing identification devices or methods for the purposes of subsection 26(1);

(j) prescribing further powers and duties of the Chief Inspector, the Provincial Inspector or inspectors;

(k) prescribing minimum qualifications for persons appointed as the Chief Inspector, the Provincial Inspector or inspectors;

(l) prescribing procedures respecting appeals to the Board;

(m) defining or prescribing unacceptable animal practices, modifications or mutilations;

(n) prescribing activities that are deemed to cause animals to be in distress;

- (o) prescribing or adopting acceptable codes of practice respecting animals;
- (p) respecting the licensing of animal care facilities and standards for such facilities;
- (q) prescribing fees or ranges of fees for appeals;
- (r) prescribing fees for the purpose of this Act;
- (s) defining any word or expression used but not defined in this Act;
- (t) further defining any word or expression defined in this Act;
- (u) the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) No regulation may be made pursuant to subsection (1) that conflicts with standards established in nationally developed codes of practice for the care and housing of animals published by organizations prescribed in the regulations.

(3) No regulation may be made pursuant to subsection (1) that is not consistent with the Canadian Council on Animal Care Guidelines for the scientific use of animals.

(4) No action may be taken against a person under this Act if the person complies with the standards referred to in subsection (2) or the Guidelines referred to in subsection (3).

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Animal Protection Act, S.N.S. 2008, c. 33, ss. 26, 27, 30, 35 (2012)

Payment of expenses and power to sell or give animal

26

(1) Where an animal is delivered or taken into the custody of the Society or the Minister pursuant to this Act, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and inform the owner that the animal is in custody.

(2) The owner of an animal delivered or taken into the custody of the Society or the Minister pursuant to this Act shall, when requested to do so by the Society or the Minister, as the case may be, pay to the Society or the Minister, as requested, any expense incurred by the Society or the Minister with respect to the animal including, without restricting the generality of the foregoing, any expense incurred with respect to transportation, food, care, shelter or medical treatment provided for the animal and, where the animal is euthanized, its euthanasia.

(3) Where the Society or the Minister requires the owner to pay any of the expenses referred to in subsection (2) before return of the animal to the owner, those expenses are due and payable as soon as the request is made and before the animal is restored to the owner.

(4) Where the owner of an animal that is in the custody of the Society or the Minister is not found within seventy-two hours after the animal has come into the custody of the Society or the Minister, as the case may be, or, where found,

(a) does not, within seventy-two hours after the animal has come into the custody of the Society or the Minister, either pay or agree to pay to the Society or the Minister, as the case may be, within an agreed upon time the expenses properly incurred by the Society or the Minister with respect to the animal; or

(b) does not pay those expenses within the time agreed upon pursuant to this subsection, the Society or the Minister, as the case may be, may sell or give the animal to any person who, in the opinion of the Society or the Minister will properly care for the animal.

(5) Where an animal comes into the custody of the Society or the Minister pursuant to this Act and the inspector or other person who has taken or accepted custody of the animal is of the opinion, due to the animal's state or situation or previous actions of the owner, that the owner is not a fit person to care for the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and

(a) where the owner is found, shall notify the owner that the animal will not be returned, of the amount that is owed pursuant to subsection (6) and of the right to request a review; or

(b) where the owner is not found within seventy-two hours or, where found, does not request a review pursuant to subsection (7), may sell or give the animal to any person who, in the opinion of the Society or the Minister, as the case may be, will properly care for the animal.

(6) Where notice is provided to an owner pursuant to subsection (5), and the owner does not request a review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

(a) taking the animal into custody; or

(b) keeping the animal in custody for the first seventy-two hours that the animal is in custody or until the animal is sold, given away or euthanized, whichever occurs sooner.

(7) Within seventy-two hours of being notified pursuant to clause (5)(a), the owner of the animal may request in writing that the decision that an animal will not be returned be reviewed by

(a) the Board of Directors of the Society if the Chief Inspector, another inspector or another person has taken the animal into custody for the Society; or

(b) the Minister if the Provincial Inspector, another inspector or another person has taken the animal into custody for the Minister.

(8) Notwithstanding subsection (7), where the Animal Cruelty Appeal Board has been established under Section 31, a review requested pursuant to this Section shall be decided by the Animal Cruelty Review Board.

(9) Where the owner requests a review pursuant to this Section, the Society or the Minister shall retain custody of the animal until a review decision has been made.

(10) Where the review decision reverses the decision under review, the owner is not responsible for the costs with respect to the animal that are incurred after the time the written request for review is filed.

(11) Where the review decision does not reverse the decision under review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

(a) taking the animal into custody; or

(b) keeping the animal in custody until the review decision is made.

Animal in custody, sold or given away and expenses

27A

(1) Where an animal is given to a person to care for on behalf of the Society or the Minister, the animal remains in the custody of the Society or the Minister, as the case may be.

(2) Where an animal in the custody of the Society or the Minister gives birth, any animal born to the animal is also in the custody of the Society or the Minister, as the case may be, and this Act applies mutatis mutandis to the animal born as if the animal born is an animal taken or delivered into custody under this Act along with the animal that gave birth.

(3) The expenses payable to the Society or the Minister pursuant to this Act may be recovered as a debt in any court of competent jurisdiction.

(4) Where an animal is sold or given away pursuant to this Act,

(a) the manner of selling or giving away the animal is at the discretion of the Society or the Minister, as the case may be; and

(b) the person to whom the animal is sold or given away owns the animal free of any encumbrances.

(5) Where an animal is sold pursuant to this Act,

(a) the expenses properly incurred by the Society or the Minister pursuant to this Act with respect to the animal are a first lien on the proceeds of the sale; and

(b) any surplus remaining after the expenses referred to in clause (a) are paid must be held in trust for or paid to the owner of the animal.

Order for delivery of animal into custody

30

(1) Upon application, or in any proceeding for an offence against this Act, a judge may order a person who claims to own or care for an animal to deliver the animal to the custody of the Society or a person designated by the Minister or, where the animal already is in the custody of the Society or the Minister, that the Society or the Minister not return the animal to such a person if, in the opinion of the judge, that person is not fit to care for the animal.

(2) Notwithstanding anything contained in this Act, the Society or the Minister may sell or give away an animal delivered into or retained in its custody pursuant to subsection (1) but any money received by the Society or the Minister as a result of selling that animal must be returned to the person who was ordered pursuant to subsection (1) to deliver the animal to the custody of

the Society or the Minister or the owner of the animal, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal.

(3) The Society or the Minister may cause an animal delivered into custody pursuant to subsection (1) to be euthanized only if the Society or the Minister, after reasonable attempts, is unable to sell or give the animal to a suitable person.

Offence and penalties

35

(1) Any person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not more than ten thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(b) for a second offence, to a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(c) for a third or subsequent offence, to a fine of not more than fifty thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment; or

(d) for a first offence involving harm to a law enforcement animal, a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(1A) Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, the judge may make an order requiring the person to comply with such conditions as the judge considers appropriate and just, in the circumstances for securing the person's good conduct and for preventing the person from repeating the same offence or committing other offences, which conditions may be in lieu of or in addition to the penalties set out in subsection (1).

(2) Where an owner of an animal is found guilty of an offence under this Act or the regulations, the judge may make an order restraining the owner from continuing to have custody of animals for such period of time as is specified by the court.

(3) A person who contravenes an order made by a judge pursuant to subsection (2) is guilty of an offence and liable to the penalties set out in subsection (1).

(4) A person who is found guilty of an offence under this Act with respect to an animal may be ordered by the court to pay the whole or any part of the cost of transportation, food, care, shelter or medical treatment provided to that animal and, where the animal is euthanized, its euthanasia, to the Society or to the Minister.

7. SEIZURE / ON-SITE SUPERVISION

Animal Protection Act, S.N.S. 2008, c. 33, ss.13, 18, 18A, 18AA, 18C, 18D, 22A, 23, 24, 27A, 30 (2012)

Inspectors' powers

13

The Chief Inspector or another inspector appointed pursuant to subsection 11(1) may carry on such activities and investigations and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to animals other than farm animals and, without restricting the generality of the foregoing, may

- (a) investigate cases of cruelty to animals other than farm animals;*
- (b) inspect and monitor on an ongoing basis facilities where animals other than farm animals are housed or handled including stables, kennels, agricultural shows, pet shops, research laboratories and animal shows;*
- (c) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of animals other than farm animals.*

Powers of Minister

18

The Minister, or an inspector appointed under Section 17, may carry on such activities and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to farm animals and, without restricting the generality of the foregoing, may

- (a) investigate cases of farm animals in distress;*
- (b) inspect and monitor on an ongoing basis, facilities where farm animals are housed or handled including stables, kennels, agricultural shows, research laboratories, farms, fur ranches, abattoirs and other agricultural operations;*
- (c) promote the humane treatment of farm animals;*
- (d) seek any necessary aid of, and co-operate with, municipal police forces, the Royal Canadian Mounted Police, agricultural representatives, veterinarians and other experts;*

(e) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of farm animals.

Inspection of premises

18A

(1) For the purpose of enforcing this Act and the regulations, an inspector or peace officer may at all reasonable times, subject to the regulations, inspect any premises, other than a private dwelling house, in which animals are kept for

(a) slaughter;

(b) food production;

(c) sale;

(d) hire;

(e) exhibition;

(f) sport;

(g) transportation;

(h) boarding;

(i) breeding;

(j) training;

(k) research activities; or

(l) any activity prescribed by the Governor in Council.

(2) Where an inspector or peace officer is of the opinion that an offence pursuant to this Act is being committed with regard to research animals, the inspector or peace officer shall

(a) consult, or be accompanied by, the chair of the animal-care committee associated with that research; or

(b) consult with standards-setting agencies prescribed by the regulations or, where the facility in which the research animals are kept is part of the Canadian Council on Animal Care audit program, the Canadian Council on Animal Care,

before taking any further action.

Entry by inspector or peace officer

18AA

(1) For the purpose of ensuring compliance with this Act or the regulations, or any direction made pursuant to this Act or the regulations, an inspector or peace officer may, at any reasonable hour of the day or night, enter any site and inspect any place, conduct any test, seize any animal or carcass to conduct tests, take samples and make any investigations considered necessary or advisable.

(2) Upon the request of an inspector or peace officer, the owner or a representative appointed by the owner shall accompany the inspector or peace officer during an inspection or investigation pursuant to subsection (1).

(3) An inspector or peace officer may

(a) require the production of any records relating to the animal care and remove them temporarily for the purpose of making copies;

(b) take photographs or recordings of the premises, including animals, or any activity taking place around the premises;

(c) make an inspection, investigation or inquiry considered necessary to ascertain whether this Act or the regulations, or any direction made pursuant to this Act or the regulations, are being complied with;

(d) exercise such other powers as may be necessary or incidental to the carrying out of the functions of the inspector or peace officer pursuant to this Act or the regulations.

Directions of inspector or peace officer

18C

(1) An inspector or peace officer may give directions orally or in writing for the carrying out of this Act or the regulations and may require that such directions be carried out within such time as is specified.

(2) Directions given orally pursuant to subsection (1) must be confirmed in writing as soon as practicable.

Compliance with directions

18D

An owner shall comply with every direction given pursuant to this Act or the regulations and shall furnish any assistance required for the purpose of entering, inspecting or examining any place or making an inquiry concerning a place.

Abandoned farm animal

22A

(1) Where the Minister, or a representative of the Minister, suspects a farm animal has been abandoned and the farm animal's owner or custodian cannot be found, the Minister may inquire about the animal's ownership by publishing an advertisement in the Royal Gazette or in a newspaper circulated in the county where the farm animal is located, once a week for two consecutive weeks, with a description of the farm animal and its location.

(2) Where no person is identified as the farm animal's owner or custodian within seven days after the last advertisement under subsection (1), the Minister, or a representative of the Minister, may enter upon the lands where the animal is located to take custody of the animal.

(3) The Minister may sell, give away or euthanize a farm animal that has been taken into custody under subsection (2).

(4) Where more than one person identifies himself or herself as the owner of the farm animal, the Minister may select one of those persons to be responsible for care of the farm animal until such time as those persons determine the question of ownership .

When animal is found in distress

23

(1) Where an inspector or peace officer finds an animal in distress and the owner or person in charge of the animal

(a) does not immediately take appropriate steps to relieve its distress; or

(b) is not present or cannot be found promptly,

the inspector or peace officer may, subject to this Act, take such action as the inspector or peace officer considers necessary to relieve the distress including, without restricting the generality of the foregoing,

(c) taking custody of the animal;

(d) arranging for any necessary transportation, food, water, care, shelter and medical treatment, or any one or more of them;

(e) delivering the animal into the custody of the Society, the Minister or a suitable caretaker.

(2) Before taking action pursuant to subsection (1), an inspector or peace officer shall take reasonable steps to find the owner or person in charge of the animal and, where the owner is found, shall endeavour to obtain the owner's co-operation to relieve the animal's distress.

(3) Where the owner of the animal is not present or not found and informed of the animal's distress, the inspector, the peace officer, the Society or the Minister in whose custody the animal is delivered, shall take reasonable steps to find the owner and inform the owner of the action taken.

(4) Where an inspector or peace officer has reasonable and probable grounds for believing that an animal is in distress in or upon any premises other than a private dwelling place the inspector or peace officer may, with or without a warrant, and by force, if necessary, enter the premises and search for the animal and exercise the powers conferred on the inspector or peace officer by this Section with respect to any animal in distress found therein.

(5) An inspector or peace officer who, on reasonable and probable grounds, believes that there is an animal in distress in a private dwelling house shall obtain a warrant to enter the private dwelling house for the purpose of carrying out duties pursuant to this Section.

(6) Before entering any premises pursuant to this Section, an inspector or peace officer shall take reasonable steps to find the owner or person in charge of the premises and endeavour to obtain the co-operation of the owner or the person in charge.

(7) Where an inspector or peace officer uses force in entering premises, the inspector or peace officer shall use no more force than is reasonably required under the circumstances.

(8) An inspector or peace officer may at any reasonable time and, where the inspector or peace officer reasonably believes it is necessary to determine compliance with this Act,

(a) enter onto land on which a private dwelling house is located;

(b) require any person in the private dwelling house to produce any animal from within the private dwelling place for examination; and

(c) once an animal is produced, conduct such examination of the animal as may be necessary to determine whether this Act is being complied with.

(9)The owner or person in charge of premises entered by an inspector or peace officer under this Section and any person found within the premises shall give the inspector or peace officer all reasonable assistance necessary to enable the inspector or peace officer to carry out any action authorized under this Act and shall furnish the inspector or peace officer with any information the inspector or peace officer requires to carry out that action.

(10)For the purpose of this Act, an inspector or peace officer may require the operator of a vehicle or vessel that is in motion to stop and, where an inspector or peace officer signals or requests an operator of a vehicle or vessel to stop, the operator shall comply immediately and shall not move the vehicle or vessel until permitted to do so by the inspector or peace officer.

Power to seize

24

(1) An inspector or peace officer who is lawfully in premises pursuant to this Act or a warrant issued under this Act may seize any thing that is produced or that is in plain view if the inspector or peace officer has reasonable grounds to believe that the thing

(a) will afford evidence of an offence under this Act; or

(b) was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence.

(2)An inspector or peace officer may remove a thing that is seized or may detain it in the place where it is seized.

(3) An inspector or peace officer shall inform a person from whom a thing is seized of the reason for the seizure and shall give the person a receipt for it as soon as is practicable on a form approved by the Minister.

Animal in custody, sold or given away and expenses

27A

(1) Where an animal is given to a person to care for on behalf of the Society or the Minister, the animal remains in the custody of the Society or the Minister, as the case may be.

(2)Where an animal in the custody of the Society or the Minister gives birth, any animal born to the animal is also in the custody of the Society or the Minister, as the case may be, and this Act

applies mutatis mutandis to the animal born as if the animal born is an animal taken or delivered into custody under this Act along with the animal that gave birth.

(3) The expenses payable to the Society or the Minister pursuant to this Act may be recovered as a debt in any court of competent jurisdiction.

(4) Where an animal is sold or given away pursuant to this Act,

(a) the manner of selling or giving away the animal is at the discretion of the Society or the Minister, as the case may be; and

(b) the person to whom the animal is sold or given away owns the animal free of any encumbrances.

(5) Where an animal is sold pursuant to this Act,

(a) the expenses properly incurred by the Society or the Minister pursuant to this Act with respect to the animal are a first lien on the proceeds of the sale; and

(b) any surplus remaining after the expenses referred to in clause (a) are paid must be held in trust for or paid to the owner of the animal.

Order for delivery of animal into custody

30

(1) Upon application, or in any proceeding for an offence against this Act, a judge may order a person who claims to own or care for an animal to deliver the animal to the custody of the Society or a person designated by the Minister or, where the animal already is in the custody of the Society or the Minister, that the Society or the Minister not return the animal to such a person if, in the opinion of the judge, that person is not fit to care for the animal.

(2) Notwithstanding anything contained in this Act, the Society or the Minister may sell or give away an animal delivered into or retained in its custody pursuant to subsection (1) but any money received by the Society or the Minister as a result of selling that animal must be returned to the person who was ordered pursuant to subsection (1) to deliver the animal to the custody of the Society or the Minister or the owner of the animal, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal.

(3) The Society or the Minister may cause an animal delivered into custody pursuant to subsection (1) to be euthanized only if the Society or the Minister, after reasonable attempts, is unable to sell or give the animal to a suitable person.

8. FORFEITURE / POSSESSION

Animal Protection Act, S.N.S. 2008, c. 33, ss.22A, 25-27, 30, 30A, 32A, 35 (2012)

Abandoned farm animal

22A

(1) Where the Minister, or a representative of the Minister, suspects a farm animal has been abandoned and the farm animal's owner or custodian cannot be found, the Minister may inquire about the animal's ownership by publishing an advertisement in the Royal Gazette or in a newspaper circulated in the county where the farm animal is located, once a week for two consecutive weeks, with a description of the farm animal and its location.

(2) Where no person is identified as the farm animal's owner or custodian within seven days after the last advertisement under subsection (1), the Minister, or a representative of the Minister, may enter upon the lands where the animal is located to take custody of the animal.

(3) *The Minister may sell, give away or euthanize a farm animal that has been taken into custody under subsection (2).*

(4) Where more than one person identifies himself or herself as the owner of the farm animal, the Minister may select one of those persons to be responsible for care of the farm animal until such time as those persons determine the question of ownership .

Animals in critical distress

25

(1) *In this Section, "critical distress" means distress in an animal of such nature that*

(a) immediate veterinary treatment cannot prolong the animal's life; or

(b) prolonging the animal's life would result in the animal suffering unduly.

(2) [repealed 2011, c. 50, s. 12]

(3) *Where, in the opinion of*

(a) a veterinarian; or

(b) where a veterinarian is not readily available, a peace officer

an animal is in critical distress, a peace officer may euthanize the animal or have the animal

euthanized.

(4) Where suffering of an animal referred to in subsection (1) is not unduly prolonged thereby, a peace officer or, where the Society or the Minister has custody of the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and endeavour to obtain the owner's consent to its euthanasia.

(5) Where an animal may be euthanized pursuant to subsection (3) and the owner does not consent to its euthanasia, a peace officer or a veterinarian acting under the direction of a peace officer may euthanize the animal without the owner's consent.

Payment of expenses and power to sell or give animal

26

(1) Where an animal is delivered or taken into the custody of the Society or the Minister pursuant to this Act, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and inform the owner that the animal is in custody.

(2) The owner of an animal delivered or taken into the custody of the Society or the Minister pursuant to this Act shall, when requested to do so by the Society or the Minister, as the case may be, pay to the Society or the Minister, as requested, any expense incurred by the Society or the Minister with respect to the animal including, without restricting the generality of the foregoing, any expense incurred with respect to transportation, food, care, shelter or medical treatment provided for the animal and, where the animal is euthanized, its euthanasia.

(3) Where the Society or the Minister requires the owner to pay any of the expenses referred to in subsection (2) before return of the animal to the owner, those expenses are due and payable as soon as the request is made and before the animal is restored to the owner.

(4) Where the owner of an animal that is in the custody of the Society or the Minister is not found within seventy-two hours after the animal has come into the custody of the Society or the Minister, as the case may be, or, where found,

(a) does not, within seventy-two hours after the animal has come into the custody of the Society or the Minister, either pay or agree to pay to the Society or the Minister, as the case may be, within an agreed upon time the expenses properly incurred by the Society or the Minister with respect to the animal; or

(b) does not pay those expenses within the time agreed upon pursuant to this subsection, the Society or the Minister, as the case may be, may sell or give the animal to any person who, in the opinion of the Society or the Minister will properly care for the animal.

(5) Where an animal comes into the custody of the Society or the Minister pursuant to this Act and the inspector or other person who has taken or accepted custody of the animal is of the opinion, due to the animal's state or situation or previous actions of the owner, that the owner is not a fit person to care for the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and

(a) where the owner is found, shall notify the owner that the animal will not be returned, of the amount that is owed pursuant to subsection (6) and of the right to request a review; or

(b) where the owner is not found within seventy-two hours or, where found, does not request a review pursuant to subsection (7), may sell or give the animal to any person who, in the opinion of the Society or the Minister, as the case may be, will properly care for the animal.

(6) Where notice is provided to an owner pursuant to subsection (5), and the owner does not request a review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

(a) taking the animal into custody; or

(b) keeping the animal in custody for the first seventy-two hours that the animal is in custody or until the animal is sold, given away or euthanized, whichever occurs sooner.

(7) Within seventy-two hours of being notified pursuant to clause (5)(a), the owner of the animal may request in writing that the decision that an animal will not be returned be reviewed by

(a) the Board of Directors of the Society if the Chief Inspector, another inspector or another person has taken the animal into custody for the Society; or

(b) the Minister if the Provincial Inspector, another inspector or another person has taken the animal into custody for the Minister.

(8) Notwithstanding subsection (7), where the Animal Cruelty Appeal Board has been established under Section 31, a review requested pursuant to this Section shall be decided by the Animal Cruelty Review Board.

(9) Where the owner requests a review pursuant to this Section, the Society or the Minister shall retain custody of the animal until a review decision has been made.

(10) Where the review decision reverses the decision under review, the owner is not responsible for the costs with respect to the animal that are incurred after the time the written request for review is filed.

(11) Where the review decision does not reverse the decision under review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

(a) taking the animal into custody; or

(b) keeping the animal in custody until the review decision is made.

Restriction where animal bears obvious identification and power to euthanize

27

(1) Notwithstanding subsections 26 (4), (5) and (6), where the animal bears an obvious identification tattoo, brand mark, tag, licence or other device or identification prescribed in the regulations, the time limit referred to in that subsection is ten days instead of seventy-two hours.

(2) [repealed 2011, c. 50, s. 14.]

(3) Where an animal is in the custody of the Society or the Minister and, after the expiry of the time period required by Section 26 or this Section, the Society or the Minister, as the case may be, is unable to sell or give the animal to a suitable person, the Society or the Minister may cause the animal to be euthanized.

(4) Where an owner or custodian appeals the removal of the animal pursuant to Section 31, the Society or the Minister shall retain custody of the animal until a decision on the appeal has been issued.

Order for delivery of animal into custody

30

(1) Upon application, or in any proceeding for an offence against this Act, a judge may order a person who claims to own or care for an animal to deliver the animal to the custody of the Society or a person designated by the Minister or, where the animal already is in the custody of the Society or the Minister, that the Society or the Minister not return the animal to such a person if, in the opinion of the judge, that person is not fit to care for the animal.

(2) Notwithstanding anything contained in this Act, the Society or the Minister may sell or give away an animal delivered into or retained in its custody pursuant to subsection (1) but any money received by the Society or the Minister as a result of selling that animal must be returned to the person who was ordered pursuant to subsection (1) to deliver the animal to the custody of the Society or the Minister or the owner of the animal, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal.

(3) The Society or the Minister may cause an animal delivered into custody pursuant to subsection (1) to be euthanized only if the Society or the Minister, after reasonable attempts, is

unable to sell or give the animal to a suitable person.

Custody of farm animal pending review or if no application for review

30A

(1) Where an application is made for judicial review of the actions taken by the inspector or peace officer under Section 23 with respect to a farm animal, the Minister may

(a) retain custody of the animal; or

(b) sell the animal.

(2) Where the animal is sold pursuant to clause (1)(b), the Minister shall hold the money received in the sale in trust pending the conclusion of the application for judicial review.

(3) Upon the conclusion of the application for judicial review, the Minister shall pay to the applicant

(a) where the application is successful, the money received in the sale; or

(b) where the application is dismissed, the money received in the sale less any amount to cover expenses properly incurred by the Minister with respect to the animal.

(4) The Minister may sell, give away or euthanize an animal that has been taken into custody under Section 23 if no application has been filed for judicial review by the required deadline.

Authority of Minister if no appeal

32A

The Minister may sell, give away or euthanize an animal that has been taken into custody under Section 23 if no appeal has been filed under Section 33 by the required deadline.

Offence and penalties

35

(1) Any person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not more than ten thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(b) for a second offence, to a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(c) for a third or subsequent offence, to a fine of not more than fifty thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment; or

(d) for a first offence involving harm to a law enforcement animal, a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(1A) Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, the judge may make an order requiring the person to comply with such conditions as the judge considers appropriate and just, in the circumstances for securing the person's good conduct and for preventing the person from repeating the same offence or committing other offences, which conditions may be in lieu of or in addition to the penalties set out in subsection (1).

(2) Where an owner of an animal is found guilty of an offence under this Act or the regulations, the judge may make an order restraining the owner from continuing to have custody of animals for such period of time as is specified by the court.

(3) A person who contravenes an order made by a judge pursuant to subsection (2) is guilty of an offence and liable to the penalties set out in subsection (1).

(4) A person who is found guilty of an offence under this Act with respect to an animal may be ordered by the court to pay the whole or any part of the cost of transportation, food, care, shelter or medical treatment provided to that animal and, where the animal is euthanized, its euthanasia, to the Society or to the Minister.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Animal Protection Act, S.N.S. 2008, c. 33, s.s 29,37 (2012)

Duty of veterinarian to report

29

(1) Every veterinarian who, in the course of practising veterinary medicine, has found reasonable grounds to believe that an animal has been or is subject to neglect or abuse that threatens the animal's health, other than in the circumstances described in subsection 21(4), shall report that belief to the Society.

(2) No action lies against a person for reporting anything pursuant to subsection (1) unless the reporting is done falsely and maliciously.

(3) This Section does not apply to the Provincial Inspector or inspectors appointed by the Minister.

No action lies

37

No action lies against any person acting in good faith for anything done pursuant to this Act.

11. LAW ENFORCEMENT POLICIES

Animal Protection Act, S.N.S. 2008, c. 33, ss.7, 11-18, 18B, 19, 20, 34, 36, 38(2012)

Powers

7

(1) Subject to subsections (5) and (6), the Society may carry on such activities and exercise such powers as are necessary or conducive to attaining its object and, without restricting the generality of the foregoing, may

(a) promote both the humane treatment of animals and the principles of the Society;

(b) seek the aid of, when necessary, and co-operate with municipal police forces, the Royal Canadian Mounted Police, agricultural representatives and veterinarians;

(c) formulate and amend its constitution and make by-laws necessary to attain its object and, in particular, for the internal control, management and administration of its affairs, including by-laws

(i) respecting the manner in which persons are admitted to membership in the Society, establishing qualifications for membership and classes of members and determining the rights and duties of different classes of members,

(ii) fixing dues,

(iii) respecting patrons,

(iv) establishing a Board of Directors, an Executive and committees, imposing and conferring duties and powers on the Board, Executive and each committee and providing the manner in which the Board, the Executive and each committee is elected or appointed,

(v) respecting the manner in which the meetings of the Society, its Board of Directors, its Executive and its committees are called, the order of business and the procedure to be followed at each meeting and the method of voting at each meeting,

(vi) respecting the election or appointment of officers and volunteer agents of the Society and conferring and imposing rights and duties on them,

(vii) respecting the manner in which documents are executed by the Society;

(d) encourage and assist in the formation of branches of the Society throughout the Province.

(2) Subject to subsections (5) and (6), each by-law of the Society in force immediately prior to the coming into force of this Act is a by-law of the Society until it is repealed or amended pursuant to this Act.

(3) Subject to subsections (5) and (6), the constitution of the Society in force immediately prior to the coming into force of this Act is the constitution of the Society until it is amended or repealed pursuant to this Act.

(4) The Society may delegate any of its powers to its Board of Directors.

(5) The Board of Directors of the Society includes two members appointed by the Minister, who are employed in the civil service of the Province.

(6) Annual general meetings of the Society must be open to the public.

Animal Cruelty Inspections

Chief Inspector

11

(1) *The Board of Directors of the Society shall appoint a Chief Inspector and inspectors for the purpose of inspecting animals other than farm animals.*

(2) *The Chief Inspector must meet the minimum qualifications prescribed in the regulations.*

(3) *The Chief Inspector may not be a member of the Board of Directors of the Society or an officer of the Society.*

Powers of Chief Inspector

12

The Chief Inspector has

(a) the powers and duties of an inspector of the Society and the powers and duties prescribed in the regulations;

(b) the power to establish qualifications, requirements and standards for inspectors of the Society;

(c) the power to recommend persons to the Society for appointment as inspectors of the Society;

(d) the power to recommend to the Society the revocation of the appointment of an inspector of the Society; and

(e) the general power to oversee the inspectors of the Society in the performance of their duties.

Inspectors' powers

13

The Chief Inspector or another inspector appointed pursuant to subsection 11(1) may carry on such activities and investigations and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to animals other than farm animals and, without restricting the generality of the foregoing, may

(a) investigate cases of cruelty to animals other than farm animals;

(b) inspect and monitor on an ongoing basis facilities where animals other than farm animals are housed or handled including stables, kennels, agricultural shows, pet shops, research laboratories and animal shows;

(c) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of animals other than farm animals.

Notification respecting farm animal

14

The Chief Inspector shall notify the Provincial Inspector of any reports received by the Chief Inspector or the Society respecting cruelty to a farm animal.

Annual report

15

(1)The Society shall submit to the Minister an annual report in the form and at the time prescribed by the Minister disclosing all inspections, activities and investigations carried out by

the Society, the Chief Inspector and inspectors of the Society for the year in respect of which the report is prepared.

(2) Within sixty days of receiving the report referred to in subsection (1), the Minister shall table the report in the Assembly or, if the Assembly is not then sitting, shall file the report with the Clerk of the Assembly.

(3) The Minister may disseminate an annual report of the Society at any time, whether or not it has been tabled in the Assembly or filed with the Clerk of the Assembly.

(4) The Society shall maintain written records of inspections and investigations respecting cruelty to animals and shall make the records available to the Minister upon request.

Investigations respecting farm animals

16

(1) The Minister is responsible for all investigations of farm animals in distress.

(2) Where any question arises with respect to whether an animal is a farm animal the Minister shall decide and the decision of the Minister is final and may not be appealed.

Provincial Inspector

17

The Minister may appoint a Provincial Inspector and inspectors for the purpose of inspecting farm animals.

Powers of Minister

18

The Minister, or an inspector appointed under Section 17, may carry on such activities and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to farm animals and, without restricting the generality of the foregoing, may

(a) investigate cases of farm animals in distress;

(b) inspect and monitor on an ongoing basis, facilities where farm animals are housed or handled including stables, kennels, agricultural shows, research laboratories, farms, fur ranches, abattoirs and other agricultural operations;

(c) promote the humane treatment of farm animals;

(d) seek any necessary aid of, and co-operate with, municipal police forces, the Royal Canadian Mounted Police, agricultural representatives, veterinarians and other experts;

(e) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of farm animals.

No interference or obstruction - provision information

18B

(1) No person shall interfere with or obstruct a person in the exercise of the powers given to the person by this Act or the regulations.

(2) No person shall knowingly furnish an inspector or peace officer with false information or neglect or refuse to furnish information required by an inspector or peace officer in the exercise of the powers or the performance of the duties of an inspector or peace officer pursuant to this Act or the regulations.

Administrator may be appointed

19

(1) The Governor in Council may, on the recommendation of the Minister, appoint a person as Administrator of the Society for the purpose of investigations and inspections under this Act if the Society takes up a practice or tolerates a situation incompatible with its mandate with respect to investigations and inspections under this Act and the Administrator has all the powers of the Society under this Act for the purpose of investigations and inspections.

(2) An Administrator appointed pursuant to subsection (1) shall be paid the remuneration and expenses that the Governor in Council determines.

(3) On the appointment of an Administrator pursuant to subsection (1) the Society's authority under this Act is suspended until such time as is determined by the Governor in Council.

Order appointing a person or organization in place of Society

20

The Governor in Council may make an order appointing a person or organization other than the

Society in place of the Society to carry out any of the functions or duties assigned to the Society by this Act.

Special constables and inspectors

34

(1) The Society may recommend individuals to the Minister for appointment by the Minister of Justice as special constables under the Police Act or recommend that the appointment of such individuals be revoked.

(2) The Minister may recommend individuals to the Minister of Justice for appointment as special constables under the Police Act for the purpose of this Act or recommend that the appointment of such individuals be revoked.

(3) No person may act as an inspector for the purpose of this Act unless the person is appointed as a special constable under the Police Act.

(4) A person who is acting as an inspector for the purpose of this Act shall, upon request, produce evidence of the person's appointment as an inspector.

Prohibition against obstruction

36

No person shall obstruct a peace officer in the exercise of any powers pursuant to this Act.

Act prevails

38

Where a conflict exists between any provision of this Act and any other enactment, other than the Animal Health and Protection Act, the provisions of this Act prevail.

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES

Animal Protection Act, S.N.S. 2008, c. 33 (2012)

Short title

1

This Act may be cited as the Animal Protection Act.

Interpretation

2

(1) In this Act,

- (a) "animal" means a non-human vertebrate;
- (b) "Board" means, unless the context requires otherwise, the Animal Cruelty Appeal Board established by this Act;
- (c) "Chief Inspector" means the person appointed as Chief Inspector for the Society by the Society pursuant to this Act;
- (d) "farm animal" includes
 - (i) cattle, horses, sheep, swine and poultry,
 - (ii) game farm animals including cervids, wild boar, bison, buffalo, ratites, llamas and alpacas,
 - (iii) foxes, chinchilla and mink raised for fur production,
 - (iv) rabbits raised for meat production,
 - (v) fin fish raised in an aquaculture site for commercial purposes, and
 - (vi) any animals designated as farm animals in the regulations;
- (e) "former Act" means Chapter 22 of the Acts of 1996, the Animal Cruelty Prevention Act;
- (f) "judge" means a judge of the provincial court;

(g) "Minister" means the member of the Executive Council charged by the Governor in Council with the administration of this Act;

(h) "peace officer" means a member of the Royal Canadian Mounted Police, a police officer appointed by a regional municipality, town or municipality of a county or district or a special constable appointed under the Police Act for the purpose of this Act;

(i) "premises" includes any place, building, vehicle, vessel, receptacle or thing;

(j) "Provincial Inspector" means the person appointed as Provincial Inspector by the Minister pursuant to this Act;

(k) "research activities" means the use of animals in

(i) scientific investigation,

(ii) scientific teaching or training, or

(iii) the testing of products including medical devices and biological, chemical and pharmacological products, that are subject to prescribed standards and guidelines with respect to the care of animals used in those activities;

(l) "Society" means the Society for the Prevention of Cruelty;

(m) "veterinarian" means a person who is permitted to practise veterinary medicine in the Province under the Veterinary Medical Act.

(2) An animal is in distress, for the purpose of this Act, where the animal is

(a) in need of adequate care, food, water or shelter or in need of reasonable protection from injurious heat or cold; or

(b) injured, sick, in pain, or suffering undue hardship, privation or neglect;

(c) deprived of adequate ventilation, space, veterinary care or medical treatment; or

(d) abused.

Exceptions from application of Act

3

(1) This Act does not apply to wildlife as defined in the Wildlife Act that is not in captivity.

(2) For greater certainty, nothing in this Act overrides Section 193 of the Agriculture and Marketing Act or Sections 7 and 10 of the Sheep Protection Act.

(3) This Act does not apply to mandatory testing procedures undertaken by a research laboratory that are required by Health Canada or the World Health Organization or an organization prescribed in the regulations.

* * * * *

Powers

7

(1) Subject to subsections (5) and (6), the Society may carry on such activities and exercise such powers as are necessary or conducive to attaining its object and, without restricting the generality of the foregoing, may

- (a) promote both the humane treatment of animals and the principles of the Society;
- (b) seek the aid of, when necessary, and co-operate with municipal police forces, the Royal Canadian Mounted Police, agricultural representatives and veterinarians;
- (c) formulate and amend its constitution and make by-laws necessary to attain its object and, in particular, for the internal control, management and administration of its affairs, including by-laws
 - (i) respecting the manner in which persons are admitted to membership in the Society, establishing qualifications for membership and classes of members and determining the rights and duties of different classes of members,
 - (ii) fixing dues,
 - (iii) respecting patrons,
 - (iv) establishing a Board of Directors, an Executive and committees, imposing and conferring duties and powers on the Board, Executive and each committee and providing the manner in which the Board, the Executive and each committee is elected or appointed,
 - (v) respecting the manner in which the meetings of the Society, its Board of Directors, its Executive and its committees are called, the order of business and the procedure to be followed at each meeting and the method of voting at each meeting,

(vi) respecting the election or appointment of officers and volunteer agents of the Society and conferring and imposing rights and duties on them,

(vii) respecting the manner in which documents are executed by the Society;

(d) encourage and assist in the formation of branches of the Society throughout the Province.

(2) Subject to subsections (5) and (6), each by-law of the Society in force immediately prior to the coming into force of this Act is a by-law of the Society until it is repealed or amended pursuant to this Act.

(3) Subject to subsections (5) and (6), the constitution of the Society in force immediately prior to the coming into force of this Act is the constitution of the Society until it is amended or repealed pursuant to this Act.

(4) The Society may delegate any of its powers to its Board of Directors.

(5) The Board of Directors of the Society includes two members appointed by the Minister, who are employed in the civil service of the Province.

(6) Annual general meetings of the Society must be open to the public.

* * * * *

Animal Cruelty Inspections

Chief Inspector

11

(1) The Board of Directors of the Society shall appoint a Chief Inspector and inspectors for the purpose of inspecting animals other than farm animals.

(2) The Chief Inspector must meet the minimum qualifications prescribed in the regulations.

(3) The Chief Inspector may not be a member of the Board of Directors of the Society or an officer of the Society.

Powers of Chief Inspector

12

The Chief Inspector has

- (a) the powers and duties of an inspector of the Society and the powers and duties prescribed in the regulations;
- (b) the power to establish qualifications, requirements and standards for inspectors of the Society;
- (c) the power to recommend persons to the Society for appointment as inspectors of the Society;
- (d) the power to recommend to the Society the revocation of the appointment of an inspector of the Society; and
- (e) the general power to oversee the inspectors of the Society in the performance of their duties.

Inspectors' powers

13

The Chief Inspector or another inspector appointed pursuant to subsection 11(1) may carry on such activities and investigations and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to animals other than farm animals and, without restricting the generality of the foregoing, may

- (a) investigate cases of cruelty to animals other than farm animals;
- (b) inspect and monitor on an ongoing basis facilities where animals other than farm animals are housed or handled including stables, kennels, agricultural shows, pet shops, research laboratories and animal shows;
- (c) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of animals other than farm animals.

Notification respecting farm animal

14

The Chief Inspector shall notify the Provincial Inspector of any reports received by the Chief Inspector or the Society respecting cruelty to a farm animal.

Annual report

15

(1) The Society shall submit to the Minister an annual report in the form and at the time prescribed by the Minister disclosing all inspections, activities and investigations carried out by the Society, the Chief Inspector and inspectors of the Society for the year in respect of which the report is prepared.

(2) Within sixty days of receiving the report referred to in subsection (1), the Minister shall table the report in the Assembly or, if the Assembly is not then sitting, shall file the report with the Clerk of the Assembly.

(3) The Minister may disseminate an annual report of the Society at any time, whether or not it has been tabled in the Assembly or filed with the Clerk of the Assembly.

(4) The Society shall maintain written records of inspections and investigations respecting cruelty to animals and shall make the records available to the Minister upon request.

Investigations respecting farm animals

16

(1) The Minister is responsible for all investigations of farm animals in distress.

(2) Where any question arises with respect to whether an animal is a farm animal the Minister shall decide and the decision of the Minister is final and may not be appealed.

Provincial Inspector

17

The Minister may appoint a Provincial Inspector and inspectors for the purpose of inspecting farm animals.

Powers of Minister

18

The Minister, or an inspector appointed under Section 17, may carry on such activities and exercise such powers as are necessary or conducive to preventing, ending or remediating distress to farm animals and, without restricting the generality of the foregoing, may

- (a) investigate cases of farm animals in distress;
- (b) inspect and monitor on an ongoing basis, facilities where farm animals are housed or handled including stables, kennels, agricultural shows, research laboratories, farms, fur ranches, abattoirs and other agricultural operations;
- (c) promote the humane treatment of farm animals;
- (d) seek any necessary aid of, and co-operate with, municipal police forces, the Royal Canadian Mounted Police, agricultural representatives, veterinarians and other experts;
- (e) formulate and co-ordinate the establishment of industry customs and codes of practice supporting the humane treatment of farm animals.

Inspection of premises

18A

(1) For the purpose of enforcing this Act and the regulations, an inspector or peace officer may at all reasonable times, subject to the regulations, inspect any premises, other than a private dwelling house, in which animals are kept for

- (a) slaughter;
- (b) food production;
- (c) sale;
- (d) hire;
- (e) exhibition;
- (f) sport;
- (g) transportation;
- (h) boarding;
- (i) breeding;
- (j) training;
- (k) research activities; or

- (1) any activity prescribed by the Governor in Council.
- (2) Where an inspector or peace officer is of the opinion that an offence pursuant to this Act is being committed with regard to research animals, the inspector or peace officer shall
 - (a) consult, or be accompanied by, the chair of the animal-care committee associated with that research; or
 - (b) consult with standards-setting agencies prescribed by the regulations or, where the facility in which the research animals are kept is part of the Canadian Council on Animal Care audit program, the Canadian Council on Animal Care, before taking any further action.

Entry by inspector or peace officer

18AA

- (1) For the purpose of ensuring compliance with this Act or the regulations, or any direction made pursuant to this Act or the regulations, an inspector or peace officer may, at any reasonable hour of the day or night, enter any site and inspect any place, conduct any test, seize any animal or carcass to conduct tests, take samples and make any investigations considered necessary or advisable.
- (2) Upon the request of an inspector or peace officer, the owner or a representative appointed by the owner shall accompany the inspector or peace officer during an inspection or investigation pursuant to subsection (1).
- (3) An inspector or peace officer may
 - (a) require the production of any records relating to the animal care and remove them temporarily for the purpose of making copies;
 - (b) take photographs or recordings of the premises, including animals, or any activity taking place around the premises;
 - (c) make an inspection, investigation or inquiry considered necessary to ascertain whether this Act or the regulations, or any direction made pursuant to this Act or the regulations, are being complied with;
 - (d) exercise such other powers as may be necessary or incidental to the carrying out of the functions of the inspector or peace officer pursuant to this Act or the regulations.

No interference or obstruction - provision information

18B

(1) No person shall interfere with or obstruct a person in the exercise of the powers given to the person by this Act or the regulations.

(2) No person shall knowingly furnish an inspector or peace officer with false information or neglect or refuse to furnish information required by an inspector or peace officer in the exercise of the powers or the performance of the duties of an inspector or peace officer pursuant to this Act or the regulations.

Directions of inspector or peace officer

18C

(1) An inspector or peace officer may give directions orally or in writing for the carrying out of this Act or the regulations and may require that such directions be carried out within such time as is specified.

(2) Directions given orally pursuant to subsection (1) must be confirmed in writing as soon as practicable.

Compliance with directions

18D

An owner shall comply with every direction given pursuant to this Act or the regulations and shall furnish any assistance required for the purpose of entering, inspecting or examining any place or making an inquiry concerning a place.

Administrator may be appointed

19

(1) The Governor in Council may, on the recommendation of the Minister, appoint a person as Administrator of the Society for the purpose of investigations and inspections under this Act if the Society takes up a practice or tolerates a situation incompatible with its mandate with respect to investigations and inspections under this Act and the Administrator has all the powers of the Society under this Act for the purpose of investigations and inspections.

(2) An Administrator appointed pursuant to subsection (1) shall be paid the remuneration and expenses that the Governor in Council determines.

(3) On the appointment of an Administrator pursuant to subsection (1) the Society's authority under this Act is suspended until such time as is determined by the Governor in Council.

Order appointing a person or organization in place of Society

20

The Governor in Council may make an order appointing a person or organization other than the Society in place of the Society to carry out any of the functions or duties assigned to the Society by this Act.

Prevention of Cruelty to Animals

Prohibitions

21

(1) No person shall cause an animal to be in distress.

(2) No owner of an animal or person in charge of an animal shall permit the animal to be in distress.

(3) For the purpose of subsection (2), the owner of an animal or the person in charge of an animal does not permit the animal to be in distress if the owner or person in charge takes immediate appropriate steps to relieve the distress.

(4) Subsections (1) and (2) do not apply if the distress, pain, suffering or injury results from an activity carried on in the practise of veterinary medicine, or in accordance with reasonable and generally accepted practices of animal management, husbandry or slaughter or an activity exempted by the regulations.

(5) Subsection (3) does not apply if the owner of an animal or the person in charge of an animal has demonstrated a pattern of causing or permitting any animal to be in distress.

(6) [repealed 2011, c. 50, s. 8]

Duties of owners of animals other than farm animals

22

A person who owns or is in charge of an animal other than a farm animal shall

- (a) ensure that the animal has an adequate source of food and water;
- (b) provide the animal with adequate medical attention when the animal is wounded or ill;
- (c) provide the animal with reasonable protection from injurious heat or cold;
- (d) not confine the animal to an enclosure or area with inadequate space, unsanitary conditions, inadequate ventilation or without providing an opportunity for exercise so as to significantly impair the animal's health or well-being.

Abandoned farm animal

22A

(1) Where the Minister, or a representative of the Minister, suspects a farm animal has been abandoned and the farm animal's owner or custodian cannot be found, the Minister may inquire about the animal's ownership by publishing an advertisement in the Royal Gazette or in a newspaper circulated in the county where the farm animal is located, once a week for two consecutive weeks, with a description of the farm animal and its location.

(2) Where no person is identified as the farm animal's owner or custodian within seven days after the last advertisement under subsection (1), the Minister, or a representative of the Minister, may enter upon the lands where the animal is located to take custody of the animal.

(3) The Minister may sell, give away or euthanize a farm animal that has been taken into custody under subsection (2).

(4) Where more than one person identifies himself or herself as the owner of the farm animal, the Minister may select one of those persons to be responsible for care of the farm animal until such time as those persons determine the question of ownership .

When animal is found in distress

23

(1) Where an inspector or peace officer finds an animal in distress and the owner or person in charge of the animal

- (a) does not immediately take appropriate steps to relieve its distress; or

(b) is not present or cannot be found promptly,

the inspector or peace officer may, subject to this Act, take such action as the inspector or peace officer considers necessary to relieve the distress including, without restricting the generality of the foregoing,

(c) taking custody of the animal;

(d) arranging for any necessary transportation, food, water, care, shelter and medical treatment, or any one or more of them;

(e) delivering the animal into the custody of the Society, the Minister or a suitable caretaker.

(2) Before taking action pursuant to subsection (1), an inspector or peace officer shall take reasonable steps to find the owner or person in charge of the animal and, where the owner is found, shall endeavour to obtain the owner's co-operation to relieve the animal's distress.

(3) Where the owner of the animal is not present or not found and informed of the animal's distress, the inspector, the peace officer, the Society or the Minister in whose custody the animal is delivered, shall take reasonable steps to find the owner and inform the owner of the action taken.

(4) Where an inspector or peace officer has reasonable and probable grounds for believing that an animal is in distress in or upon any premises other than a private dwelling place the inspector or peace officer may, with or without a warrant, and by force, if necessary, enter the premises and search for the animal and exercise the powers conferred on the inspector or peace officer by this Section with respect to any animal in distress found therein.

(5) An inspector or peace officer who, on reasonable and probable grounds, believes that there is an animal in distress in a private dwelling house shall obtain a warrant to enter the private dwelling house for the purpose of carrying out duties pursuant to this Section.

(6) Before entering any premises pursuant to this Section, an inspector or peace officer shall take reasonable steps to find the owner or person in charge of the premises and endeavour to obtain the co-operation of the owner or the person in charge.

(7) Where an inspector or peace officer uses force in entering premises, the inspector or peace officer shall use no more force than is reasonably required under the circumstances.

(8) An inspector or peace officer may at any reasonable time and, where the inspector or peace officer reasonably believes it is necessary to determine compliance with this Act,

(a) enter onto land on which a private dwelling house is located;

(b) require any person in the private dwelling house to produce any animal from within the private dwelling place for examination; and

(c) once an animal is produced, conduct such examination of the animal as may be necessary to determine whether this Act is being complied with.

(9) The owner or person in charge of premises entered by an inspector or peace officer under this Section and any person found within the premises shall give the inspector or peace officer all reasonable assistance necessary to enable the inspector or peace officer to carry out any action authorized under this Act and shall furnish the inspector or peace officer with any information the inspector or peace officer requires to carry out that action.

(10) For the purpose of this Act, an inspector or peace officer may require the operator of a vehicle or vessel that is in motion to stop and, where an inspector or peace officer signals or requests an operator of a vehicle or vessel to stop, the operator shall comply immediately and shall not move the vehicle or vessel until permitted to do so by the inspector or peace officer.

Power to seize

24

(1) An inspector or peace officer who is lawfully in premises pursuant to this Act or a warrant issued under this Act may seize any thing that is produced or that is in plain view if the inspector or peace officer has reasonable grounds to believe that the thing

(a) will afford evidence of an offence under this Act; or

(b) was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence.

(2) An inspector or peace officer may remove a thing that is seized or may detain it in the place where it is seized.

(3) An inspector or peace officer shall inform a person from whom a thing is seized of the reason for the seizure and shall give the person a receipt for it as soon as is practicable on a form approved by the Minister.

Animals in critical distress

25

(1) In this Section, "critical distress" means distress in an animal of such nature that

- (a) immediate veterinary treatment cannot prolong the animal's life; or
- (b) prolonging the animal's life would result in the animal suffering unduly.

(2) [repealed 2011, c. 50, s. 12]

(3) Where, in the opinion of

- (a) a veterinarian; or
- (b) where a veterinarian is not readily available, a peace officer

an animal is in critical distress, a peace officer may euthanize the animal or have the animal euthanized.

(4) Where suffering of an animal referred to in subsection (1) is not unduly prolonged thereby, a peace officer or, where the Society or the Minister has custody of the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and endeavour to obtain the owner's consent to its euthanasia.

(5) Where an animal may be euthanized pursuant to subsection (3) and the owner does not consent to its euthanasia, a peace officer or a veterinarian acting under the direction of a peace officer may euthanize the animal without the owner's consent.

Payment of expenses and power to sell or give animal

26

(1) Where an animal is delivered or taken into the custody of the Society or the Minister pursuant to this Act, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and inform the owner that the animal is in custody.

(2) The owner of an animal delivered or taken into the custody of the Society or the Minister pursuant to this Act shall, when requested to do so by the Society or the Minister, as the case may be, pay to the Society or the Minister, as requested, any expense incurred by the Society or the Minister with respect to the animal including, without restricting the generality of the foregoing, any expense incurred with respect to transportation, food, care, shelter or medical treatment provided for the animal and, where the animal is euthanized, its euthanasia.

(3) Where the Society or the Minister requires the owner to pay any of the expenses referred to in subsection (2) before return of the animal to the owner, those expenses are due and payable as soon as the request is made and before the animal is restored to the owner.

(4) Where the owner of an animal that is in the custody of the Society or the Minister is not found within seventy-two hours after the animal has come into the custody of the Society or the Minister, as the case may be, or, where found,

(a) does not, within seventy-two hours after the animal has come into the custody of the Society or the Minister, either pay or agree to pay to the Society or the Minister, as the case may be, within an agreed upon time the expenses properly incurred by the Society or the Minister with respect to the animal; or

(b) does not pay those expenses within the time agreed upon pursuant to this subsection, the Society or the Minister, as the case may be, may sell or give the animal to any person who, in the opinion of the Society or the Minister will properly care for the animal.

(5) Where an animal comes into the custody of the Society or the Minister pursuant to this Act and the inspector or other person who has taken or accepted custody of the animal is of the opinion, due to the animal's state or situation or previous actions of the owner, that the owner is not a fit person to care for the animal, the Society or the Minister, as the case may be, shall take reasonable steps to find the owner and

(a) where the owner is found, shall notify the owner that the animal will not be returned, of the amount that is owed pursuant to subsection (6) and of the right to request a review; or

(b) where the owner is not found within seventy-two hours or, where found, does not request a review pursuant to subsection (7), may sell or give the animal to any person who, in the opinion of the Society or the Minister, as the case may be, will properly care for the animal.

(6) Where notice is provided to an owner pursuant to subsection (5), and the owner does not request a review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

(a) taking the animal into custody; or

(b) keeping the animal in custody for the first seventy-two hours that the animal is in custody or until the animal is sold, given away or euthanized, whichever occurs sooner.

(7) Within seventy-two hours of being notified pursuant to clause (5)(a), the owner of the animal may request in writing that the decision that an animal will not be returned be reviewed by

(a) the Board of Directors of the Society if the Chief Inspector, another inspector or another person has taken the animal into custody for the Society; or

(b) the Minister if the Provincial Inspector, another inspector or another person has taken the animal into custody for the Minister.

(8) Notwithstanding subsection (7), where the Animal Cruelty Appeal Board has been established under Section 31, a review requested pursuant to this Section shall be decided by the Animal Cruelty Review Board.

(9) Where the owner requests a review pursuant to this Section, the Society or the Minister shall retain custody of the animal until a review decision has been made.

(10) Where the review decision reverses the decision under review, the owner is not responsible for the costs with respect to the animal that are incurred after the time the written request for review is filed.

(11) Where the review decision does not reverse the decision under review, the owner shall pay the amount requested by the Society or the Minister, as the case may be, for expenses properly incurred under this Act with respect to

(a) taking the animal into custody; or

(b) keeping the animal in custody until the review decision is made.

Restriction where animal bears obvious identification and power to euthanize

27

(1) Notwithstanding subsections 26 (4), (5) and (6), where the animal bears an obvious identification tattoo, brand mark, tag, licence or other device or identification prescribed in the regulations, the time limit referred to in that subsection is ten days instead of seventy-two hours.

(2) [repealed 2011, c. 50, s. 14.]

(3) Where an animal is in the custody of the Society or the Minister and, after the expiry of the time period required by Section 26 or this Section, the Society or the Minister, as the case may be, is unable to sell or give the animal to a suitable person, the Society or the Minister may cause the animal to be euthanized.

(4) Where an owner or custodian appeals the removal of the animal pursuant to Section 31, the Society or the Minister shall retain custody of the animal until a decision on the appeal has been issued.

Animal in custody, sold or given away and expenses

27A

- (1) Where an animal is given to a person to care for on behalf of the Society or the Minister, the animal remains in the custody of the Society or the Minister, as the case may be.
- (2) Where an animal in the custody of the Society or the Minister gives birth, any animal born to the animal is also in the custody of the Society or the Minister, as the case may be, and this Act applies mutatis mutandis to the animal born as if the animal born is an animal taken or delivered into custody under this Act along with the animal that gave birth.
- (3) The expenses payable to the Society or the Minister pursuant to this Act may be recovered as a debt in any court of competent jurisdiction.
- (4) Where an animal is sold or given away pursuant to this Act,
 - (a) the manner of selling or giving away the animal is at the discretion of the Society or the Minister, as the case may be; and
 - (b) the person to whom the animal is sold or given away owns the animal free of any encumbrances.
- (5) Where an animal is sold pursuant to this Act,
 - (a) the expenses properly incurred by the Society or the Minister pursuant to this Act with respect to the animal are a first lien on the proceeds of the sale; and
 - (b) any surplus remaining after the expenses referred to in clause (a) are paid must be held in trust for or paid to the owner of the animal.

28 [repealed 2011, c. 50, s. 16]

Duty of veterinarian to report

29

- (1) Every veterinarian who, in the course of practising veterinary medicine, has found reasonable grounds to believe that an animal has been or is subject to neglect or abuse that threatens the animal's health, other than in the circumstances described in subsection 21(4), shall report that belief to the Society.
- (2) No action lies against a person for reporting anything pursuant to subsection (1) unless the reporting is done falsely and maliciously.
- (3) This Section does not apply to the Provincial Inspector or inspectors appointed by the

Minister.

Order for delivery of animal into custody

30

(1) Upon application, or in any proceeding for an offence against this Act, a judge may order a person who claims to own or care for an animal to deliver the animal to the custody of the Society or a person designated by the Minister or, where the animal already is in the custody of the Society or the Minister, that the Society or the Minister not return the animal to such a person if, in the opinion of the judge, that person is not fit to care for the animal.

(2) Notwithstanding anything contained in this Act, the Society or the Minister may sell or give away an animal delivered into or retained in its custody pursuant to subsection (1) but any money received by the Society or the Minister as a result of selling that animal must be returned to the person who was ordered pursuant to subsection (1) to deliver the animal to the custody of the Society or the Minister or the owner of the animal, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal.

(3) The Society or the Minister may cause an animal delivered into custody pursuant to subsection (1) to be euthanized only if the Society or the Minister, after reasonable attempts, is unable to sell or give the animal to a suitable person.

Custody of farm animal pending review or if no application for review

30A

(1) Where an application is made for judicial review of the actions taken by the inspector or peace officer under Section 23 with respect to a farm animal, the Minister may

(a) retain custody of the animal; or

(b) sell the animal.

(2) Where the animal is sold pursuant to clause (1)(b), the Minister shall hold the money received in the sale in trust pending the conclusion of the application for judicial review.

(3) Upon the conclusion of the application for judicial review, the Minister shall pay to the applicant

(a) where the application is successful, the money received in the sale; or

(b) where the application is dismissed, the money received in the sale less any amount to cover expenses properly incurred by the Minister with respect to the animal.

(4) The Minister may sell, give away or euthanize an animal that has been taken into custody under Section 23 if no application has been filed for judicial review by the required deadline.

Animal Cruelty Appeal Board

31

(1) There is hereby established a board known as the Animal Cruelty Appeal Board composed of not more than ten members appointed by the Governor in Council for such terms as the Governor in Council determines.

(2) The Governor in Council shall appoint one of the members of the Board as Chair and another as Vice-chair.

(3) A proceeding before the Board must be heard and determined by a panel consisting of one or more members of the Board assigned by the Chair or Vice-chair.

(4) The Board may, subject to this Act and the regulations, make rules of procedure for the conduct and management of appeals.

(5) Members of the Board shall receive such remuneration and shall be reimbursed for such reasonable expenses incurred by them in carrying out their duties as are determined by the Governor in Council.

(6) A vacancy on the Board does not impair the ability of the Board to act.

Appeal of removal of animal

32

(1) Subject to subsection (3), an owner or custodian of an animal who considers himself or herself aggrieved by the removal of the animal under Section 23 may, within five business days of receiving notice of the removal, appeal the removal and request the return by notice in writing on the form prescribed by the Minister to the Chair of the Board.

(2) A notice under subsection (1) must set out the reason for the appeal and request for return.

(3) A notice under subsection (1) must be accompanied by payment of the prescribed fee.

(4) This Section does not apply if an order under Section 30 is in force with respect to the animal referred to in subsection (1).

(5) Within the prescribed number of days after receipt of a notice of appeal the Chair of the Board shall notify the person making the appeal and the Society or the Minister, as the case may be, of the time, date and place at which a panel of the Board will hear the appeal.

(6) The date fixed for a hearing must be not more than the prescribed number of days after receipt of the notice of appeal by the Chair of the Board and the decision of the Board must be issued within the prescribed number of days after receipt of the notice of appeal by the Chair.

(7) An appeal made under this Section does not stay the operation of an order removing an animal.

Authority of Minister if no appeal

32A

The Minister may sell, give away or euthanize an animal that has been taken into custody under Section 23 if no appeal has been filed under Section 33 by the required deadline.

Hearing and decision

33

(1) At a hearing, the person making the appeal and the Society or the Minister, as the case may be, are entitled to hear the evidence, call and cross-examine witnesses, present arguments and be represented.

(2) After a hearing, or at any time with the consent of the person making the appeal and the Society or the Minister, as the case may be, a panel of the Board may order that an animal removed under Section 23 be returned to its owner or custodian or retained by or returned to the Society or Minister, as the case may be, to be sold, given away or euthanized unless the animal has been euthanized.

(3) Notice of a decision of a panel of the Board under subsection (2) must be given to the person making the appeal and the Society or the Minister, as the case may be, within the prescribed number of days after the hearing and written reasons for the decision must be given to those persons within the prescribed number of days after the hearing.

Disposition of proceeds of sale

33A

Any money received by the Society or the Minister as a result of selling that animal must be returned to the person who was ordered pursuant to subsection 33(2) to deliver the animal to the custody of the Society or the Minister, as the case may be, less any amount to cover expenses properly incurred by the Society or the Minister with respect to that animal.

General

Special constables and inspectors

34

(1) The Society may recommend individuals to the Minister for appointment by the Minister of Justice as special constables under the Police Act or recommend that the appointment of such individuals be revoked.

(2) The Minister may recommend individuals to the Minister of Justice for appointment as special constables under the Police Act for the purpose of this Act or recommend that the appointment of such individuals be revoked.

(3) No person may act as an inspector for the purpose of this Act unless the person is appointed as a special constable under the Police Act.

(4) A person who is acting as an inspector for the purpose of this Act shall, upon request, produce evidence of the person's appointment as an inspector.

Offence and penalties

35

(1) Any person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not more than ten thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(b) for a second offence, to a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment;

(c) for a third or subsequent offence, to a fine of not more than fifty thousand dollars and,

in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment; or

(d) for a first offence involving harm to a law enforcement animal, a fine of not more than twenty-five thousand dollars and, in default of payment, to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(1A) Notwithstanding subsection (1), where a person is found guilty of an offence under this Act or the regulations, the judge may make an order requiring the person to comply with such conditions as the judge considers appropriate and just, in the circumstances for securing the person's good conduct and for preventing the person from repeating the same offence or committing other offences, which conditions may be in lieu of or in addition to the penalties set out in subsection (1).

(2) Where an owner of an animal is found guilty of an offence under this Act or the regulations, the judge may make an order restraining the owner from continuing to have custody of animals for such period of time as is specified by the court.

(3) A person who contravenes an order made by a judge pursuant to subsection (2) is guilty of an offence and liable to the penalties set out in subsection (1).

(4) A person who is found guilty of an offence under this Act with respect to an animal may be ordered by the court to pay the whole or any part of the cost of transportation, food, care, shelter or medical treatment provided to that animal and, where the animal is euthanized, its euthanasia, to the Society or to the Minister.

Limitation period for prosecution

35A

A prosecution of an offence contrary to this Act or the regulations may not be commenced more than two years after the date on which the act or omission that is alleged to constitute the offence occurred.

Prohibition against obstruction

36

No person shall obstruct a peace officer in the exercise of any powers pursuant to this Act.

No action lies

37

No action lies against any person acting in good faith for anything done pursuant to this Act.

Act prevails

38

Where a conflict exists between any provision of this Act and any other enactment, other than the Animal Health and Protection Act, the provisions of this Act prevail.

Regulations by Minister

39

(1) The Minister may make regulations

- (a) prescribing or adopting industry customs and codes of practice for the humane treatment of animals;
- (b) prescribing annual report requirements and times for the purpose of subsection 15(1);
- (c) prescribing forms for the purpose of subsection 32 (1).

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.

Regulations

40

(1) The Governor in Council may make regulations

- (a) prescribing, with respect to animals kept for sale, hire, exhibition, research, or that are impounded, boarded or kept for breeding
 - (i) standards of design, construction and maintenance of facilities in which the animals are kept,
 - (ii) the standard of care with which the animals are to be maintained;

- (b) defining what are reasonable steps to find and notify an owner;
- (c) determining reasonable expenses to be charged to the owner of an animal taken into custody pursuant to this Act for transportation of the animal, food, care, shelter and veterinary medical treatment provided to the animal and for the euthanasia of an animal;
- (d) prescribing acceptable methods of euthanasia;
- (e) prescribing societies, organizations, institutions or persons to which this Act applies for the purpose of enforcing this Act and determining the extent to which this Act applies to the society, organization, institution or person;
- (f) *exempting research activities from the requirements of subsection 23 (1) if the research activities are being conducted pursuant to an audit program approved by the Canadian Council on Animal Care or an organization prescribed in the regulations;*
- (g) prescribing activities for the purpose of subsection 21(4) or 28 (1);
- (h) prescribing procedures and time periods for appeals to the Board;
- (i) prescribing identification devices or methods for the purposes of subsection 26(1);
- (j) prescribing further powers and duties of the Chief Inspector, the Provincial Inspector or inspectors;
- (k) prescribing minimum qualifications for persons appointed as the Chief Inspector, the Provincial Inspector or inspectors;
- (l) prescribing procedures respecting appeals to the Board;
- (m) defining or prescribing unacceptable animal practices, modifications or mutilations;
- (n) prescribing activities that are deemed to cause animals to be in distress;
- (o) prescribing or adopting acceptable codes of practice respecting animals;
- (p) respecting the licensing of animal care facilities and standards for such facilities;
- (q) prescribing fees or ranges of fees for appeals;
- (r) prescribing fees for the purpose of this Act;
- (s) defining any word or expression used but not defined in this Act;

(t) further defining any word or expression defined in this Act;

(u) the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) No regulation may be made pursuant to subsection (1) that conflicts with standards established in nationally developed codes of practice for the care and housing of animals published by organizations prescribed in the regulations.

(3) No regulation may be made pursuant to subsection (1) that is not consistent with the Canadian Council on Animal Care Guidelines for the scientific use of animals.

(4) No action may be taken against a person under this Act if the person complies with the standards referred to in subsection (2) or the Guidelines referred to in subsection (3).

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.

ANIMAL PROTECTION LAWS OF NUNAVUT

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Nunavut's animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Nunavut may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Canada's federal animal protection laws also apply in Nunavut. Because the law is continually evolving, always review an official source for the most current language of any statute.

NUNAVUT

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Failure to provide food and water R.S.N.W.T., c. D-7, s.3</p> <p>(2) Cruel or unnecessary punishment or abuse R.S.N.W.T., c. D-7, s.4</p> <p>(3) Allowing a dog to run at large R.S.N.W.T., c. D-7, s.5(2)</p>
<p><i>Animals Covered in Definition</i></p>	<p>These provisions apply to dogs only. “Dog’ includes male and female dogs and an animal that is a cross between a dog and a wolf.” R.S.N.W.T., c. D-7, s.1</p>
<p><i>Classification of Crimes</i></p>	<p>Summary conviction offence R.S.N.W.T., c. D-7, s.13(1)</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>30 days imprisonment <i>or</i> \$25 fine R.S.N.W.T., c. D-7, s. 13(1)</p>
<p>3. EXEMPTIONS***</p>	<p>-----</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>

NUNAVUT <i>continued</i>	
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>To recover a seized dog, an owner must pay all expenses incurred in securing, caring for and feeding the dog R.S.N.W.T., c. D-7, s.7(2)(b)</p> <p>When a seized dog is sold at public auction, the proceeds shall go for the expenses incurred in securing, caring for and feeding the dog R.S.N.W.T., c. D-7, s.7(4)</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>An officer may seize a dog from a person contravening this Act or whom the officer has good cause to suspect of having contravened or being about to contravene this Act R.S.N.W.T., c. D-7, s. 7(1)</p> <p>If an owner claims possession of a dog within five days following its seizure, and pays the dog's expenses, it shall be at the discretion of the officer whether to restore possession to the owner R.S.N.W.T., c. D-7, s. 7(2)</p>
8. FORFEITURE / POSSESSION^H	<p>Five days after a dog's seizure, the dog may be sold at public auction if it has not been restored to its owner R.S.N.W.T., c. D-7, s. 7(3)</p> <p>When there is no bid for an unclaimed seized dog at public auction, the officer may dispose or destroy the dog as the officer sees fit R.S.N.W.T., c. D-7, s. 7(5)</p> <p>An officer may destroy a dog seized under this section if it is injured, or should be destroyed without delay for humane reasons, or for reasons of safety</p>

	R.S.N.W.T., c. D-7, s. 7(6)
NUNAVUT <i>continued</i>	
8. FORFEITURE / POSSESSION^H <i>continued</i>	<p>Where an officer is unable to seize a dog that is running at large, the officer may destroy the dog R.S.N.W.T., c. D-7, s. 8</p> <p>Upon conviction of an owner for an offence under this Act, the court may order the destruction of any dog of that owner that the court considers should be destroyed for humane reasons or for the safety of the general public. R.S.N.W.T., c. D-7, s. 13</p> <p>An officer may kill an animal severely injured, diseased or otherwise in pain that in the opinion of the officer it would be cruel to allow the animal to live R.S.N.W.T., c.H-2, s. 12</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	-----
11. LAW ENFORCEMENT POLICIES	<p>The Commissioner may appoint persons to be officers for the purpose of carrying out the provisions of this Act R.S.N.W.T., c. D-7, s. 2(1)</p> <p>Members of the Royal Canadian Mounted Police are ex officio officers under this Act R.S.N.W.T., c. D-7, s. 2(2)</p>
12. SEXUAL ASSAULT	-----
13. FIGHTING	-----

NUNAVUT <i>continued</i>	
NOTES	Nunavut separated officially from the Northwest Territories on April 1, 1999. Laws enacted after that date are found in the Statutes of Nunavut.

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect

1. GENERAL PROHIBITIONS

Dog Act, R.S.N.W.T. (Nu.) 1988, c. D-7, ss. 1, 3-5(2012)

Interpretation

1(1)Definitions

In this Act,

"dog" includes male and female dogs and an animal that is a cross between a dog and a wolf;

"muzzle" means to secure the mouth of a dog in such a fashion that it cannot bite anything;

"officer" means a person appointed as an officer under subsection 2(1) and an officer by virtue of his or her office pursuant to subsection 2(2);

"owner" means a person who owns, harbours, possesses or has control or custody of a dog.

1(2)Running at large

For the purposes of this Act, a dog is running at large if it is off the premises of its owner and is not

(a) muzzled; or

(b) under the physical control of a person.

Prohibitions

3Food and water

No owner shall allow a dog to remain unfed or unwatered sufficiently long

(a) to amount to cruelty; or

(b) to cause the dog to become a nuisance.

4 Punishment and abuse

No person shall punish or abuse a dog in a manner or to an extent that is cruel or unnecessary.

5(1) Defined area

The Commissioner may define an area within which a dog is not permitted to run at large.

5(2) Running at large

No owner shall permit a dog to run at large

(a) within any area that is defined by the Commissioner under subsection (1); or

(b) contrary to a municipal by-law.

2. PENALTIES

Dog Act, R.S.N.W.T. (Nu.) 1988, c. D-7, s. 13(2012)

Offence and Punishment

13(1)Offence and punishment

Every person who contravenes this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$25 or to imprisonment for a term not exceeding 30 days.

13(2)Destruction order

The presiding territorial judge or justice of the peace may, on conviction of an owner for an offence under this Act, order the destruction of any dog of that owner that the judge or justice considers should be destroyed for humane reasons or for the safety of the general public.

3. EXEMPTIONS

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Dog Act, R.S.N.W.T. (Nu.) 1988, c. D-7, s. 7(2012)

Seizure

7(1)Seizure

An officer may seize a dog from a person whom the officer

- (a) finds contravening this Act; or
- (b) has good cause to suspect of having contravened or being about to contravene this Act.

7(2)Recovery by owner

Subject to subsection (6), an officer who has seized a dog under subsection (1) may, in the officer's discretion, restore possession of the dog to its owner where

- (a) the owner claims possession of the dog within five days after the date of seizure; and
- (b) *the owner pays to the officer all expenses incurred in securing, caring for and feeding the dog.*

7(3)Sale by public auction

Where, at the end of five days, possession of a dog has not been restored to the owner under subsection (2), the officer may sell the dog at public auction.

7(4)Distribution of proceeds

The proceeds of a sale of a dog by public auction shall be distributed as follows:

- (a) *all expenses incurred in securing, caring for and feeding the dog shall be paid to the officer;*
- (b) the expenses of the public auction shall be paid;
- (c) any balance shall be paid to the owner or, if the owner cannot be found within a reasonable period of time after the sale, shall be paid into the Consolidated Revenue Fund.

7(5)Where dog not claimed nor sold

An officer may, as the officer considers appropriate, destroy or dispose of a dog seized under this section where

(a) the dog has not been claimed under subsection (2), within five days after the seizure; and

(b) no bid has been received at a sale by public auction under subsection (3).

7(6)Exigent destruction of dog

An officer may destroy a dog seized under this section, as soon after the seizure as the officer thinks fit, without permitting any person to claim the dog under subsection (2) or offering it for sale by public auction under subsection (3), where, in the opinion of the officer, the dog

(a) is injured; or

(b) should be destroyed without delay for humane reasons or for reasons of safety.

7(7)By-laws of municipality

Where the seizure of a dog is made for contravention of a municipal by-law respecting dogs, the provisions of the by-law respecting the impounding, selling or destruction of dogs apply instead of the provisions of this section.

7. SEIZURE / ON-SITE SUPERVISION

Dog Act, R.S.N.W.T. (Nu.) 1988, c. D-7, s. 7(2012)

Seizure

7(1)Seizure

An officer may seize a dog from a person whom the officer

(a) finds contravening this Act; or

(b) has good cause to suspect of having contravened or being about to contravene this Act.

7(2)Recovery by owner

Subject to subsection (6), an officer who has seized a dog under subsection (1) may, in the officer's discretion, restore possession of the dog to its owner where

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(b) the owner pays to the officer all expenses incurred in securing, caring for and feeding the dog.

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(a) all expenses incurred in securing, caring for and feeding the dog shall be paid to the officer;

(b) the expenses of the public auction shall be paid;

(c) any balance shall be paid to the owner or, if the owner cannot be found within a reasonable period of time after the sale, shall be paid into the Consolidated Revenue Fund.

7(5)Where dog not claimed nor sold

An officer may, as the officer considers appropriate, destroy or dispose of a dog seized under this section where

- (a) the dog has not been claimed under subsection (2), within five days after the seizure; and
- (b) no bid has been received at a sale by public auction under subsection (3).

7(6)Exigent destruction of dog

An officer may destroy a dog seized under this section, as soon after the seizure as the officer thinks fit, without permitting any person to claim the dog under subsection (2) or offering it for sale by public auction under subsection (3), where, in the opinion of the officer, the dog

- (a) is injured; or
- (b) should be destroyed without delay for humane reasons or for reasons of safety.

7(7)By-laws of municipality

Where the seizure of a dog is made for contravention of a municipal by-law respecting dogs, the provisions of the by-law respecting the impounding, selling or destruction of dogs apply instead of the provisions of this section.

8. FORFEITURE / POSSESSION

Dog Act, R.S.N.W.T. (Nu.) 1988, c. D-7, ss.7, 8, 13(2012)

Seizure

7(1)Seizure

An officer may seize a dog from a person whom the officer

- (a) finds contravening this Act; or
- (b) has good cause to suspect of having contravened or being about to contravene this Act.

7(2)Recovery by owner

Subject to subsection (6), an officer who has seized a dog under subsection (1) may, in the officer's discretion, restore possession of the dog to its owner where

- (a) the owner claims possession of the dog within five days after the date of seizure; and
- (b) the owner pays to the officer all expenses incurred in securing, caring for and feeding the dog.

7(3)Sale by public auction

Where, at the end of five days, possession of a dog has not been restored to the owner under subsection (2), the officer may sell the dog at public auction.

7(4)Distribution of proceeds

The proceeds of a sale of a dog by public auction shall be distributed as follows:

- (a) all expenses incurred in securing, caring for and feeding the dog shall be paid to the officer;
- (b) the expenses of the public auction shall be paid;
- (c) any balance shall be paid to the owner or, if the owner cannot be found within a reasonable period of time after the sale, shall be paid into the Consolidated Revenue Fund.

7(5)Where dog not claimed nor sold

An officer may, as the officer considers appropriate, destroy or dispose of a dog seized under this section where

(a) the dog has not been claimed under subsection (2), within five days after the seizure; and

(b) no bid has been received at a sale by public auction under subsection (3).

7(6)Exigent destruction of dog

An officer may destroy a dog seized under this section, as soon after the seizure as the officer thinks fit, without permitting any person to claim the dog under subsection (2) or offering it for sale by public auction under subsection (3), where, in the opinion of the officer, the dog

(a) is injured; or

(b) should be destroyed without delay for humane reasons or for reasons of safety.

7(7)By-laws of municipality

Where the seizure of a dog is made for contravention of a municipal by-law respecting dogs, the provisions of the by-law respecting the impounding, selling or destruction of dogs apply instead of the provisions of this section.

Destruction

8(1)Where unable to seize

Where an officer is unable to seize a dog that is running at large contrary to this Act, or an order, rule or regulation made under this Act, the officer may destroy the dog.

8(2)No damages payable for destruction

No damages or compensation may be recovered on account of the destruction of a dog by an officer under subsection (1).

Offence and Punishment

13(1)Offence and punishment

Every person who contravenes this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$25 or to imprisonment for a term not exceeding 30 days.

13(2) Destruction order

The presiding territorial judge or justice of the peace may, on conviction of an owner for an offence under this Act, order the destruction of any dog of that owner that the judge or justice considers should be destroyed for humane reasons or for the safety of the general public.

Herd And Fencing Act, R.S.N.W.T. (Nu.) 1988, c. H-2 (2012)

12(1) Injured animals

Where

(a) an officer finds an animal so severely injured, diseased or otherwise in pain that in the opinion of the officer it would be cruel to allow the animal to live, and

(b) the owner refuses to consent to the destruction of the animal,

the officer shall summon a veterinary surgeon, or if one is not available, two reputable residents of the area and if the veterinary surgeon of the residents concur in writing with the opinion of the officer, the officer may, without the consent of the owner, kill the animal or cause it to be killed.

12(2) Owner not located

Where

(a) an officer finds an animal so severely injured, diseased or otherwise in pain that in the opinion of the officer it would be cruel to allow the animal to live, and

(b) after taking any reasonable steps that the officer considers advisable, the officer is unable to locate the owner of the animal,

the officer may kill the animal or cause it to be killed.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

Dog Act, R.S.N.W.T. (Nu.) 1988, c. D-7, s. 2(2012)

2(1)Appointment of officers

The Minister may appoint persons to be officers for the purpose of carrying out the provisions of this Act. R.C.M.P.

2(2)R.C.M.P.

Every member of the Royal Canadian Mounted Police is, by virtue of his or her office, an officer under this Act.

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES

Dog Act, R.S.N.W.T. (Nu.) 1988, c. D-7, s. 1-14 (2012)

Interpretation

1(1)Definitions

In this Act,

"dog" includes male and female dogs and an animal that is a cross between a dog and a wolf;

"muzzle" means to secure the mouth of a dog in such a fashion that it cannot bite anything;

"officer" means a person appointed as an officer under subsection 2(1) and an officer by virtue of his or her office pursuant to subsection 2(2);

"owner" means a person who owns, harbours, possesses or has control or custody of a dog.

1(2)Running at large

For the purposes of this Act, a dog is running at large if it is off the premises of its owner and is not

- (a) muzzled; or
- (b) under the physical control of a person.

Officers

2(1)Appointment of officers

The Minister may appoint persons to be officers for the purpose of carrying out the provisions of this Act. R.C.M.P.

2(2)R.C.M.P.

Every member of the Royal Canadian Mounted Police is, by virtue of his or her office, an officer under this Act.

Prohibitions

3Food and water

No owner shall allow a dog to remain unfed or unwatered sufficiently long

- (a) to amount to cruelty; or
- (b) to cause the dog to become a nuisance.

4Punishment and abuse

No person shall punish or abuse a dog in a manner or to an extent that is cruel or unnecessary.

5(1) Defined area

The Commissioner may define an area within which a dog is not permitted to run at large.

5(2) Running at large

No owner shall permit a dog to run at large

- (a) within any area that is defined by the Commissioner under subsection (1); or
- (b) contrary to a municipal by-law.

* * * * *

Seizure

7(1)Seizure

An officer may seize a dog from a person whom the officer

- (a) finds contravening this Act; or

(b) has good cause to suspect of having contravened or being about to contravene this Act.

7(2)Recovery by owner

Subject to subsection (6), an officer who has seized a dog under subsection (1) may, in the officer's discretion, restore possession of the dog to its owner where

(a) the owner claims possession of the dog within five days after the date of seizure; and

(b) the owner pays to the officer all expenses incurred in securing, caring for and feeding the dog.

7(3)Sale by public auction

Where, at the end of five days, possession of a dog has not been restored to the owner under subsection (2), the officer may sell the dog at public auction.

7(4)Distribution of proceeds

The proceeds of a sale of a dog by public auction shall be distributed as follows:

(a) all expenses incurred in securing, caring for and feeding the dog shall be paid to the officer;

(b) the expenses of the public auction shall be paid;

(c) any balance shall be paid to the owner or, if the owner cannot be found within a reasonable period of time after the sale, shall be paid into the Consolidated Revenue Fund.

7(5)Where dog not claimed nor sold

An officer may, as the officer considers appropriate, destroy or dispose of a dog seized under this section where

(a) the dog has not been claimed under subsection (2), within five days after the seizure; and

(b) no bid has been received at a sale by public auction under subsection (3).

7(6)Exigent destruction of dog

An officer may destroy a dog seized under this section, as soon after the seizure as the officer thinks fit, without permitting any person to claim the dog under subsection (2) or offering it for sale by public auction under subsection (3), where, in the opinion of the officer, the dog

(a) is injured; or

(b) should be destroyed without delay for humane reasons or for reasons of safety.

7(6.1) No damages or compensation

No damages or compensation may be recovered on account of the destruction or disposal of a dog pursuant to subsections (5) or (6).

7(7)By-laws of municipality

Where the seizure of a dog is made for contravention of a municipal by-law respecting dogs, the provisions of the by-law respecting the impounding, selling or destruction of dogs apply instead of the provisions of this section.

Destruction

8(1)Where unable to seize

Where an officer is unable to seize a dog that is running at large contrary to this Act, or an order, rule or regulation made under this Act, the officer may destroy the dog.

8(2)No damages payable for destruction

No damages or compensation may be recovered on account of the destruction of a dog by an officer under subsection (1).

* * * * *

Offence and Punishment

13(1)Offence and punishment

Every person who contravenes this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$25 or to imprisonment for a term not exceeding 30 days.

13(2) Destruction order

The presiding territorial judge or justice of the peace may, on conviction of an owner for an offence under this Act, order the destruction of any dog of that owner that the judge or justice considers should be destroyed for humane reasons or for the safety of the general public.

* * * * *

Herd And Fencing Act, R.S.N.W.T. (Nu.) 1988, c. H-2 (2012)

12(1) Injured animals

Where

(a) an officer finds an animal so severely injured, diseased or otherwise in pain that in the opinion of the officer it would be cruel to allow the animal to live, and

(b) the owner refuses to consent to the destruction of the animal,

the officer shall summon a veterinary surgeon, or if one is not available, two reputable residents of the area and if the veterinary surgeon or the residents concur in writing with the opinion of the officer, the officer may, without the consent of the owner, kill the animal or cause it to be killed.

12(2) Owner not located

Where

(a) an officer finds an animal so severely injured, diseased or otherwise in pain that in the opinion of the officer it would be cruel to allow the animal to live, and

(b) after taking any reasonable steps that the officer considers advisable, the officer is unable to locate the owner of the animal,

the officer may kill the animal or cause it to be killed.

ANIMAL PROTECTION LAWS OF OHIO

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Ohio's general animal protection related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Ohio may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

OHIO

1. GENERAL PROHIBITIONS*

(1)
Abandoning animals
OHIO REV. CODE ANN.§ 959.01

(2)
Injuring animals
OHIO REV. CODE ANN.§ 959.02

(3)
Poisoning animals
OHIO REV. CODE ANN.§ 959.03

(4)
Cruelty to animals
OHIO REV. CODE ANN.§ 959.13

(5)
Knowing cruelty to companion animals
OHIO REV. CODE ANN.§ 959.131(B)

(6)
Negligent cruelty to companion animals
OHIO REV. CODE ANN.§ 959.131(C)

Animals Covered in Definition

“[E]very living dumb creature”
OHIO REV. CODE ANN.§ 1717.01

OHIO*continued*

Classification of Crimes

(1), (6)
[1st offense]:
2nd degree misdemeanor

[Subsequent offenses]:
1st degree misdemeanor

(2)
[If injured animal is valued at less than \$300]:
2nd degree misdemeanor

[If injured animal is valued at more than
\$300]:
1st degree misdemeanor

(3)
4th degree misdemeanor

(4)
2nd degree misdemeanor

(5)
[1st offense]:
1st degree misdemeanor

[Subsequent offenses]:
5th degree felony

OHIO*continued*

2. MAXIMUM PENALTIES**

(1), (6)
[1st offense]:
90 days jail
OHIO REV. CODE ANN. § 2929.24
and
\$750 fine
OHIO REV. CODE ANN. § 2929.28

[Subsequent offenses]:
6 months jail
OHIO REV. CODE ANN. § 2929.24
and
\$1,000 fine
OHIO REV. CODE ANN. § 2929.28

(2)
[If injured animal is valued at less than \$300]:
90 days jail
OHIO REV. CODE ANN. § 2929.24
and
\$750 fine
OHIO REV. CODE ANN. § 2929.28

[If injured animal is valued at more than \$300]:
6 months jail
OHIO REV. CODE ANN. § 2929.24
and
\$1,000 fine
OHIO REV. CODE ANN. § 2929.28

OHIO*continued*

<p>2. MAXIMUM PENALTIES<i>continued</i>**</p>	<p>(3) 30 days jail OHIO REV. CODE ANN.§ 2929.24 <i>and</i> \$250 fine OHIO REV. CODE ANN.§ 2929.28 -----</p> <p>(4) 90 days jail OHIO REV. CODE ANN.§2929.24 <i>and</i> \$750 fine OHIO REV. CODE ANN.§2929.28 -----</p> <p>(5) [1st offense]: 6 months jail OHIO REV. CODE ANN. § 2929.24 <i>and</i> \$1,000 fine OHIO REV. CODE ANN. § 2929.28</p> <p>[Subsequent offenses]: 12 months imprisonment OHIO REV. CODE ANN.§2929.14 <i>and</i> \$2,500 fine OHIO REV. CODE ANN.§2929.18</p>
<p>3. EXEMPTIONS***</p>	<p>1 OHIO REV. CODE ANN.§ 959.02</p> <p>4, 9 OHIO REV. CODE ANN.§§ 959.13(A)(2),(4), (B)</p> <p>1, 2, 9 OHIO REV. CODE ANN.§§ 959.131</p>

OHIO*continued*

4. COUNSELING / EVALUATIONS^H	Court may order those convicted of cruelty to a companion animal to undergo a psychological evaluation or counseling, costs to be borne by offender. OHIO REV. CODE ANN. §959.99(E)(4)
5. PROTECTIVE ORDERS^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	Court may order person charged with a violation of companion animal cruelty to post a bond for the costs of care for impounded animals. OHIO REV. CODE ANN. §959.132 Upon conviction, court may order offender to pay costs of care. OHIO REV. CODE ANN. §959.132 If seized animal is forfeited and sold, proceeds will first be applied to costs of care. OHIO REV. CODE ANN. § 959.99(D) Court may order person convicted of companion animal cruelty to reimburse costs of care. OHIO REV. CODE ANN. § 959.99(E) Person guilty of cruelty to animal owned by another person is liable to owner for damages. OHIO REV. CODE ANN. § 1717.11 If an animal is seized to protect it from neglect, owner is liable for costs of care. OHIO REV. CODE ANN. § 1717.13 <i>Note: Under state general criminal laws, those convicted of certain misdemeanors and felonies may be ordered to pay restitution and reimbursement of costs.</i> OHIO REV. CODE ANN. §§ 2929.18, 2929.28

OHIO*continued*

7. SEIZURE / ON-SITE SUPERVISION

Any law enforcement officer, agent of a county humane society, dog warden, assistant dog warden, or other person appointed to act as an animal control officer, may impound a companion animal if there is probable cause to believe that it or other companion animals that are kept by the same person on the premises are the subject of companion animal cruelty.

OHIO REV. CODE ANN. §959.132(B)

After charges are filed alleging companion animal cruelty, the court may authorize an officer or another person to visit the place where the companion animal is being kept, to determine whether the companion animal is receiving proper care and to impound it if it is not receiving such care.

OHIO REV. CODE ANN. §959.132(H)

Humane society members can require law enforcement agents to take possession of any animal cruelly treated.

OHIO REV. CODE ANN. § 1717.09

Any person may seize an animal to protect it from neglect.

OHIO REV. CODE ANN. § 1717.13

When a complaint is made that the complainant believes an animal protection law is being violated, the court shall issue and deliver a warrant, directed to any peace officer or agent of a society for the prevention of cruelty to animals, authorizing him to enter and search such building or place and arrest all persons there violating, or attempting to violate such law.

OHIO REV. CODE ANN. § 2933.31

OHIO*continued*

8. FORFEITURE / POSSESSION^H	<p>Failure to post or renew a court-ordered bond may result in forfeiture of impounded animals. OHIO REV. CODE ANN.§959.132(E)(3)</p> <p>Upon conviction, court may order animals forfeited OHIO REV. CODE ANN. § 959.132(F)(2)</p> <p>Court may order the forfeiture of cruelly treated animals. OHIO REV. CODE ANN.§§ 959.99(D),(E)</p> <p>Court may prohibit or place limitations on the ability to own or care for any companion animals for a specified or indefinite period of time for those convicted of companion animal cruelty. OHIO REV. CODE ANN.§959.99(E)</p>
9. CROSS ENFORCEMENT / REPORTING	<p>Humane society agents may arrest any person violating a law that protects animals or persons OHIO REV. CODE ANN.§§ 1717.04, 1717.06, and can require other law enforcement officers to do so as well OHIO REV. CODE ANN.§ 1717.09, and must report suspected child abuse or neglect. OHIO REV. CODE ANN.§ 1717.14</p>
10. VETERINARIAN REPORTING/ IMMUNITY	-----

OHIO*continued*

11. LAW ENFORCEMENT POLICIES	<p>Appointed Ohio Humane Society agents, approved by local authorities, may arrest violators. OHIO REV. CODE ANN. §§ 1717.04, 1717.06</p> <p>An officer, agent, or member of the Ohio Humane Society or of a county humane society may interfere to prevent the perpetration of any act of cruelty to animals in his presence, may use necessary force to prevent it, and may summon to his aid any bystanders. OHIO REV. CODE ANN. § 1717.08</p> <p>Humane society members can require law enforcement agents to arrest violators. OHIO REV. CODE ANN. § 1717.09</p> <p>A humane society may employ attorneys to prosecute violations of law relating to the prevention of cruelty to animals; such attorneys shall be paid by the county. OHIO REV. CODE ANN. § 2931.18</p> <p>Judge or magistrate may issue a warrant authorizing law enforcement to enter premises of alleged cruelty violation. OHIO REV. CODE ANN. § 2933.31</p>
12. SEXUAL ASSAULT	-----

OHIO*continued*

13. FIGHTING	<p>Various animal fighting activities are unlawful. OHIO REV. CODE ANN. §959.15</p> <p>Peace officers may seize dogs and cause such dogs to be impounded, and shall confiscate equipment or devices. OHIO REV. CODE ANN. §959.16</p> <p>Procedures for seizure and impoundment of fighting dogs OHIO REV. CODE ANN. § 959.161</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

OHIO REV. CODE ANN. § 959.01 (2012). Abandoning animals.

No owner or keeper of a dog, cat, or other domestic animal, shall abandon such animal.

OHIO REV. CODE ANN. § 959.02 (2012). Injuring animals.

No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.

OHIO REV. CODE ANN. § 959.03 (2012). Poisoning animals.

No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, poultry, or any other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another.

OHIO REV. CODE ANN. § 959.13 (2012). Cruelty to animals.

(A) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animals would otherwise become sick or in some other way suffer. Division (A)(2) of this section does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, shelter means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation.

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor or [sic.] feed cows on food that produces impure or unwholesome milk;

(5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water, and attention, nor permit such stock to be so crowded as to overlie, crush, wound, or kill each other.

(B) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water, and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.

(C) All fines collected for violations of this section shall be paid to the society or association for the prevention of cruelty to animals, if there be such in the county, township, or municipal corporation where such violation occurred.

OHIO REV. CODE ANN. §959.131 (2012). Prohibitions concerning companion animals.

(A) As used in this section:

(1) “Companion animal” means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. “Companion animal” does not include livestock or any wild animal.

(2) “Cruelty,” “torment,” and “torture” have the same meanings as in section 1717.01 of the Revised Code.

(3) “Residential dwelling” means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

(4) “Practice of veterinary medicine” has the same meaning as in section 4741.01 of the Revised Code.

(5) “Wild animal” has the same meaning as in section 1531.01 of the Revised Code.

(6) “Federal animal welfare act” means the “Laboratory Animal Act of 1966,” Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the “Animal Welfare Act of 1970,” Pub. L. No. 91-579, 84 Stat. 1560 (1970), the “Animal Welfare Act Amendments of 1976,” Pub. L. No. 94-279, 90 Stat. 417 (1976), and the “Food Security Act of 1985,” Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

(B) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

(2) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(D) Divisions (B) and (C) of this section do not apply to any of the following:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code;

(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Chapter 4741. of the Revised Code.

(E) Notwithstanding any section of the Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so imposed for any violation of this section to the treasurer of the political subdivision or the state, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The treasurer to whom the fines are forwarded shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys to provide the training that is required for humane agents under section 1717.06 of the Revised Code.

OHIO REV. CODE ANN. § 1717.01 (2012). Definitions.

As used in sections 1717.01 to 1717.14, inclusive, of the Revised Code, and in every law relating to animals:

(A) *“Animal” includes every living dumb creature;*

(B) *“Cruelty,” “torment,” and “torture” include every act, omission, or neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief;*

(C) *“Owner” and “person” include corporations. For the purpose of this section the knowledge and acts of the agents and employees of a corporation, in regard to animals transported, owned, or employed by, or in the custody of, such agents and employees, are the knowledge and acts of the corporation.*

2. PENALTIES

OHIO REV. CODE ANN. §959.99 (2012). Penalties.

(A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor.

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 of the Revised Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(E)

(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3)

(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

OHIO REV. CODE ANN. § 2929.14 (2012). Basic prison terms.

(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), (J), or (L) of this section or in division (D)(6) of section 2919.25 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) *For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.*

* * * * *

OHIO REV. CODE ANN. § 2929.18 (2012). Financial sanctions; restitution.

(A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. If the court imposes restitution, the court shall order that the restitution be made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

If the court imposes restitution, the court may order that the offender pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision, or as described in division (B)(2) of this section to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A fine ordered under this division shall not exceed the maximum conventional fine amount authorized for the level of the offense under division (A)(3) of this section.

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

- (a) For a felony of the first degree, not more than twenty thousand dollars;*
- (b) For a felony of the second degree, not more than fifteen thousand dollars;*
- (c) For a felony of the third degree, not more than ten thousand dollars;*
- (d) For a felony of the fourth degree, not more than five thousand dollars;*
- (e) For a felony of the fifth degree, not more than two thousand five hundred dollars.*

(4) A state fine or costs as defined in section 2949.111 of the Revised Code.

(5)

(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, 2929.142, or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement;

(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under section 4510.13 of the Revised Code.

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, and if the court does not impose a financial sanction under division (A)(5)(a)(ii) of this section, confinement costs may be assessed pursuant to section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.

(c) Reimbursement by the offender for costs pursuant to section 2929.71 of the Revised Code.

(B)

(1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to division (A)(3) of this section. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

(2) Any mandatory fine imposed upon an offender under division (B)(1) of this section and any fine imposed upon an offender under division (A)(2) or (3) of this section for any fourth or fifth degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code shall be paid to law enforcement agencies pursuant to division (F) of section 2925.03 of the Revised Code.

(3) For a fourth degree felony OVI offense and for a third degree felony OVI offense, the sentencing court shall impose upon the offender a mandatory fine in the amount specified in division (G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever is applicable. The mandatory fine so imposed shall be disbursed as provided in the division pursuant to which it is imposed.

* * * * *

OHIO REV. CODE ANN. § 2929.24 (2012). Definite jail terms for misdemeanor; eligibility for county jail industry program; reimbursement sanction; costs of confinement.

(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code or division (E) or (F) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

(1) For a misdemeanor of the first degree, not more than one hundred eighty days;

(2) For a misdemeanor of the second degree, not more than ninety days;

(3) For a misdemeanor of the third degree, not more than sixty days;

(4) For a misdemeanor of the fourth degree, not more than thirty days.

(B)

(1) A court that sentences an offender to a jail term under this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (b) of section 2929.26 of the revised code. The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

(2)

(a) If a prosecutor, as defined in section 2935.01 of the revised code, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

(b) If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(C) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to section 5147.30 of the Revised Code, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(D) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to section 2929.28 of the Revised Code a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(1) The court shall specify both of the following as part of the sentence:

(a) If the person is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.

(b) If the person does not dispute the bill described in division (D)(1)(a) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the person as described in that section.

(2) The sentence automatically includes any certificate of judgment issued as described in division (D)(1)(b) of this section.

(E) If an offender who is convicted of or pleads guilty to a violation of division (B) of section 4511.19 of the Revised Code also is convicted of or also pleads guilty to a specification of the type described in section 2941.1416 of the Revised Code and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.

(F)

(1) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

(a) Subject to division (F)(1)(b) of this section, an additional definite jail term of not more than sixty days;

(b) If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional definite jail term of not more than one hundred twenty days.

(2) In lieu of imposing an additional definite jail term under division (F)(1) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (F)(1) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.26 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.25 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(G) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least thirty days.

(H) If a court sentences an offender to a jail term under this section, the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under section 2929.26 or 2929.27 of the Revised Code for any jail days that are not mandatory jail days.

OHIO REV. CODE ANN. § 2929.28 (2012). Financial sanctions; court costs.

(A) In addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under section 3937.18 of the Revised Code.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) A fine of the type described in divisions (A)(2)(a) and (b) of this section payable to the appropriate entity as required by law:

(a) A fine in the following amount:

(i) For a misdemeanor of the first degree, not more than one thousand dollars;

(ii) For a misdemeanor of the second degree, not more than seven hundred fifty dollars;

(iii) For a misdemeanor of the third degree, not more than five hundred dollars;

(iv) For a misdemeanor of the fourth degree, not more than two hundred fifty dollars;

(v) For a minor misdemeanor, not more than one hundred fifty dollars.

(b) A state fine or cost as defined in section 2949.111 of the Revised Code.

* * * * *

3. EXEMPTIONS

OHIO REV. CODE ANN.§ 959.02 (2012). Injuring animals.

No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, or other domestic animal that is the property of another. *This section does not apply to a licensed veterinarian acting in an official capacity.*

OHIO REV. CODE ANN.§ 959.13 (2012). Cruelty to animals.

(A) *No person shall:*

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animals would otherwise become sick or in some other way suffer. *Division (A)(2) of this section does not apply to animals impounded or confined prior to slaughter.* For the purpose of this section, shelter means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation.

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) *Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor or [sic.] feed cows on food that produces impure or unwholesome milk;*

(5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water, and attention, nor permit such stock to be so crowded as to overlie, crush, wound, or kill each other.

(B) *Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water, and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.*

(C) All fines collected for violations of this section shall be paid to the society or association for the prevention of cruelty to animals, if there be such in the county, township, or municipal corporation where such violation occurred.

OHIO REV. CODE ANN. §959.131 (2012). Prohibitions concerning companion animals.

(A) As used in this section:

(1) “Companion animal” means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. “Companion animal” does not include livestock or any wild animal.

(2) “Cruelty,” “torment,” and “torture” have the same meanings as in section 1717.01 of the Revised Code.

(3) “Residential dwelling” means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

(4) “Practice of veterinary medicine” has the same meaning as in section 4741.01 of the Revised Code.

(5) “Wild animal” has the same meaning as in section 1531.01 of the Revised Code.

(6) “Federal animal welfare act” means the “Laboratory Animal Act of 1966,” Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the “Animal Welfare Act of 1970,” Pub. L. No. 91-579, 84 Stat. 1560 (1970), the “Animal Welfare Act Amendments of 1976,” Pub. L. No. 94-279, 90 Stat. 417 (1976), and the “Food Security Act of 1985,” Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

(B) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

(2) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(D) Divisions (B) and (C) of this section do not apply to any of the following:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code;

(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Chapter 4741. of the Revised Code.

(E) Notwithstanding any section of the Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so imposed for any violation of this section to the treasurer of the political subdivision or the state, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The treasurer to whom the fines are forwarded shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys to provide the training that is required for humane agents under section 1717.06 of the Revised Code.

4. COUNSELING / EVALUATIONS

OHIO REV. CODE ANN. §959.99 (2012). Penalties.

(A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor.

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 of the Revised Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(E)

(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3)

(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

OHIO REV. CODE ANN. § 959.132 (2012). Procedures for seizure and impoundment of companion animals.

(A) As used in this section:

(1) “Companion animal” has the same meaning as in section 959.131 of the Revised Code.

(2) “Impounding agency” means a county humane society organized under section 1717.05 of the Revised Code, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.

(3) “Offense” means a violation of section 959.131 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.131 of the Revised Code.

(4) “Officer” means any law enforcement officer, agent of a county humane society, or other person appointed to act as an animal control officer for a municipal corporation or township in accordance with state law, an ordinance, or a resolution.

(B) An officer may seize and cause to be impounded at an impounding agency a companion animal that the officer has probable cause to believe is the subject of an offense. No officer or impounding agency shall impound a companion animal that is the subject of an offense in a shelter owned, operated, or controlled by a board of county commissioners pursuant to Chapter 955. of the Revised Code unless the board, by resolution, authorizes the impoundment of such a companion animal in a shelter owned, operated, or controlled by that board and has executed, in the case when the officer is other than a dog warden or assistant dog warden, a contract specifying the terms and conditions of the impoundment.

(C) The officer shall give written notice of the seizure and impoundment to the owner, keeper, or harbinger of the companion animal that was seized and impounded. If the officer is unable to give the notice to the owner, keeper, or harbinger of the companion animal, the officer shall post the notice on the door of the residence or in another conspicuous place on the premises at which the companion animal was seized. The notice shall include a statement that a hearing will be held not later than ten days after the notice is provided or at the next available court date to determine whether the officer had probable cause to seize the companion animal and, if applicable, to determine the amount of a bond or cash deposit that is needed to provide for the companion animal’s care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(D) A companion animal that is seized under this section may be humanely destroyed immediately or at any time during impoundment if a licensed veterinarian determines it to be necessary because the companion animal is suffering.

(E)

(1) Not later than ten days after notice is provided or at the next available court date, the court shall hold a hearing to determine whether the officer impounding a companion animal had probable cause to seize the companion animal. *If the court determines that probable cause exists, the court shall determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.*

(2) If the court determines that probable cause does not exist, the court immediately shall order the impounding agency to return the companion animal to its owner if possible. *If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable.* The requirement established in division (E)(2) of this section regarding the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(3) *If the court determines that probable cause exists and determines the amount of a bond or cash deposit, the case shall continue and the owner shall post a bond or cash deposit to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded. The owner may renew a bond or cash deposit by posting, not later than ten days following the expiration of the period for which a previous bond or cash deposit was posted, a new bond or cash deposit in an amount that the court, in consultation with the impounding agency, determines is sufficient to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the previous period expired. If no bond or cash deposit is posted or if a bond or cash deposit expires and is not renewed, the impounding agency may determine the disposition of the companion animal unless the court issues an order that specifies otherwise.*

(F) *If a person is convicted of committing an offense, the court may impose the following additional penalties against the person:*

(1) A requirement that the person pay for the costs incurred by the impounding agency in caring for a companion animal involved in the applicable offense, provided that the costs were incurred during the companion animal's impoundment. A bond or cash deposit posted under this section may be applied to the costs.

(2) An order permanently terminating the person's right to possession, title, custody, or care of the companion animal that was involved in the offense. If the court issues such an order, the court shall order the disposition of the companion animal.

(G) If a person is found not guilty of committing an offense, the court immediately shall order the impounding agency to return the companion animal to its owner if possible and to return the entire amount of any bond or cash deposit posted under division (E) of this section. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirements established in this division regarding the return of a bond or cash deposit and the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(H) If charges are filed under section 959.131 of the Revised Code against the custodian or caretaker of a companion animal, but the companion animal that is the subject of the charges is not impounded, the court in which the charges are pending may order the owner or person having custody of the companion animal to provide to the companion animal the necessities described in division (C)(2) of section 959.131 of the Revised Code until the final disposition of the charges. If the court issues an order of that nature, the court also may authorize an officer or another person to visit the place where the companion animal is being kept, at the times and under the conditions that the court may set, to determine whether the companion animal is receiving those necessities and to remove and impound the companion animal if the companion animal is not receiving those necessities.

OHIO REV. CODE ANN. §959.99 (2012). Penalties.

(A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor.

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 of the Revised Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. *If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner.* The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(E)

(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3)

(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

OHIO REV. CODE ANN. § 1717.11 (2012). Liability to Owner in Damages.

A person guilty of cruelty to an animal which is the property of another shall be liable to the owner of the animal in damages, in addition to the penalties prescribed by law.

OHIO REV. CODE ANN. § 1717.13 (2012). Any person may protect animal.

When, in order to protect any animal from neglect, it is necessary to take possession of it, any person may do so. When an animal is impounded or confined, and continues without necessary food, water, or proper attention for more than fifteen successive hours, any person may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food, water, and attention, so long as it remains there, or, if necessary or convenient, he may remove such animal; and he shall not be liable to an action for such entry. In all cases the owner or custodian of such animal, if known to such person, immediately shall be notified by him of such action. If the owner or custodian is unknown to such person, and cannot with reasonable effort be ascertained by him, such animal shall be considered an estray and dealt with as such.

The necessary expenses for food and attention given to an animal under this section may be collected from the owner of such animal, and the animal shall not be exempt from levy and sale upon execution issued upon a judgment for such expenses.

7. SEIZURE / ON-SITE SUPERVISION

OHIO REV. CODE ANN. § 959.132 (2012). Procedures for seizure and impoundment of companion animals.

(A) As used in this section:

(1) “Companion animal” has the same meaning as in section 959.131 of the Revised Code.

(2) “Impounding agency” means a county humane society organized under section 1717.05 of the Revised Code, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.

(3) “Offense” means a violation of section 959.131 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.131 of the Revised Code.

(4) “Officer” means any law enforcement officer, agent of a county humane society, or other person appointed to act as an animal control officer for a municipal corporation or township in accordance with state law, an ordinance, or a resolution.

(B) An officer may seize and cause to be impounded at an impounding agency a companion animal that the officer has probable cause to believe is the subject of an offense. No officer or impounding agency shall impound a companion animal that is the subject of an offense in a shelter owned, operated, or controlled by a board of county commissioners pursuant to Chapter 955. of the Revised Code unless the board, by resolution, authorizes the impoundment of such a companion animal in a shelter owned, operated, or controlled by that board and has executed, in the case when the officer is other than a dog warden or assistant dog warden, a contract specifying the terms and conditions of the impoundment.

(C) The officer shall give written notice of the seizure and impoundment to the owner, keeper, or harbinger of the companion animal that was seized and impounded. If the officer is unable to give the notice to the owner, keeper, or harbinger of the companion animal, the officer shall post the notice on the door of the residence or in another conspicuous place on the premises at which the companion animal was seized. The notice shall include a statement that a hearing will be held not later than ten days after the notice is provided or at the next available court date to determine whether the officer had probable cause to seize the companion animal and, if applicable, to determine the amount of a bond or cash deposit that is needed to provide for the companion animal’s care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(D) A companion animal that is seized under this section may be humanely destroyed immediately or at any time during impoundment if a licensed veterinarian determines it to be necessary because the companion animal is suffering.

(E)

(1) Not later than ten days after notice is provided or at the next available court date, the court shall hold a hearing to determine whether the officer impounding a companion animal had probable cause to seize the companion animal. If the court determines that probable cause exists, the court shall determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(2) If the court determines that probable cause does not exist, the court immediately shall order the impounding agency to return the companion animal to its owner if possible. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirement established in division (E)(2) of this section regarding the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(3) If the court determines that probable cause exists and determines the amount of a bond or cash deposit, the case shall continue and the owner shall post a bond or cash deposit to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded. The owner may renew a bond or cash deposit by posting, not later than ten days following the expiration of the period for which a previous bond or cash deposit was posted, a new bond or cash deposit in an amount that the court, in consultation with the impounding agency, determines is sufficient to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the previous period expired. If no bond or cash deposit is posted or if a bond or cash deposit expires and is not renewed, the impounding agency may determine the disposition of the companion animal unless the court issues an order that specifies otherwise.

(F) If a person is convicted of committing an offense, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay for the costs incurred by the impounding agency in caring for a companion animal involved in the applicable offense, provided that the costs were incurred during the companion animal's impoundment. A bond or cash deposit posted under this section may be applied to the costs.

(2) An order permanently terminating the person's right to possession, title, custody, or care of the companion animal that was involved in the offense. If the court issues such an order, the court shall order the disposition of the companion animal.

(G) If a person is found not guilty of committing an offense, the court immediately shall order the impounding agency to return the companion animal to its owner if possible and to return the entire amount of any bond or cash deposit posted under division (E) of this section. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirements established in this division regarding the return of a bond or cash deposit and the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(H) If charges are filed under section 959.131 of the Revised Code against the custodian or caretaker of a companion animal, but the companion animal that is the subject of the charges is not impounded, the court in which the charges are pending may order the owner or person having custody of the companion animal to provide to the companion animal the necessities described in division (C)(2) of section 959.131 of the Revised Code until the final disposition of the charges. If the court issues an order of that nature, the court also may authorize an officer or another person to visit the place where the companion animal is being kept, at the times and under the conditions that the court may set, to determine whether the companion animal is receiving those necessities and to remove and impound the companion animal if the companion animal is not receiving those necessities.

OHIO REV. CODE ANN. § 1717.09 (2012). Member may require police to act.

A member of the Ohio humane society or of a county humane society may require the sheriff of any county, the constable of any township, the marshal or a policeman of any municipal corporation, or any agent of such a society, to arrest any person found violating the laws in relation to cruelty to persons or animals, and to take possession of any animal cruelly treated in their respective counties or municipal corporations, and deliver such animal to the proper officers of the society.

OHIO REV. CODE ANN. § 1717.13 (2012). Any person may protect animal.

When, in order to protect any animal from neglect, it is necessary to take possession of it, any person may do so. When an animal is impounded or confined, and continues without necessary food, water, or proper attention for more than fifteen successive hours, any person may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food, water, and attention, so long as it remains there, or, if necessary or convenient, he may remove such animal; and he shall not be liable to an action for such entry. In all cases the owner or custodian of such animal, if known to such person, immediately shall be notified by him of such action. If the owner or custodian is unknown to such person, and cannot with reasonable effort be ascertained by him, such animal shall be considered an estray and dealt with as such.

The necessary expenses for food and attention given to an animal under this section may be collected from the owner of such animal, and the animal shall not be exempt from levy and sale upon execution issued upon a judgment for such expenses.

OHIO REV. CODE ANN. § 2933.31 (2012). Search in case of animals.

When complaint is made, on oath or affirmation to a judge or magistrate, that the complainant believes that the law relating to or affecting animals is being, or is about to be violated in a particular building or place, such judge or magistrate shall forthwith issue and deliver a warrant, directed to any sheriff, deputy sheriff, marshal, deputy marshal, watchman, police officer, or agent of a society for the prevention of cruelty to animals, authorizing him to enter and search such building or place and arrest all persons there violating, or attempting to violate, such law, and bring such persons before a judge or magistrate within the county within which such offense has been committed.

An attempt to violate such law relating to animals is a violation thereof.

8. FORFEITURE / POSSESSION

OHIO REV. CODE ANN. § 959.132 (2012). Procedures for seizure and impoundment of companion animals.

(A) As used in this section:

(1) “Companion animal” has the same meaning as in section 959.131 of the Revised Code.

(2) “Impounding agency” means a county humane society organized under section 1717.05 of the Revised Code, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.

(3) “Offense” means a violation of section 959.131 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.131 of the Revised Code.

(4) “Officer” means any law enforcement officer, agent of a county humane society, or other person appointed to act as an animal control officer for a municipal corporation or township in accordance with state law, an ordinance, or a resolution.

(B) An officer may seize and cause to be impounded at an impounding agency a companion animal that the officer has probable cause to believe is the subject of an offense. No officer or impounding agency shall impound a companion animal that is the subject of an offense in a shelter owned, operated, or controlled by a board of county commissioners pursuant to Chapter 955. of the Revised Code unless the board, by resolution, authorizes the impoundment of such a companion animal in a shelter owned, operated, or controlled by that board and has executed, in the case when the officer is other than a dog warden or assistant dog warden, a contract specifying the terms and conditions of the impoundment.

(C) The officer shall give written notice of the seizure and impoundment to the owner, keeper, or harbinger of the companion animal that was seized and impounded. If the officer is unable to give the notice to the owner, keeper, or harbinger of the companion animal, the officer shall post the notice on the door of the residence or in another conspicuous place on the premises at which the companion animal was seized. The notice shall include a statement that a hearing will be held not later than ten days after the notice is provided or at the next available court date to determine whether the officer had probable cause to seize the companion animal and, if applicable, to determine the amount of a bond or cash deposit that is needed to provide for the companion animal’s care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(D) A companion animal that is seized under this section may be humanely destroyed immediately or at any time during impoundment if a licensed veterinarian determines it to be necessary because the companion animal is suffering.

(E)

(1) Not later than ten days after notice is provided or at the next available court date, the court shall hold a hearing to determine whether the officer impounding a companion animal had probable cause to seize the companion animal. If the court determines that probable cause exists, the court shall determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(2) If the court determines that probable cause does not exist, the court immediately shall order the impounding agency to return the companion animal to its owner if possible. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirement established in division (E)(2) of this section regarding the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(3) If the court determines that probable cause exists and determines the amount of a bond or cash deposit, the case shall continue and the owner shall post a bond or cash deposit to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded. The owner may renew a bond or cash deposit by posting, not later than ten days following the expiration of the period for which a previous bond or cash deposit was posted, a new bond or cash deposit in an amount that the court, in consultation with the impounding agency, determines is sufficient to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the previous period expired. *If no bond or cash deposit is posted or if a bond or cash deposit expires and is not renewed, the impounding agency may determine the disposition of the companion animal unless the court issues an order that specifies otherwise.*

(F) If a person is convicted of committing an offense, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay for the costs incurred by the impounding agency in caring for a companion animal involved in the applicable offense, provided that the costs were incurred during the companion animal's impoundment. A bond or cash deposit posted under this section may be applied to the costs.

(2) An order permanently terminating the person's right to possession, title, custody, or care of the companion animal that was involved in the offense. If the court issues such an order, the court shall order the disposition of the companion animal.

(G) If a person is found not guilty of committing an offense, the court immediately shall order the impounding agency to return the companion animal to its owner if possible and to return the entire amount of any bond or cash deposit posted under division (E) of this section. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirements established in this division regarding the return of a bond or cash deposit and the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(H) If charges are filed under section 959.131 of the Revised Code against the custodian or caretaker of a companion animal, but the companion animal that is the subject of the charges is not impounded, the court in which the charges are pending may order the owner or person having custody of the companion animal to provide to the companion animal the necessities described in division (C)(2) of section 959.131 of the Revised Code until the final disposition of the charges. If the court issues an order of that nature, the court also may authorize an officer or another person to visit the place where the companion animal is being kept, at the times and under the conditions that the court may set, to determine whether the companion animal is receiving those necessities and to remove and impound the companion animal if the companion animal is not receiving those necessities.

OHIO REV. CODE ANN. §959.99 (2012). Penalties.

(A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor.

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 of the Revised Code is guilty of a misdemeanor of the second degree. *In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock.* If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(E)

(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3)

(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

9. CROSS ENFORCEMENT / REPORTING

OHIO REV. CODE ANN. § 1717.04 (2012). Agents of Ohio Humane Society.

The Ohio humane society may appoint agents, in any county where no active county humane society exists under section 1717.05 of the Revised Code, to represent it and to receive and account for all funds coming to it from fines or otherwise, and may also appoint agents at large to prosecute its work throughout the state. Such agents may arrest any person found violating any law for the protection of persons or animals, or the prevention of cruelty thereto. Upon making such arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against him.

Such agents shall not make such arrests within a municipal corporation unless their appointment has been approved by the mayor of the municipal corporation, or within a county beyond the limits of a municipal corporation unless their appointment has been approved by the probate judge of the county. Such mayor or probate judge shall keep a record of such appointments.

OHIO REV. CODE ANN. § 1717.06 (2012). Agents of county humane society.

A county humane society organized under section 1717.05 of the Revised Code may appoint agents, who are residents of the county or municipal corporation for which the appointment is made, for the purpose of prosecuting any person guilty of an act of cruelty to persons or animals. Such agents may arrest any person found violating this chapter or any other law for protecting persons or animals or preventing acts of cruelty thereto. Upon making an arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against the person on oath or affirmation of the offense.

All appointments of agents under this section shall be approved by the mayor of the municipal corporation for which they are made. If the society exists outside a municipal corporation, such appointments shall be approved by the probate judge of the county for which they are made. The mayor or probate judge shall keep a record of such appointments.

In order to qualify for appointment as a humane agent under this section, a person first shall successfully complete a minimum of twenty hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals. The training shall comply with rules recommended by the peace officer training commission under section 109.73 of the Revised Code and shall include, without limitation, instruction regarding animal husbandry practices as described in division (A)(12) of that section. A person who has been appointed as a humane agent under this section prior to the effective date of this amendment may continue to act as a humane agent for a period of time on and after the effective date of this amendment without completing the training. However, on or before December 31, 2004, a person who has been appointed as a humane agent under this section prior to the effective date of this amendment shall successfully complete the training described in this paragraph and submit proof of its successful completion to the appropriate appointing mayor or probate judge in order to continue to act as a humane agent after December 31, 2004.

An agent of a county humane society only has the specific authority granted to the agent under this section and section 1717.08 of the Revised Code.

OHIO REV. CODE ANN. § 1717.09 (2012). Member may require police to act.

A member of the Ohio humane society or of a county humane society may require the sheriff of any county, the constable of any township, the marshal or a policeman of any municipal corporation, or any agent of such a society, to arrest any person found violating the laws in relation to cruelty to persons or animals, and to take possession of any animal cruelly treated in their respective counties or municipal corporations, and deliver such animal to the proper officers of the society.

OHIO REV. CODE ANN. § 1717.14 (2012). Protection of children.

When an officer or agent of the Ohio humane society or of a county humane society deems it for the best interest of a child, because of cruelty inflicted upon the child or because of the child's surroundings, that the child be removed from the possession and control of the parents or persons having charge of the child, the officer or agent shall comply with section 2151.421 of the Revised Code.

As used in this section "child" means any person under eighteen years of age.

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

OHIO REV. CODE ANN.§ 1717.04 (2012). Agents of Ohio Humane Society.

The Ohio humane society may appoint agents, in any county where no active county humane society exists under section 1717.05 of the Revised Code, to represent it and to receive and account for all funds coming to it from fines or otherwise, and may also appoint agents at large to prosecute its work throughout the state. Such agents may arrest any person found violating any law for the protection of persons or animals, or the prevention of cruelty thereto. Upon making such arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against him. Such agents shall not make such arrests within a municipal corporation unless their appointment has been approved by the mayor of the municipal corporation, or within a county beyond the limits of a municipal corporation unless their appointment has been approved by the probate judge of the county. Such mayor or probate judge shall keep a record of such appointments.

OHIO REV. CODE ANN.§1717.06 (2012). Agents of county humane society.

A county humane society organized under section 1717.05 of the Revised Code may appoint agents, who are residents of the county or municipal corporation for which the appointment is made, for the purpose of prosecuting any person guilty of an act of cruelty to persons or animals. Such agents may arrest any person found violating this chapter or any other law for protecting persons or animals or preventing acts of cruelty thereto. Upon making an arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against the person on oath or affirmation of the offense.

All appointments of agents under this section shall be approved by the mayor of the municipal corporation for which they are made. If the society exists outside a municipal corporation, such appointments shall be approved by the probate judge of the county for which they are made. The mayor or probate judge shall keep a record of such appointments.

In order to qualify for appointment as a humane agent under this section, a person first shall successfully complete a minimum of twenty hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals. The training shall comply with rules recommended by the peace officer training commission under section 109.73 of the Revised Code and shall include, without limitation, instruction regarding animal husbandry practices as described in division (A)(12) of that section. A person who has been appointed as a humane agent under this section prior to the effective date of this amendment may continue to act as a humane agent for a period of time on and after the effective date of this amendment without completing the training. However, on or before December 31, 2004, a person who has been appointed as a humane agent under this section prior to the effective date of this amendment shall successfully complete the training described in this paragraph and submit proof of its successful completion to the appropriate appointing mayor or probate judge in order to continue to act as a humane agent after December 31, 2004.

An agent of a county humane society only has the specific authority granted to the agent under this section and section 1717.08 of the Revised Code.

OHIO REV. CODE ANN. §1717.08 (2012). Police powers of officers, agents, and members.

An officer, agent, or member of the Ohio humane society or of a county humane society may interfere to prevent the perpetration of any act of cruelty to animals in his presence, may use such force as is necessary to prevent it, and to that end may summon to his aid any bystanders.

OHIO REV. CODE ANN. § 1717.09 (2012). Member may require police to act.

A member of the Ohio humane society or of a county humane society may require the sheriff of any county, the constable of any township, the marshal or a policeman of any municipal corporation, or any agent of such a society, to arrest any person found violating the laws in relation to cruelty to persons or animals, and to take possession of any animal cruelly treated in their respective counties or municipal corporations, and deliver such animal to the proper officers of the society.

OHIO REV. CODE ANN. § 2931.18 (2012). Humane society may employ attorney and assistants.

A humane society or its agent may employ an attorney, and may also employ one or more assistant attorneys to prosecute violations of law relating to:

- (A) Prevention of cruelty to animals or children;*
- (B) Abandonment, nonsupport, or ill-treatment of a child by its parent;*

(C) Employment of a child under fourteen years of age in public exhibitions or vocations injurious to health, life, or morals or which cause or permit such child to suffer unnecessary physical or mental pain;

(D) Neglect or refusal of an adult to support destitute parent.

Such attorneys shall be paid out of the county treasury in an amount approved as just and reasonable by the board of county commissioners of that county.

OHIO REV. CODE ANN. § 2933.31 (2012). Search in case of animals.

When complaint is made, on oath or affirmation to a judge or magistrate, that the complainant believes that the law relating to or affecting animals is being, or is about to be violated in a particular building or place, such judge or magistrate shall forthwith issue and deliver a warrant, directed to any sheriff, deputy sheriff, marshal, deputy marshal, watchman, police officer, or agent of a society for the prevention of cruelty to animals, authorizing him to enter and search such building or place and arrest all persons there violating, or attempting to violate, such law, and bring such persons before a judge or magistrate within the county within which such offense has been committed.

An attempt to violate such law relating to animals is a violation thereof.

12. SEXUAL ASSAULT

13. FIGHTING

OHIO REV. CODE ANN. §959.15 (2012). Animal fights.

No person shall knowingly engage in or be employed at cockfighting, bearbaiting, or pitting an animal against another; no person shall receive money for the admission of another to a place kept for such purpose; no person shall use, train, or possess any animal for seizing, detaining, or maltreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

OHIO REV. CODE ANN. § 959.16 (2012). Dogfighting offenses; investigations; seizure and impoundment of dogs, confiscation of equipment.

(A) No person shall knowingly do any of the following:

(1) Promote, engage in, or be employed at dogfighting;

(2) Receive money or anything else of value for the admission of another person to a dogfighting event or a place kept for dogfighting;

(3) Sell, purchase, possess, or train a dog for dogfighting;

(4) Use, train, or possess a dog for seizing, detaining, or maltreating a domestic animal;

(5) Pay money or give anything else of value in exchange for admission to or be present at a dogfight;

(6) Witness a dogfight if it is presented as a public spectacle.

(B) The department of agriculture may investigate complaints and follow up rumors of dogfighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.

(C) Any peace officer, as defined in section 2935.01 of the Revised Code, may seize and cause to be impounded in accordance with section 959.161 of the Revised Code any dogs that have been, are, or are intended to be used in dogfighting. In addition, any peace officer shall confiscate any equipment or devices used in training such dogs or as part of dogfights.

OHIO REV. CODE ANN. § 959.161 (2012). Procedures for seizure and impoundment of fighting dogs.

(A) As used in this section:

(1) “Fighting dog” means a dog that a peace officer has probable cause to believe has been, is, or is intended to be used in dogfighting in violation of section 959.16 of the Revised Code.

(2) “Impounding entity” means the entity that has possession of an impounded fighting dog during its impoundment.

(3) “Peace officer” has the same meaning as in section 2935.01 of the Revised Code.

(4) “Violation” means a violation of section 959.16 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.16 of the Revised Code.

(B) A peace officer may seize and cause to be impounded with an impounding entity a fighting dog that the peace officer has probable cause to believe is involved in a violation.

(C) A fighting dog that is seized under this section may be humanely destroyed under either of the following circumstances:

(1) During its seizure if it is necessary because the fighting dog is suffering;

(2) At any time during its impoundment if a licensed veterinarian determines it to be necessary because the fighting dog is suffering.

(D) Procedures, requirements, and other provisions that are established in divisions (C), (E), (F), and (G) of section 959.132 of the Revised Code shall apply to the seizure, impoundment, and disposition of a fighting dog. For purposes of that application, references in those divisions of section 959.132 of the Revised Code to “companion animal,” “impounding agency,” “officer,” and “offense” shall be deemed to be replaced, respectively, with references to “fighting dog,” “impounding entity,” “peace officer,” and “violation” as defined in this section. Likewise, references in those divisions of section 959.132 of the Revised Code to “section 959.131 of the Revised Code” shall be deemed to be replaced with references to section 959.16 of the Revised Code, as applicable.

14. REFERENCED STATUTES

OHIO REV. CODE ANN. § 959.01 (2012). Abandoning animals.

No owner or keeper of a dog, cat, or other domestic animal, shall abandon such animal.

OHIO REV. CODE ANN. § 959.02 (2012). Injuring animals.

No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.

OHIO REV. CODE ANN. § 959.03 (2012). Poisoning animals.

No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, poultry, or any other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another.

OHIO REV. CODE ANN. § 959.13 (2012). Cruelty to animals.

(A) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animals would otherwise become sick or in some other way suffer. Division (A)(2) of this section does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, shelter means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation.

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor or [sic] feed cows on food that produces impure or unwholesome milk;

(5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water, and attention, nor permit such stock to be so crowded as to overlie, crush, wound, or kill each other.

(B) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water, and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.

(C) All fines collected for violations of this section shall be paid to the society or association for the prevention of cruelty to animals, if there be such in the county, township, or municipal corporation where such violation occurred.

OHIO REV. CODE ANN. §959.131 (2012). Prohibitions concerning companion animals.

(A) As used in this section:

(1) “Companion animal” means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. “Companion animal” does not include livestock or any wild animal.

(2) “Cruelty,” “torment,” and “torture” have the same meanings as in section 1717.01 of the Revised Code.

(3) “Residential dwelling” means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

(4) “Practice of veterinary medicine” has the same meaning as in section 4741.01 of the Revised Code.

(5) “Wild animal” has the same meaning as in section 1531.01 of the Revised Code.

(6) “Federal animal welfare act” means the “Laboratory Animal Act of 1966,” Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the “Animal Welfare Act of 1970,” Pub. L. No. 91-579, 84 Stat. 1560 (1970), the “Animal Welfare Act Amendments of 1976,” Pub. L. No. 94-279, 90 Stat. 417 (1976), and the “Food Security Act of 1985,” Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

(B) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

(2) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(D) Divisions (B) and (C) of this section do not apply to any of the following:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741. of the Revised Code;

(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Chapter 4741. of the Revised Code.

(E) Notwithstanding any section of the Revised Code that otherwise provides for the distribution of fine moneys, the clerk of court shall forward all fines the clerk collects that are so imposed for any violation of this section to the treasurer of the political subdivision or the state, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The treasurer to whom the fines are forwarded shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys to provide the training that is required for humane agents under section 1717.06 of the Revised Code.

OHIO REV. CODE ANN. §959.132 (2012). Procedures for seizure and impoundment of companion animals.

(A) As used in this section:

(1) “Companion animal” has the same meaning as in section 959.131 of the Revised Code.

(2) “Impounding agency” means a county humane society organized under section 1717.05 of the Revised Code, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.

(3) “Offense” means a violation of section 959.131 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.131 of the Revised Code.

(4) “Officer” means any law enforcement officer, agent of a county humane society, or other person appointed to act as an animal control officer for a municipal corporation or township in accordance with state law, an ordinance, or a resolution.

(B) An officer may seize and cause to be impounded at an impounding agency a companion animal that the officer has probable cause to believe is the subject of an offense. No officer or impounding agency shall impound a companion animal that is the subject of an offense in a shelter owned, operated, or controlled by a board of county commissioners pursuant to Chapter 955. of the Revised Code unless the board, by resolution, authorizes the impoundment of such a companion animal in a shelter owned, operated, or controlled by that board and has executed, in the case when the officer is other than a dog warden or assistant dog warden, a contract specifying the terms and conditions of the impoundment.

(C) The officer shall give written notice of the seizure and impoundment to the owner, keeper, or harbinger of the companion animal that was seized and impounded. If the officer is unable to give the notice to the owner, keeper, or harbinger of the companion animal, the officer shall post the notice on the door of the residence or in another conspicuous place on the premises at which the companion animal was seized. The notice shall include a statement that a hearing will be held not later than ten days after the notice is provided or at the next available court date to determine whether the officer had probable cause to seize the companion animal and, if applicable, to determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(D) A companion animal that is seized under this section may be humanely destroyed immediately or at any time during impoundment if a licensed veterinarian determines it to be necessary because the companion animal is suffering.

(E)

(1) Not later than ten days after notice is provided or at the next available court date, the court shall hold a hearing to determine whether the officer impounding a companion animal had probable cause to seize the companion animal. If the court determines that probable cause exists, the court shall determine the amount of a bond or cash deposit that is needed to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded.

(2) If the court determines that probable cause does not exist, the court immediately shall order the impounding agency to return the companion animal to its owner if possible. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirement established in division (E)(2) of this section regarding the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(3) If the court determines that probable cause exists and determines the amount of a bond or cash deposit, the case shall continue and the owner shall post a bond or cash deposit to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the companion animal was impounded. The owner may renew a bond or cash deposit by posting, not later than ten days following the expiration of the period for which a previous bond or cash deposit was posted, a new bond or cash deposit in an amount that the court, in consultation with the impounding agency, determines is sufficient to provide for the companion animal's care and keeping for not less than thirty days beginning on the date on which the previous period expired. If no bond or cash deposit is posted or if a bond or cash deposit expires and is not renewed, the impounding agency may determine the disposition of the companion animal unless the court issues an order that specifies otherwise.

(F) If a person is convicted of committing an offense, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay for the costs incurred by the impounding agency in caring for a companion animal involved in the applicable offense, provided that the costs were incurred during the companion animal's impoundment. A bond or cash deposit posted under this section may be applied to the costs.

(2) An order permanently terminating the person's right to possession, title, custody, or care of the companion animal that was involved in the offense. If the court issues such an order, the court shall order the disposition of the companion animal.

(G) If a person is found not guilty of committing an offense, the court immediately shall order the impounding agency to return the companion animal to its owner if possible and to return the entire amount of any bond or cash deposit posted under division (E) of this section. If the companion animal cannot be returned because it has died as a result of neglect or other misconduct by the impounding agency or if the companion animal is injured as a result of neglect or other misconduct by the impounding agency, the court shall order the impounding agency to pay the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time that it was impounded plus statutory interest as defined in section 1343.03 of the Revised Code from the date of the impoundment or an amount determined by the court to be equal to the reasonable cost of treatment of the injury to the companion animal, as applicable. The requirements established in this division regarding the return of a bond or cash deposit and the payment of the reasonable market value of the companion animal shall not apply in the case of a dog that, in violation of section 955.01 of the Revised Code, was not registered at the time it was seized and impounded.

(H) If charges are filed under section 959.131 of the Revised Code against the custodian or caretaker of a companion animal, but the companion animal that is the subject of the charges is not impounded, the court in which the charges are pending may order the owner or person having custody of the companion animal to provide to the companion animal the necessities described in division (C)(2) of section 959.131 of the Revised Code until the final disposition of the charges. If the court issues an order of that nature, the court also may authorize an officer or another person to visit the place where the companion animal is being kept, at the times and under the conditions that the court may set, to determine whether the companion animal is receiving those necessities and to remove and impound the companion animal if the companion animal is not receiving those necessities.

OHIO REV. CODE ANN. §959.15 (2012). Animal fights.

No person shall knowingly engage in or be employed at cockfighting, bearbaiting, or pitting an animal against another; no person shall receive money for the admission of another to a place kept for such purpose; no person shall use, train, or possess any animal for seizing, detaining, or maltreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

OHIO REV. CODE ANN. §959.16 (2012). Dogfighting offenses; investigations; seizure and impoundment of dogs, confiscation of equipment.

(A) No person shall knowingly do any of the following:

- (1) Promote, engage in, or be employed at dogfighting;
- (2) Receive money or anything else of value for the admission of another person to a dogfighting event or a place kept for dogfighting;
- (3) Sell, purchase, possess, or train a dog for dogfighting;
- (4) Use, train, or possess a dog for seizing, detaining, or maltreating a domestic animal;
- (5) Pay money or give anything else of value in exchange for admission to or be present at a dogfight;
- (6) Witness a dogfight if it is presented as a public spectacle.

(B) The department of agriculture may investigate complaints and follow up rumors of dogfighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.

(C) Any peace officer, as defined in section 2935.01 of the Revised Code, may seize and cause to be impounded in accordance with section 959.161 of the Revised Code any dogs that have been, are, or are intended to be used in dogfighting. In addition, any peace officer shall confiscate any equipment or devices used in training such dogs or as part of dogfights.

OHIO REV. CODE ANN. § 959.161 (2012). Procedures for seizure and impoundment of fighting dogs.

(A) As used in this section:

(1) “Fighting dog” means a dog that a peace officer has probable cause to believe has been, is, or is intended to be used in dogfighting in violation of section 959.16 of the Revised Code.

(2) “Impounding entity” means the entity that has possession of an impounded fighting dog during its impoundment.

(3) “Peace officer” has the same meaning as in section 2935.01 of the Revised Code.

(4) “Violation” means a violation of section 959.16 of the Revised Code or an attempt, in violation of section 2923.02 of the Revised Code, to violate section 959.16 of the Revised Code.

(B) A peace officer may seize and cause to be impounded with an impounding entity a fighting dog that the peace officer has probable cause to believe is involved in a violation.

(C) A fighting dog that is seized under this section may be humanely destroyed under either of the following circumstances:

(1) During its seizure if it is necessary because the fighting dog is suffering;

(2) At any time during its impoundment if a licensed veterinarian determines it to be necessary because the fighting dog is suffering.

(D) Procedures, requirements, and other provisions that are established in divisions (C), (E), (F), and (G) of section 959.132 of the Revised Code shall apply to the seizure, impoundment, and disposition of a fighting dog. For purposes of that application, references in those divisions of section 959.132 of the Revised Code to “companion animal,” “impounding agency,” “officer,” and “offense” shall be deemed to be replaced, respectively, with references to “fighting dog,” “impounding entity,” “peace officer,” and “violation” as defined in this section. Likewise, references in those divisions of section 959.132 of the Revised Code to “section 959.131 of the Revised Code” shall be deemed to be replaced with references to section 959.16 of the Revised Code, as applicable.

OHIO REV. CODE ANN. §959.99 (2012). Penalties.

(A) Whoever violates section 959.18 or 959.19 of the Revised Code is guilty of a minor misdemeanor.

(B) Except as otherwise provided in this division, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates section 959.02 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 959.03, 959.06, 959.12, 959.15, or 959.17 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) of section 959.13 of the Revised Code is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition, including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(E)

(1) Whoever violates division (B) of section 959.131 of the Revised Code is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

(2) Whoever violates section 959.01 of the Revised Code or division (C) of section 959.131 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3)

(a) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to forfeit to an impounding agency, as defined in section 959.132 of the Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

(b) A court may order a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Revised Code.

(4) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of section 959.131 of the Revised Code suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(F) Whoever violates section 959.14 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(G) Whoever violates section 959.05 or 959.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates section 959.16 of the Revised Code is guilty of a felony of the fourth degree for a first offense and a felony of the third degree on each subsequent offense.

OHIO REV. CODE ANN. § 1717.01 (2012). Definitions.

As used in sections 1717.01 to 1717.14, inclusive, of the Revised Code, and in every law relating to animals:

(A) “Animal” includes every living dumb creature;

(B) “Cruelty,” “torment,” and “torture” include every act, omission, or neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief;

(C) “Owner” and “person” include corporations. For the purpose of this section the knowledge and acts of the agents and employees of a corporation, in regard to animals transported, owned, or employed by, or in the custody of, such agents and employees, are the knowledge and acts of the corporation.

OHIO REV. CODE ANN. § 1717.04 (2012). Agents of Ohio Humane Society.

The Ohio humane society may appoint agents, in any county where no active county humane society exists under section 1717.05 of the Revised Code, to represent it and to receive and account for all funds coming to it from fines or otherwise, and may also appoint agents at large to prosecute its work throughout the state. Such agents may arrest any person found violating any law for the protection of persons or animals, or the prevention of cruelty thereto. Upon making such arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against him.

Such agents shall not make such arrests within a municipal corporation unless their appointment has been approved by the mayor of the municipal corporation, or within a county beyond the limits of a municipal corporation unless their appointment has been approved by the probate judge of the county. Such mayor or probate judge shall keep a record of such appointments.

OHIO REV. CODE ANN. § 1717.06 (2012). Agents of county humane society.

A county humane society organized under section 1717.05 of the Revised Code may appoint agents, who are residents of the county or municipal corporation for which the appointment is made, for the purpose of prosecuting any person guilty of an act of cruelty to persons or animals. Such agents may arrest any person found violating this chapter or any other law for protecting persons or animals or preventing acts of cruelty thereto. Upon making an arrest the agent forthwith shall convey the person arrested before some court or magistrate having jurisdiction of the offense, and there make complaint against the person on oath or affirmation of the offense.

All appointments of agents under this section shall be approved by the mayor of the municipal corporation for which they are made. If the society exists outside a municipal corporation, such appointments shall be approved by the probate judge of the county for which they are made. The mayor or probate judge shall keep a record of such appointments.

In order to qualify for appointment as a humane agent under this section, a person first shall successfully complete a minimum of twenty hours of training on issues relating to the investigation and prosecution of cruelty to and neglect of animals. The training shall comply with rules recommended by the peace officer training commission under section 109.73 of the Revised Code and shall include, without limitation, instruction regarding animal husbandry practices as described in division (A)(12) of that section. A person who has been appointed as a humane agent under this section prior to the effective date of this amendment may continue to act as a humane agent for a period of time on and after the effective date of this amendment without completing the training. However, on or before December 31, 2004, a person who has been appointed as a humane agent under this section prior to the effective date of this amendment shall successfully complete the training described in this paragraph and submit proof of its successful completion to the appropriate appointing mayor or probate judge in order to continue to act as a humane agent after December 31, 2004.

An agent of a county humane society only has the specific authority granted to the agent under this section and section 1717.08 of the Revised Code.

OHIO REV. CODE ANN. § 1717.08 (2012). Police powers of officers, agents, and members.

An officer, agent, or member of the Ohio humane society or of a county humane society may interfere to prevent the perpetration of any act of cruelty to animals in his presence, may use such force as is necessary to prevent it, and to that end may summon to his aid any bystanders.

OHIO REV. CODE ANN. § 1717.09 (2012). Member may require police to act.

A member of the Ohio humane society or of a county humane society may require the sheriff of any county, the constable of any township, the marshal or a policeman of any municipal corporation, or any agent of such a society, to arrest any person found violating the laws in relation to cruelty to persons or animals, and to take possession of any animal cruelly treated in their respective counties or municipal corporations, and deliver such animal to the proper officers of the society.

OHIO REV. CODE ANN. § 1717.11 (2012). Liability to Owner in Damages.

A person guilty of cruelty to an animal which is the property of another shall be liable to the owner of the animal in damages, in addition to the penalties prescribed by law.

OHIO REV. CODE ANN. § 1717.13 (2012). Any person may protect animal.

When, in order to protect any animal from neglect, it is necessary to take possession of it, any person may do so. When an animal is impounded or confined, and continues without necessary food, water, or proper attention for more than fifteen successive hours, any person may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food, water, and attention, so long as it remains there, or, if necessary or convenient, he may remove such animal; and he shall not be liable to an action for such entry. In all cases the owner or custodian of such animal, if known to such person, immediately shall be notified by him of such action. If the owner or custodian is unknown to such person, and cannot with reasonable effort be ascertained by him, such animal shall be considered an estray and dealt with as such.

The necessary expenses for food and attention given to an animal under this section may be collected from the owner of such animal, and the animal shall not be exempt from levy and sale upon execution issued upon a judgment for such expenses.

OHIO REV. CODE ANN. § 1717.14 (2012). Protection of children.

When an officer or agent of the Ohio humane society or of a county humane society deems it for the best interest of a child, because of cruelty inflicted upon the child or because of the child's surroundings, that the child be removed from the possession and control of the parents or persons having charge of the child, the officer or agent shall comply with section 2151.421 of the Revised Code.

As used in this section "child" means any person under eighteen years of age.

OHIO REV. CODE ANN. § 2929.14 (2012). Basic prison terms.

(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), (J), or (L) of this section or in division (D)(6) of section 2919.25 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

* * * * *

OHIO REV. CODE ANN. §2929.18 (2012). Financial sanctions; restitution.

(A) Except as otherwise provided in this division and in addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section or, in the circumstances specified in section 2929.32 of the Revised Code, may impose upon the offender a fine in accordance with that section. Financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. If the court imposes restitution, the court shall order that the restitution be made to the victim in open court, to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court. If the court imposes restitution, at sentencing, the court shall determine the amount of restitution to be made by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold a hearing on restitution if the offender, victim, or survivor disputes the amount. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

If the court imposes restitution, the court may order that the offender pay a surcharge of not more than five per cent of the amount of the restitution otherwise ordered to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision, or as described in division (B)(2) of this section to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A fine ordered under this division shall not exceed the maximum conventional fine amount authorized for the level of the offense under division (A)(3) of this section.

(3) Except as provided in division (B)(1), (3), or (4) of this section, a fine payable by the offender to the state, to a political subdivision when appropriate for a felony, or as described in division (B)(2) of this section to one or more law enforcement agencies, in the following amount:

- (a) For a felony of the first degree, not more than twenty thousand dollars;
- (b) For a felony of the second degree, not more than fifteen thousand dollars;
- (c) For a felony of the third degree, not more than ten thousand dollars;
- (d) For a felony of the fourth degree, not more than five thousand dollars;
- (e) For a felony of the fifth degree, not more than two thousand five hundred dollars.

(4) A state fine or costs as defined in section 2949.111 of the Revised Code.

(5)

(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:

(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;

(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, 2929.142, or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement;

(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under section 4510.13 of the Revised Code.

(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if, pursuant to section 307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, the board, legislative authority, or other local governmental entity requires prisoners to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, and if the court does not impose a financial sanction under division (A)(5)(a)(ii) of this section, confinement costs may be assessed pursuant to section 2929.37 of the Revised Code. In addition, the offender may be required to pay the fees specified in section 2929.38 of the Revised Code in accordance with that section.

(c) Reimbursement by the offender for costs pursuant to section 2929.71 of the Revised Code.

(B)

(1) For a first, second, or third degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code, the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to division (A)(3) of this section. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

(2) Any mandatory fine imposed upon an offender under division (B)(1) of this section and any fine imposed upon an offender under division (A)(2) or (3) of this section for any fourth or fifth degree felony violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code shall be paid to law enforcement agencies pursuant to division (F) of section 2925.03 of the Revised Code.

(3) For a fourth degree felony OVI offense and for a third degree felony OVI offense, the sentencing court shall impose upon the offender a mandatory fine in the amount specified in division (G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever is applicable. The mandatory fine so imposed shall be disbursed as provided in the division pursuant to which it is imposed.

* * * * *

OHIO REV. CODE ANN. §2929.24 (2012). Definite jail terms for misdemeanor; eligibility for county jail industry program; reimbursement sanction; costs of confinement.

(A) Except as provided in section 2929.22 or 2929.23 of the Revised Code or division (E) or (F) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

- (1) For a misdemeanor of the first degree, not more than one hundred eighty days;
- (2) For a misdemeanor of the second degree, not more than ninety days;
- (3) For a misdemeanor of the third degree, not more than sixty days;
- (4) For a misdemeanor of the fourth degree, not more than thirty days.

(B)

(1) A court that sentences an offender to a jail term under this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (b) of section 2929.26 of the revised code. The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

(2)

(a) If a prosecutor, as defined in section 2935.01 of the revised code, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

(b) If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(C) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to section 5147.30 of the Revised Code, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(D) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to section 2929.28 of the Revised Code a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(1) The court shall specify both of the following as part of the sentence:

(a) If the person is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.

(b) If the person does not dispute the bill described in division (D)(1)(a) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the person as described in that section.

(2) The sentence automatically includes any certificate of judgment issued as described in division (D)(1)(b) of this section.

(E) If an offender who is convicted of or pleads guilty to a violation of division (B) of section 4511.19 of the Revised Code also is convicted of or also pleads guilty to a specification of the type described in section 2941.1416 of the Revised Code and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.

(F)

(1) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

(a) Subject to division (F)(1)(b) of this section, an additional definite jail term of not more than sixty days;

(b) If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional definite jail term of not more than one hundred twenty days.

(2) In lieu of imposing an additional definite jail term under division (F)(1) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (F)(1) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.26 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.25 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(G) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least thirty days.

(H) If a court sentences an offender to a jail term under this section, the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under section 2929.26 or 2929.27 of the Revised Code for any jail days that are not mandatory jail days.

OHIO REV. CODE ANN. § 2929.28 (2012). Financial sanctions; court costs

(A) In addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under section 3937.18 of the Revised Code.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) A fine of the type described in divisions (A)(2)(a) and (b) of this section payable to the appropriate entity as required by law:

(a) A fine in the following amount:

(i) For a misdemeanor of the first degree, not more than one thousand dollars;

(ii) For a misdemeanor of the second degree, not more than seven hundred fifty dollars;

(iii) For a misdemeanor of the third degree, not more than five hundred dollars;

(iv) For a misdemeanor of the fourth degree, not more than two hundred fifty dollars;

(v) For a minor misdemeanor, not more than one hundred fifty dollars.

(b) A state fine or cost as defined in section 2949.111 of the Revised Code.

* * * * *

OHIO REV. CODE ANN. § 2931.18 (2012). Humane society may employ attorney and assistants.

A humane society or its agent may employ an attorney, and may also employ one or more assistant attorneys to prosecute violations of law relating to:

(A) Prevention of cruelty to animals or children;

(B) Abandonment, nonsupport, or ill-treatment of a child by its parent;

(C) Employment of a child under fourteen years of age in public exhibitions or vocations injurious to health, life, or morals or which cause or permit such child to suffer unnecessary physical or mental pain;

(D) Neglect or refusal of an adult to support destitute parent.

Such attorneys shall be paid out of the county treasury in an amount approved as just and reasonable by the board of county commissioners of that county.

OHIO REV. CODE ANN. § 2933.31 (2012). Search in case of animals.

When complaint is made, on oath or affirmation to a judge or magistrate, that the complainant believes that the law relating to or affecting animals is being, or is about to be violated in a particular building or place, such judge or magistrate shall forthwith issue and deliver a warrant, directed to any sheriff, deputy sheriff, marshal, deputy marshal, watchman, police officer, or agent of a society for the prevention of cruelty to animals, authorizing him to enter and search such building or place and arrest all persons there violating, or attempting to violate, such law, and bring such persons before a judge or magistrate within the county within which such offense has been committed.

An attempt to violate such law relating to animals is a violation thereof.

ANIMAL PROTECTION LAWS OF OKLAHOMA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Oklahoma's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Oklahoma may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

OKLAHOMA

1. GENERAL PROHIBITIONS*	(1) Poisoning animals OKLA. STAT. tit. 21, § 1681 (2) Cruelty to animals OKLA. STAT. tit. 21, § 1685 (3) Abandoning injured animals OKLA. STAT. tit. 21, § 1686 (4) Abandoning domestic animals OKLA. STAT. tit. 21, § 1691
<i>Animals Covered in Definition</i>	“[A]ny mammal, bird, fish, reptile or invertebrate, including wild and domesticated species, other than a human being” OKLA. STAT. tit. 21, § 1680.1
<i>Classification of Crimes</i>	(1), (2) Felony (3), (4) Misdemeanor

OKLAHOMA*continued*

2. MAXIMUM PENALTIES ^{**}	(1) 3 years prison <i>or</i> 1 year county jail <i>and/or</i> \$250 fine OKLA. STAT. tit. 21, § 1681 (2) 5 years prison <i>or</i> 1 year county jail <i>or</i> \$5,000 fine OKLA. STAT. tit. 21, § 1685 (3), (4) 1 year county jail <i>and/or</i> \$500 fine OKLA. STAT. tit. 21, § 1692 OKLA. STAT. tit. 21, § 10
3. EXEMPTIONS ^{***}	-----
4. COUNSELING / EVALUATIONS ^H	-----
5. PROTECTIVE ORDERS ^H	OKLA. STAT. tit. 22, §§ 60.2(E), 60.4(I)(1)

OKLAHOMA*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>If following a post-seizure hearing, the court finds the owner has abandoned or neglected the animal, the court shall order the owner to pay all court costs, reasonable costs of care for the animal, and costs incurred for humanely destroying the animal if ordered by the court. OKLA. STAT. tit. 4, § 512(D)</p> <p>Following a hearing to determine if probable cause exists that a seized animal was abused, the court may order defendant to post a bond to cover the costs of care for the animal. OKLA. STAT. tit. 21, § 1680.4(C)</p> <p>Costs of care isa lien upon the seized animal. OKLA. STAT.tit. 21, § 1686(C)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>If a law enforcement officer has reason to believe that an animal has been abandoned or neglected, the officer may apply for a warrant to seize the animal. OKLA STAT, tit. 4, § 512(A)</p> <p>Peace officers or animal control officers may obtain a court order to seize mistreated animals, or may provide on-site supervision for non-impounded animals. OKLA. STAT. tit. 21, § 1680.4</p> <p>When a person is arrested, peace officers, animal control officers, and humane officers may take custody of any animals inside or pulling the arrested person’s vehicle, or that were in the immediate charge of the arrested person. OKLA. STAT. tit. 21, § 1686</p>

OKLAHOMA*continued*

<p>8. FORFEITURE / POSSESSION^H</p>	<p>If following a post-seizure hearing, the court finds an animal was neglected or abandoned, the owner shall be divested of ownership. OKLA. STAT. tit. 4, § 512(C)</p> <p>If a defendant fails to post or renew a court-ordered bond for the costs-of-care of an impounded animal, the animal is forfeited. OKLA. STAT. tit. 21, § 1680.4</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>Veterinarians shall report suspected animal abuse and are immune from civil liability for good faith reporting. OKLA. STAT. tit. 21, § 1680.3</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>-----</p>
<p>12. SEXUAL ASSAULT</p>	<p>The “crime against nature” with a beast is punishable by imprisonment in the penitentiary for up to ten years. OKLA. STAT. tit. 21, § 886</p>
<p>13. FIGHTING</p>	<p>Various provisions prohibit activities involving animal fighting, cockfighting, dogfighting, bear wrestling and horse tripping, with misdemeanor and felony penalties. OKLA. STAT. tit. 21, §§ 1682, 1683, 1692–1700</p>
<p><i>Other Felony Provisions Affecting Animals¹</i></p>	<p>-----</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 1 This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

OKLA. STAT. tit. 4 § 511 (2012). Definitions.

As used in this act:

1. *“Abandon” includes leaving an animal without making reasonable arrangements for assumption of custody by another person; and*

2. *“Neglect” means unreasonable deprivation of necessary food, care, or shelter.*

OKLA. STAT. tit. 21, §1680.1 (2012). Definitions.

As used in this act:

1. *“Animal” means any mammal, bird, fish, reptile or invertebrate, including wild and domesticated species, other than a human being;*

2. *“Animal facility” means any vehicle, building, structure, farm, ranch or other premises where an animal is kept, handled, transported, housed, exhibited, bred, offered for sale or used in any lawful scientific test, experiment, investigation or educational training;*

3. *“Person” means any individual, state agency, corporation, association, nonprofit corporation, joint stock company, firm, trust, partnership, two or more persons having a common interest, or other legal entity;*

4. *“Owner” means a person who has title to the property, possession of the property, or a greater right to the possession of the animal or property than another person;*

5. *“Possession” means actual care, custody, control or management; and*

6. *“Effective consent” means consent by the owner or a person legally authorized to act for the owner. Consent is not effective if induced or given by force or fear; by a person the offender knows is not legally authorized to act for the owner; or by a person who by reason of youth, mental disease or defect, or influence of drug or alcohol is known by the offender to be unable to make reasonable decisions.*

OKLA. STAT. tit. 21, § 1681 (2012). Poisoning animals.

Any person who willfully administers poison to any animal, the property of another, and every person who maliciously exposes any poisonous substance with intent that the same shall be taken by any such animal, shall be guilty of a felony and shall be punishable by imprisonment in the State Penitentiary not exceeding three (3) years, or in a county jail not exceeding one (1) year, or by a fine not exceeding Two Hundred Fifty Dollars (\$250.00), or by both such fine and imprisonment.

OKLA. STAT. tit. 21, § 1685(2012).Cruelty to animals.

Any person who shall willfully or maliciously torture, destroy or kill, or cruelly beat or injure, maim or mutilate any animal in subjugation or captivity, whether wild or tame, and whether belonging to the person or to another, or deprive any such animal of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall cause, procure or permit any such animal to be so tortured, destroyed or killed, or cruelly beaten or injured, maimed or mutilated, or deprived of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall willfully set on foot, instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00). Any animal so maltreated or abused shall be considered an abused or neglected animal.

OKLA. STAT. tit. 21, § 1686 (2012).Abandoned animals—Euthanasia—Custody of animal following arrest.

A. Any person owning or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons the animal or who allows the animal to lie in a public street, road, or public place one (1) hour after the person receives notice by a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor.

B. Any peace officer or animal control officer may humanely destroy or cause to be humanely destroyed any animal found abandoned and for which no proper care has been given.

C. When any person who is arrested is, at the time of the arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any peace officer, or animal control officer may take custody of the animal or of the vehicle and its contents, or deliver the animal or the vehicle and its contents into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody thereof. All necessary expenses incurred in taking custody of the animal or of the vehicle and its contents shall be a lien on such property.

D. For the purpose of the provisions of this section and Section 1691 of this title, the term “abandon” means the voluntary relinquishment of an animal and shall include but shall not be limited to vacating a premises and leaving the animal in or at the premises, or failing to feed the animal or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over the animal.

OKLA. STAT. tit. 21, § 1691 (2012).Abandoning of domestic animals along streets or highways or in any public place prohibited.

Any person who deposits any live dog, cat, or other domestic animal along any private or public roadway, or in any other private or public place with the intention of abandoning the domestic animal upon conviction, shall be guilty of a misdemeanor.

2. PENALTIES

OKLA. STAT. tit. 21, § 10(2012).Punishment of misdemeanor.

Except in cases where a different punishment is prescribed by this chapter or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

OKLA. STAT. tit. 21, § 1681 (2012). Poisoning animals.

Any person who willfully administers poison to any animal, the property of another, and every person who maliciously exposes any poisonous substance with intent that the same shall be taken by any such animal, shall be guilty of a felony and *shall be punishable by imprisonment in the State Penitentiary not exceeding three (3) years, or in a county jail not exceeding one (1) year, or by a fine not exceeding Two Hundred Fifty Dollars (\$250.00), or by both such fine and imprisonment.*

OKLA. STAT. tit. 21, § 1685(2012).Cruelty to animals.

Any person who shall willfully or maliciously torture, destroy or kill, or cruelly beat or injure, maim or mutilate any animal in subjugation or captivity, whether wild or tame, and whether belonging to the person or to another, or deprive any such animal of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall cause, procure or permit any such animal to be so tortured, destroyed or killed, or cruelly beaten or injured, maimed or mutilated, or deprived of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall willfully set on foot, instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty, shall be guilty of a felony *and shall be punished by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00).* Any animal so maltreated or abused shall be considered an abused or neglected animal.

OKLA. STAT. tit. 21, § 1692(2012).Penalty.

Any person found guilty of violating any of the provisions of Sections 1686, 1688, 1689 and 1691 of this title shall be punished by a fine in an amount not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than one (1) year, or by both said fine and imprisonment.

3. EXEMPTIONS

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

OKLA. STAT. tit. 22, § 60.2 (2012). Protective order—Petition—Complaint requirement for certain stalking victims—Fees.

A. A victim of domestic abuse, a victim of stalking, a victim of harassment, a victim of rape, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years may seek relief under the provisions of the Protection from Domestic Abuse Act.

1. The person seeking relief may file a petition for a protective order with the district court in the county in which the victim resides, the county in which the defendant resides, or the county in which the domestic violence occurred. If the person seeking relief is a victim of stalking but is not a family or household member or an individual who is or has been in a dating relationship with the defendant, the person seeking relief must file a complaint against the defendant with the proper law enforcement agency before filing a petition for a protective order with the district court. The person seeking relief shall provide a copy of the complaint that was filed with the law enforcement agency at the full hearing if the complaint is not available from the law enforcement agency. Failure to provide a copy of the complaint filed with the law enforcement agency shall constitute a frivolous filing and the court may assess attorney fees and court costs against the plaintiff pursuant to paragraph 2 of subsection C of this section. The filing of a petition for a protective order shall not require jurisdiction or venue of the criminal offense if either the plaintiff or defendant resides in the county. If a petition has been filed in an action for divorce or separate maintenance and either party to the action files a petition for a protective order in the same county where the action for divorce or separate maintenance is filed, the petition for the protective order may be heard by the court hearing the divorce or separate maintenance action if:

a. there is no established protective order docket in such court, or

b. the court finds that, in the interest of judicial economy, both actions may be heard together; provided, however, the petition for a protective order, including, but not limited to, a petition in which children are named as petitioners, shall remain a separate action and a separate order shall be entered in the protective order action. Protective orders may be dismissed in favor of restraining orders in the divorce or separate maintenance action if the court specifically finds, upon hearing, that such dismissal is in the best interests of the parties and does not compromise the safety of any petitioner.

If the defendant is a minor child, the petition shall be filed with the court having jurisdiction over juvenile matters.

2. When the abuse occurs when the court is not open for business, such person may request an emergency temporary order of protection as authorized by Section 40.3 of this title.

B. The petition forms shall be provided by the clerk of the court. The Administrative Office of the Courts shall develop a standard form for the petition.

C.

1. Except as otherwise provided by this section, no filing fee, service of process fee, attorney fees or any other fee or costs shall be charged the plaintiff or victim at any time for filing a petition for a protective order whether a protective order is granted or not granted. The court may assess court costs, service of process fees, attorney fees, other fees and filing fees against the defendant at the hearing on the petition, if a protective order is granted against the defendant; provided, the court shall have authority to waive the costs and fees if the court finds that the party does not have the ability to pay the costs and fees.

2. If the court makes specific findings that a petition for a protective order has been filed frivolously and no victim exists, the court may assess attorney fees and court costs against the plaintiff.

D. The person seeking relief shall prepare the petition or, at the request of the plaintiff, the court clerk or the victim-witness coordinator, victim support person, and court case manager shall prepare or assist the plaintiff in preparing the petition.

E. The person seeking a protective order may further request the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner, defendant or minor child residing in the residence of the petitioner or defendant. The court may order the defendant to make no contact with the animal and forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

OKLA. STAT. tit. 22, § 60.4 (2012).Service of emergency ex parte order, petition for protective order and notice of hearing—Full hearing—Final protective order.

A.

1. A copy of a petition for a protective order, notice of hearing and a copy of any emergency ex parte order issued by the court shall be served upon the defendant in the same manner as a bench warrant. In addition, if the service is to be in another county, the court clerk may issue service to the sheriff by facsimile or other electronic transmission for service by the sheriff. Any fee for service of a petition for protective order, notice of hearing, and emergency ex parte order shall only be charged pursuant to subsection C of Section 60.2 of this title and, if charged, shall be the same as the sheriff's service fee plus mileage expenses.
2. Emergency ex parte orders shall be given priority for service and can be served twenty-four (24) hours a day when the location of the defendant is known. When service cannot be made upon the defendant by the sheriff, the sheriff may contact another law enforcement officer or a private investigator or private process server to serve the defendant.
3. An emergency ex parte order, a petition for protective order, and a notice of hearing shall have statewide validity and may be transferred to any law enforcement jurisdiction to effect service upon the defendant.
4. The return of service shall be submitted to the sheriff's office in the court where the petition, notice of hearing or order was issued.
5. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is taken pursuant to Section 2-2-101 of Title 10A of the Oklahoma Statutes.

B.

1. Within twenty (20) days of the filing of the petition for a protective order, the court shall schedule a full hearing on the petition, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing, regardless of whether an emergency ex parte order has been previously issued, requested or denied. Provided, however, when the defendant is a minor child who has been removed from the residence pursuant to Section 2-2-101 of Title 10A of the Oklahoma Statutes, the court shall schedule a full hearing on the petition within seventy-two (72) hours, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

2. The court may schedule a full hearing on the petition for a protective order within seventy-two (72) hours when the court issues an emergency ex parte order suspending child visitation rights due to physical violence or threat of abuse.

3. If service has not been made on the defendant at the time of the hearing, the court shall, at the request of the petitioner, issue a new emergency order reflecting a new hearing date and direct service to issue.

4. A petition for a protective order shall, upon the request of the petitioner, renew every twenty (20) days with a new hearing date assigned until the defendant is served. A petition for a protective order shall not expire unless the petitioner fails to appear at the hearing or fails to request a new order. A petitioner may move to dismiss the petition and emergency or final order at any time, however, a protective order must be dismissed by court order.

5. Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order unless the victim requests dismissal or fails to appear for the hearing thereon.

C.

1. At the hearing, the court may impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim or the immediate family of the victim and may order the defendant to obtain domestic abuse counseling or treatment in a program certified by the Attorney General at the expense of the defendant pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. If the court grants a protective order and the defendant is a minor child, the court shall order a preliminary inquiry in a juvenile proceeding to determine whether further court action pursuant to the Oklahoma Juvenile Code should be taken against a juvenile defendant.

D. Final protective orders authorized by this section shall be on a standard form developed by the Administrative Office of the Courts.

E.

1. After notice and hearing, protective orders authorized by this section may require the plaintiff or the defendant or both to undergo treatment or participate in the court-approved counseling services necessary to bring about cessation of domestic abuse against the victim pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. Either party or both may be required to pay all or any part of the cost of such treatment or counseling services. The court shall not be responsible for such cost.

F. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

G.

1. Any protective order issued on or after November 1, 1999, pursuant to subsection C of this section shall be for a fixed period not to exceed a period of three (3) years unless extended, modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant; provided, if the defendant is incarcerated, the protective order shall remain in full force and effect during the period of incarceration. The period of incarceration, in any jurisdiction, shall not be included in the calculation of the three-year time limitation.

2. The court shall notify the parties at the time of the issuance of the protective order of the duration of the protective order.

3. Upon the filing of a motion by either party to modify, extend, or vacate a protective order, a hearing shall be scheduled and notice given to the parties. At the hearing, the issuing court may take such action as is necessary under the circumstances.

4. If a child has been removed from the residence of a parent or custodial adult because of domestic abuse committed by the child, the parent or custodial adult may refuse the return of such child to the residence, unless upon further consideration by the court in a juvenile proceeding, it is determined that the child is no longer a threat and should be allowed to return to the residence.

H.

1. It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to the Protection from Domestic Abuse Act for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause.

2. The violator shall, upon conviction thereof, be guilty of a misdemeanor punishable by imprisonment in the county jail for a period not exceeding one (1) year or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

3. A second or subsequent conviction under this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

I.

1. A protective order issued under the Protection from Domestic Abuse Act shall not in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation or visitation schedules, child support or division of property or any other like relief obtainable pursuant to Title 43 of the Oklahoma Statutes, except child visitation orders may be temporarily suspended or modified to protect from threats of abuse or physical violence by the defendant or a threat to violate a custody order. *Orders not affecting title may be entered for good cause found to protect an animal owned by either of the parties or any child living in the household.*

2. When granting any protective order for the protection of a minor child from violence or threats of abuse, the court shall allow visitation only under conditions that provide adequate supervision and protection to the child while maintaining the integrity of a divorce decree or temporary order.

J.

1. A court shall not issue any mutual protective orders.

2. If both parties allege domestic abuse by the other party, the parties shall do so by separate petitions. The court shall review each petition separately, in an individual or a consolidated hearing and grant or deny each petition on its individual merits. If the court finds cause to grant both motions, the court shall do so by separate orders and with specific findings justifying the issuance of each order.

3. The court may only consolidate a hearing if:

a. the court makes specific findings that:

(1) sufficient evidence exists of domestic abuse, stalking, harassment or rape against each party, and

(2) each party acted primarily as aggressors, and

b. the defendant filed a petition with the court for a protective order no less than three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the petition filed by the plaintiff, and

c. the defendant had no less than forty-eight (48) hours' notice prior to the full hearing on the petition filed by the plaintiff.

K. The court may allow a plaintiff or victim to be accompanied by a victim support person at court proceedings. A victim support person shall not make legal arguments; however, a victim support person who is not a licensed attorney may offer the plaintiff or victim comfort or support and may remain in close proximity to the plaintiff or victim.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

OKLA. STAT. tit. 4, § 512 (2012). Seizure of abandoned or neglected animals—Divestment of ownership.

A. If a law enforcement officer has reason to believe that an animal has been abandoned or neglected in violation of Sections 1685 or 1692 through 1700 of Title 21 of the Oklahoma Statutes, the officer may apply in a court of competent jurisdiction for a warrant to seize the animal. Upon a showing of probable cause, the court shall issue a warrant and set a hearing within ten (10) calendar days of the date of issuance to determine if a violation of such statutes has occurred. Upon execution of the warrant, the animal shall be impounded and the owner of the animal shall receive written notice of the time and place of a hearing to determine whether the owner's right to ownership of the animal shall be terminated.

B. If the court finds that the owner of the animal has not abandoned or neglected the animal, the court shall order the animal returned to the owner.

C. If the court finds that the owner of the animal has abandoned or neglected the animal, the owner shall be divested of ownership of the animal, and the court shall order:

1. The ownership of the animal be transferred to a nonprofit animal shelter, pound or society for the protection of animals so that the animal may be sold or adopted; or
2. The animal be humanely destroyed if the court determines that the best interests of the animal or that the public health and safety would be served by doing so.

D. If the court finds that the owner of the animal has abandoned or neglected the animal, the court shall order the owner to pay all court costs, any reasonable costs incurred for housing and caring for the animal during impoundment, and any reasonable costs incurred for humanely destroying the animal if ordered by the court.

OKLA. STAT. tit. 21, § 1680.4 (2012). Protective custody of abused or neglected animals—Bond hearing.

A. The purpose of this section is to provide a means by which any abused or neglected animal, as described in Section 1685 of Title 21 of the Oklahoma Statutes, may:

1. Be removed from its present custody; or
2. Be made the subject of an order issued to the owner by the appropriate court to provide care to the animal by the owner of the animal or by another person at a location approved by the court, with the order setting forth the conditions under which the animal will be housed and cared for, and given protection and a humane disposition.

B. Any peace officer or animal control officer may:

1. Specify terms and conditions by which the owner or keeper may maintain custody of the animal at the expense of the owner to provide care for the animal. The specifications shall be counter-signed by the owner or keeper of the animal. Provided, however, that violation of the custody agreement of the animal may result in the impoundment of the animal; or
2. Obtain a court order to take custody of any animal found neglected or cruelly treated by removing the animal from its present location.

C.

- 1. After an animal has been seized and prior to any charges being filed, the agency that took custody of the animal shall, within seven (7) days from the date of seizure, petition the district court in the county in which the animal was seized for a bond hearing to determine the cost and care for the animal. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. If the court finds that probable cause exists that an animal has been abused, the court may order immediate forfeiture of the animal to the agency that took custody of the animal. Provided, however, within seventy-two (72) hours of the order of forfeiture, the person owning or having charge or custody of the animal may post a security bond in an amount determined by the court that is sufficient to reimburse all reasonable and anticipated costs incurred by the agency caring for the animal from the date of seizure. Reasonable costs include, but are not limited to, medical care and boarding of the animal.*
- 2. The bond shall be placed with the agency that took custody of the animal. The agency shall provide an accounting of expenses to the court when the animal is no longer in the custody of the agency or upon request by the court. The agency may petition the court for a subsequent bond hearing at any time. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. When all expenses covered by the bond are exhausted and a subsequent bond has not been posted, the animal shall be forfeited to the agency.*
- 3. If the animal is returned to the person who previously owned or had charge or custody of the animal, funds not used for the care of the animal shall be returned.*
4. Nothing in this section shall prevent the euthanasia of a seized animal at any time as determined necessary by a licensed veterinarian of the state.

OKLA. STAT. tit. 21, § 1686 (2012).Abandoned animals—Euthanasia—Custody of animal following arrest.

A. Any person owning or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons the animal or who allows the animal to lie in a public street, road, or public place one (1) hour after the person receives notice by a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor.

B. Any peace officer or animal control officer may humanely destroy or cause to be humanely destroyed any animal found abandoned and for which no proper care has been given.

C. When any person who is arrested is, at the time of the arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any peace officer, or animal control officer may take custody of the animal or of the vehicle and its contents, or deliver the animal or the vehicle and its contents into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody thereof. *All necessary expenses incurred in taking custody of the animal or of the vehicle and its contents shall be a lien on such property.*

D. For the purpose of the provisions of this section and Section 1691 of this title, the term “abandon” means the voluntary relinquishment of an animal and shall include but shall not be limited to vacating a premises and leaving the animal in or at the premises, or failing to feed the animal or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over the animal.

Editor’s note: OKLA. STAT. tit. 23, §68 provides exemplary damages for wrongful injuries to animals committed willfully or by gross negligence, in disregard of humanity.

7. SEIZURE / ON-SITE SUPERVISION

OKLA. STAT. tit. 4, § 512(2012). Seizure of abandoned or neglected animals—Divestment of ownership.

A. If a law enforcement officer has reason to believe that an animal has been abandoned or neglected in violation of Sections 1685 or 1692 through 1700 of Title 21 of the Oklahoma Statutes, the officer may apply in a court of competent jurisdiction for a warrant to seize the animal. Upon a showing of probable cause, the court shall issue a warrant and set a hearing within ten (10) calendar days of the date of issuance to determine if a violation of such statutes has occurred. Upon execution of the warrant, the animal shall be impounded and the owner of the animal shall receive written notice of the time and place of a hearing to determine whether the owner's right to ownership of the animal shall be terminated.

B. If the court finds that the owner of the animal has not abandoned or neglected the animal, the court shall order the animal returned to the owner.

C. If the court finds that the owner of the animal has abandoned or neglected the animal, the owner shall be divested of ownership of the animal, and the court shall order:

1. The ownership of the animal be transferred to a nonprofit animal shelter, pound or society for the protection of animals so that the animal may be sold or adopted; or

2. The animal be humanely destroyed if the court determines that the best interests of the animal or that the public health and safety would be served by doing so.

D. If the court finds that the owner of the animal has abandoned or neglected the animal, the court shall order the owner to pay all court costs, any reasonable costs incurred for housing and caring for the animal during impoundment, and any reasonable costs incurred for humanely destroying the animal if ordered by the court.

OKLA. STAT. tit. 21, § 1680.4 (2012). Protective custody of abused or neglected animals—Bond hearing.

A. The purpose of this section is to provide a means by which any abused or neglected animal, as described in Section 1685 of Title 21 of the Oklahoma Statutes, may:

1. Be removed from its present custody; or

2. Be made the subject of an order issued to the owner by the appropriate court to provide care to the animal by the owner of the animal or by another person at a location approved by the court, with the order setting forth the conditions under which the animal will be housed and cared for, and given protection and a humane disposition.

B. Any peace officer or animal control officer may:

- 1. Specify terms and conditions by which the owner or keeper may maintain custody of the animal at the expense of the owner to provide care for the animal. The specifications shall be counter-signed by the owner or keeper of the animal. Provided, however, that violation of the custody agreement of the animal may result in the impoundment of the animal; or*
- 2. Obtain a court order to take custody of any animal found neglected or cruelly treated by removing the animal from its present location.*

C.

1. After an animal has been seized and prior to any charges being filed, the agency that took custody of the animal shall, within seven (7) days from the date of seizure, petition the district court in the county in which the animal was seized for a bond hearing to determine the cost and care for the animal. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. If the court finds that probable cause exists that an animal has been abused, the court may order immediate forfeiture of the animal to the agency that took custody of the animal. Provided, however, within seventy-two (72) hours of the order of forfeiture, the person owning or having charge or custody of the animal may post a security bond in an amount determined by the court that is sufficient to reimburse all reasonable and anticipated costs incurred by the agency caring for the animal from the date of seizure. Reasonable costs include, but are not limited to, medical care and boarding of the animal.
2. The bond shall be placed with the agency that took custody of the animal. The agency shall provide an accounting of expenses to the court when the animal is no longer in the custody of the agency or upon request by the court. The agency may petition the court for a subsequent bond hearing at any time. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. When all expenses covered by the bond are exhausted and a subsequent bond has not been posted, the animal shall be forfeited to the agency.
3. If the animal is returned to the person who previously owned or had charge or custody of the animal, funds not used for the care of the animal shall be returned.
4. Nothing in this section shall prevent the euthanasia of a seized animal at any time as determined necessary by a licensed veterinarian of the state.

OKLA. STAT. tit. 21, § 1686 (2012). Abandoned animals—Euthanasia—Custody of animal following arrest.

A. Any person owning or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons the animal or who allows the animal to lie in a public street, road, or public place one (1) hour after the person receives notice by a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor.

B. Any peace officer or animal control officer may humanely destroy or cause to be humanely destroyed any animal found abandoned and for which no proper care has been given.

C. When any person who is arrested is, at the time of the arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any peace officer, or animal control officer may take custody of the animal or of the vehicle and its contents, or deliver the animal or the vehicle and its contents into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody thereof. All necessary expenses incurred in taking custody of the animal or of the vehicle and its contents shall be a lien on such property.

D. For the purpose of the provisions of this section and Section 1691 of this title, the term “abandon” means the voluntary relinquishment of an animal and shall include but shall not be limited to vacating a premises and leaving the animal in or at the premises, or failing to feed the animal or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over the animal.

8. FORFEITURE / POSSESSION

OKLA. STAT. tit. 4, § 512(2012). Seizure of abandoned or neglected animals—Divestment of ownership.

A. If a law enforcement officer has reason to believe that an animal has been abandoned or neglected in violation of Sections 1685 or 1692 through 1700 of Title 21 of the Oklahoma Statutes, the officer may apply in a court of competent jurisdiction for a warrant to seize the animal. *Upon a showing of probable cause, the court shall issue a warrant and set a hearing within ten (10) calendar days of the date of issuance to determine if a violation of such statutes has occurred. Upon execution of the warrant, the animal shall be impounded and the owner of the animal shall receive written notice of the time and place of a hearing to determine whether the owner's right to ownership of the animal shall be terminated.*

B. If the court finds that the owner of the animal has not abandoned or neglected the animal, the court shall order the animal returned to the owner.

C. If the court finds that the owner of the animal has abandoned or neglected the animal, the owner shall be divested of ownership of the animal, and the court shall order:

1. The ownership of the animal be transferred to a nonprofit animal shelter, pound or society for the protection of animals so that the animal may be sold or adopted; or

2. The animal be humanely destroyed if the court determines that the best interests of the animal or that the public health and safety would be served by doing so.

D. If the court finds that the owner of the animal has abandoned or neglected the animal, the court shall order the owner to pay all court costs, any reasonable costs incurred for housing and caring for the animal during impoundment, and any reasonable costs incurred for humanely destroying the animal if ordered by the court.

OKLA. STAT. tit. 21, § 1680.4 (2012). Protective custody of abused or neglected animals—Bond hearing.

A. The purpose of this section is to provide a means by which any abused or neglected animal, as described in Section 1685 of Title 21 of the Oklahoma Statutes, may:

1. Be removed from its present custody; or

2. Be made the subject of an order issued to the owner by the appropriate court to provide care to the animal by the owner of the animal or by another person at a location approved by the court, with the order setting forth the conditions under which the animal will be housed and cared for, and given protection and a humane disposition.

B. Any peace officer or animal control officer may:

1. Specify terms and conditions by which the owner or keeper may maintain custody of the animal at the expense of the owner to provide care for the animal. The specifications shall be counter-signed by the owner or keeper of the animal. Provided, however, that violation of the custody agreement of the animal may result in the impoundment of the animal; or
2. Obtain a court order to take custody of any animal found neglected or cruelly treated by removing the animal from its present location.

C.

- 1. After an animal has been seized and prior to any charges being filed, the agency that took custody of the animal shall, within seven (7) days from the date of seizure, petition the district court in the county in which the animal was seized for a bond hearing to determine the cost and care for the animal. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. If the court finds that probable cause exists that an animal has been abused, the court may order immediate forfeiture of the animal to the agency that took custody of the animal. Provided, however, within seventy-two (72) hours of the order of forfeiture, the person owning or having charge or custody of the animal may post a security bond in an amount determined by the court that is sufficient to reimburse all reasonable and anticipated costs incurred by the agency caring for the animal from the date of seizure. Reasonable costs include, but are not limited to, medical care and boarding of the animal.*
- 2. The bond shall be placed with the agency that took custody of the animal. The agency shall provide an accounting of expenses to the court when the animal is no longer in the custody of the agency or upon request by the court. The agency may petition the court for a subsequent bond hearing at any time. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. When all expenses covered by the bond are exhausted and a subsequent bond has not been posted, the animal shall be forfeited to the agency.*
3. If the animal is returned to the person who previously owned or had charge or custody of the animal, funds not used for the care of the animal shall be returned.
- 4. Nothing in this section shall prevent the euthanasia of a seized animal at any time as determined necessary by a licensed veterinarian of the state.*

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

OKLA. STAT. tit. 21, § 1680.3 (2012). Veterinarian required to report suspected animal abuse—Immunity from civil liability.

A. A veterinarian shall report suspected cases of animal abuse to a local law enforcement agency in the county where the veterinarian is practicing within twenty-four (24) hours of any examination or treatment administered to any animal which the veterinarian reasonably suspects and believes has been abused. The report shall contain the breed and description of the animal together with the name and address of the owner.

B. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

OKLA. STAT. tit. 21, § 886(2012).Crime against nature.

Every person who is guilty of the detestable and abominable crime against nature, committed with mankind or with a beast, is punishable by imprisonment in the custody of the Department of Corrections not exceeding ten (10) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

13. FIGHTING

OKLA. STAT. tit. 21, § 1682(2012). Instigating fights between animals.

Every person who maliciously, or for any bet, stake or reward, instigates or encourages any fight between animals with the exception of dogs, or instigates or encourages any animal with the exception of dogs to attack, bite, wound or worry another, upon conviction, is guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1683(2012). Keeping places for fighting animals.

Every person who keeps any house, pit or other place, to be used in permitting any fight between animals with the exception of dogs or in any other violation of Section 1682 of this title, upon conviction, is guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1692.1(2012). Definitions.

As used in this act:

A. "Cockfight" or "cockfighting" is a fight between birds, whether or not fitted with spurs, knives, or gaffs, and whether or not bets or wagers are made on the outcome of the fight, and includes any training fight in which birds are intended or encouraged to attack or fight with one another.

B. "Equipment used for training or handling a fighting bird" includes knives or gaffs, cages, pens, feeding apparatuses, training pens and other related devices and equipment, and is hereby declared contraband and subject to seizure.

OKLA. STAT. tit. 21, § 1692.2(2012). Instigating or encouraging cockfight.

Every person who willfully instigates or encourages any cockfight, upon conviction, shall be guilty of a felony. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.3(2012). Keeping place, equipment or facilities for cockfighting.

Every person who keeps any pit or other place, or knowingly provides any equipment or facilities to be used in permitting any cockfight, upon conviction, shall be guilty of a felony. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.4(2012).Servicing or facilitating cockfight.

Every person who does any act or performs any service in the furtherance of or to facilitate any cockfight, upon conviction, shall be guilty of a felony. Such activities and services specifically prohibited by this section include, but are not limited to: promoting or refereeing of birds at a cockfight, advertising a cockfight, or serving as a stakes holder of any money wagered on any cockfight. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.5(2012).Owning, possessing, keeping or training bird for fighting.

Every person who owns, possesses, keeps, or trains any bird with the intent that such bird shall be engaged in a cockfight, upon conviction, shall be guilty of a felony. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.6(2012). Spectators.

Every person who is knowingly present as a spectator at any place, building, or other site where preparations are being made for a cockfight with the intent to be present at such preparation or cockfight, or is knowingly present at such cockfight, upon conviction shall be guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1692.7(2012).Seizure, destruction, or forfeiture of cockfighting equipment or facilities.

Following the conviction of a person for Sections 2, 3, 4, or 5 of this act, the court entering the judgment shall order that the birds and knives or gaffs used in violation of this act be forfeited to the state, and may order that any and all equipment described in Section 1 used in violation of this act be forfeited to the state.

OKLA. STAT. tit. 21, § 1692.8(2012). Punishment.

A. Every person who is guilty of a felony under any of the provisions of Sections 2, 3, 4, or 5 of this act shall be punished by imprisonment in the state penitentiary for not less than one (1) year nor more than ten (10) years, or shall be fined not less than Two Thousand Dollars (\$2,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

B. Every person who upon conviction is guilty of any of the provisions of Section 6 of this act shall be punished by imprisonment in the county jail for not more than one (1) year, or shall be fined not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

OKLA. STAT. tit. 21, § 1692.9(2012). Exemption.

Nothing in this act shall prohibit any of the following:

A. Hunting birds or fowl in accordance with Oklahoma regulation or statute, including but not limited to the sport of hunting game with trained raptors.

B. Agricultural production of fowl for human consumption.

OKLA. STAT. tit. 21, § 1693(2012). Definitions.

As used in this act:

1. "Equipment used for training or handling a fighting dog" includes harnesses, treadmills, cages, decoys, pens, houses, feeding apparatuses, training pens and other related devices and equipment.

2. "Equipment used for transporting a fighting dog" includes any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog to a fight;

3. "Concession equipment" includes any stands, equipment or devices intended to be used to sell or otherwise to dispense food, drinks, liquor, souvenirs or spectator comforts;

4. "Equipment used to promote or advertise a dogfight" includes any printing presses or similar equipment, any paper, ink, photography equipment, and related items and equipment intended to be used to transport same;

5. "Equipment used to stage a dogfight" includes, but is not limited to, dogfighting arenas, bleachers, or spectators' stands or other seating, tents, canopies, buildings, fences, cages, speakers, public address systems, portable toilet facilities and related equipment; and

6. "Fighting dog" includes any dog trained, being trained, intended to be used for training, or intended to be used to attack, bite, wound or worry another dog.

OKLA. STAT. tit. 21, § 1694(2012).Instigating or encouraging dogfight—Felony—Penalty.

Every person who willfully or for any bet, stake or reward, instigates or encourages any fight between dogs, or instigates or encourages any dog to attack, bite, wound or worry another dog, except in the course of protection of life and property, upon conviction, shall be guilty of a felony, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1695(2012). Keeping place, equipment or facilities for dogfighting—Felony— Penalty.

Every person who keeps any house, pit or other place, or provides any equipment or facilities to be used in permitting any fight between dogs or in furtherance of any activity described in Section 1693 of this title, upon conviction, shall be guilty of a felony, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1696(2012).Servicing or facilitating dogfight—Felony—Penalty.

Every person who does any act or performs any service in the furtherance of or to facilitate any dogfight, upon conviction, shall be guilty of a felony. Such activities and services specifically prohibited by this section include, but are not limited to: Promotion, refereeing, handling of dogs at a fight, transportation of spectators to or from a dogfight, providing concessions at a dogfight, advertising a dogfight, or serving as a stakes holder of any money wagered on any dogfight, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1697(2012). Owning, possessing, keeping or training dog for fighting—Felony—Penalty.

Every person who owns, possesses, keeps or trains any dog with the intent that such dog shall be engaged in an exhibition of fighting with another dog, upon conviction, shall be guilty of a felony, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1698(2012). Spectators.

Every person who is knowingly present as a spectator at any place, building or other site where preparations are being made for an exhibition of dogfighting with the intent to be present at such preparation or fight, or is knowingly present at such exhibition, upon conviction, shall be guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1699(2012). Seizure, destruction or forfeiture of dogfighting equipment and facilities.

Following the conviction of a person for the offense of keeping a place for fighting dogs, providing facilities for fighting dogs, performing services in the furtherance of dogfighting, training, owning, possessing, handling fighting dogs, the court entering the judgment shall order that the machine, device, gambling equipment, training or handling instruments or equipment, transportation equipment, concession equipment, dogfighting equipment and instruments, and fighting dogs used in violation of this act be destroyed or forfeited to the state.

OKLA. STAT. tit. 21, § 1699.1(2012). Punishment.

A. Every person who is guilty of a felony under any of the provisions of Sections 1694, 1695, 1696 and 1697 of this title shall be punished by imprisonment in the State Penitentiary for not less than one (1) year nor more than ten (10) years, or a fine not less than Two Thousand Dollars (\$2,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

B. Every person who upon conviction is guilty of any of the provisions of Section 1698 of this title shall be punished by imprisonment in the county jail for not more than one (1) year, or shall be fined not more than Five Hundred Dollars (\$500.00).

OKLA. STAT. tit. 21, § 1699.2(2012). Exemptions.

Nothing in this act shall prohibit any of the following:

- 1. The use of dogs in hunting as permitted by the Game and Fish Code and by the rules and regulations adopted by the Oklahoma Wildlife Conservation Commission;*
- 2. The use of dogs in the management of livestock by the owner of such livestock or his employees or agents or other persons in lawful custody thereof;*
- 3. The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law; or*
- 4. The raising, breeding, keeping or training of dogs or the use of equipment for the raising, breeding, keeping or training of dogs for sale or show purposes.*

OKLA. STAT. tit. 21, § 1700(2012). Bear wrestling—Horse tripping.

A. It is unlawful for any person to:

- 1. Promote, engage in, or be employed at a bear wrestling exhibition or horse tripping event;*
- 2. Receive money for the admission of another person to any place where bear wrestling or horse tripping will occur;*
- 3. Sell, purchase, possess, or offer a horse for any horse tripping event;*
- 4. Sell, purchase, possess, or train a bear for any bear wrestling exhibition;*
- 5. Subject a bear to alteration in any form for purposes of bear wrestling including, but not limited to, removal of claws or teeth, or severing tendons; or*
- 6. Give any substance to a bear, inject any substance into a bear, or cause a bear to ingest or inhale any substance for the purposes of bear wrestling.*

B. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one (1) year, or by a fine of not more than Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment. In addition, the court may require the violator to make restitution and reimbursements to the state, any of its political subdivisions, or to any society which is incorporated for the prevention of cruelty to animals for housing, feeding, or providing medical treatment to any animals used or intended for use in violation of this section.

C. Upon the arrest of any person pursuant to any provision of this section, the arresting law enforcement agency or animal control office shall have authority to seize and take custody of all animals in the possession of the arrested person which are the basis of an arrest pursuant to the provisions of this section. Upon conviction, the court shall have authority to order the forfeiture of all animals seized which are the basis of the conviction pursuant to the provisions of this section. Any animals ordered forfeited may be placed in the custody of a society which is incorporated for the prevention of cruelty to animals.

D. As used in this section, “horse tripping” means to cause an animal of the equine species to fall or lose its balance with the use of a wire, pole, stick, rope or other object. The term does not include the lawful laying down of a horse for medical purposes or for the purposes of identification.

14. REFERENCED STATUTES

OKLA. STAT.tit. 4 § 511 (2012). Definitions.

As used in this act:

1. “Abandon” includes leaving an animal without making reasonable arrangements for assumption of custody by another person; and
2. “Neglect” means unreasonable deprivation of necessary food, care, or shelter.

OKLA. STAT.tit. 4, § 512 (2012). Seizure of abandoned or neglected animals—Divestment of ownership.

A. If a law enforcement officer has reason to believe that an animal has been abandoned or neglected in violation of Sections 1685 or 1692 through 1700 of Title 21 of the Oklahoma Statutes, the officer may apply in a court of competent jurisdiction for a warrant to seize the animal. Upon a showing of probable cause, the court shall issue a warrant and set a hearing within ten (10) calendar days of the date of issuance to determine if a violation of such statutes has occurred. Upon execution of the warrant, the animal shall be impounded and the owner of the animal shall receive written notice of the time and place of a hearing to determine whether the owner’s right to ownership of the animal shall be terminated.

B. If the court finds that the owner of the animal has not abandoned or neglected the animal, the court shall order the animal returned to the owner.

C. If the court finds that the owner of the animal has abandoned or neglected the animal, the owner shall be divested of ownership of the animal, and the court shall order:

1. The ownership of the animal be transferred to a nonprofit animal shelter, pound or society for the protection of animals so that the animal may be sold or adopted; or
2. The animal be humanely destroyed if the court determines that the best interests of the animal or that the public health and safety would be served by doing so.

D. If the court finds that the owner of the animal has abandoned or neglected the animal, the court shall order the owner to pay all court costs, any reasonable costs incurred for housing and caring for the animal during impoundment, and any reasonable costs incurred for humanely destroying the animal if ordered by the court.

OKLA. STAT. tit. 21, § 886(2012).Crime against nature.

Every person who is guilty of the detestable and abominable crime against nature, committed with mankind or with a beast, is punishable by imprisonment in the custody of the Department of Corrections not exceeding ten (10) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

OKLA. STAT. tit. 21, § 10(2012).Punishment of misdemeanor.

Except in cases where a different punishment is prescribed by this chapter or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

OKLA. STAT. tit. 21, §1680.1 (2012). Definitions.

As used in this act:

1. "Animal" means any mammal, bird, fish, reptile or invertebrate, including wild and domesticated species, other than a human being;
2. "Animal facility" means any vehicle, building, structure, farm, ranch or other premises where an animal is kept, handled, transported, housed, exhibited, bred, offered for sale or used in any lawful scientific test, experiment, investigation or educational training;
3. "Person" means any individual, state agency, corporation, association, nonprofit corporation, joint stock company, firm, trust, partnership, two or more persons having a common interest, or other legal entity;
4. "Owner" means a person who has title to the property, possession of the property, or a greater right to the possession of the animal or property than another person;
5. "Possession" means actual care, custody, control or management; and

6. “Effective consent” means consent by the owner or a person legally authorized to act for the owner. Consent is not effective if induced or given by force or fear; by a person the offender knows is not legally authorized to act for the owner; or by a person who by reason of youth, mental disease or defect, or influence of drug or alcohol is known by the offender to be unable to make reasonable decisions.

OKLA. STAT. tit. 21, § 1680.3 (2012). Veterinarian required to report suspected animal abuse—Immunity from civil liability.

A. A veterinarian shall report suspected cases of animal abuse to a local law enforcement agency in the county where the veterinarian is practicing within twenty-four (24) hours of any examination or treatment administered to any animal which the veterinarian reasonably suspects and believes has been abused. The report shall contain the breed and description of the animal together with the name and address of the owner.

B. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

OKLA. STAT. tit. 21, § 1680.4 (2012). Protective custody of abused or neglected animals—Bond hearing.

A. The purpose of this section is to provide a means by which any abused or neglected animal, as described in Section 1685 of Title 21 of the Oklahoma Statutes, may:

1. Be removed from its present custody; or
2. Be made the subject of an order issued to the owner by the appropriate court to provide care to the animal by the owner of the animal or by another person at a location approved by the court, with the order setting forth the conditions under which the animal will be housed and cared for, and given protection and a humane disposition.

B. Any peace officer or animal control officer may:

1. Specify terms and conditions by which the owner or keeper may maintain custody of the animal at the expense of the owner to provide care for the animal. The specifications shall be counter-signed by the owner or keeper of the animal. Provided, however, that violation of the custody agreement of the animal may result in the impoundment of the animal; or
2. Obtain a court order to take custody of any animal found neglected or cruelly treated by removing the animal from its present location.

C.

1. After an animal has been seized and prior to any charges being filed, the agency that took custody of the animal shall, within seven (7) days from the date of seizure, petition the district court in the county in which the animal was seized for a bond hearing to determine the cost and care for the animal. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. If the court finds that probable cause exists that an animal has been abused, the court may order immediate forfeiture of the animal to the agency that took custody of the animal. Provided, however, within seventy-two (72) hours of the order of forfeiture, the person owning or having charge or custody of the animal may post a security bond in an amount determined by the court that is sufficient to reimburse all reasonable and anticipated costs incurred by the agency caring for the animal from the date of seizure. Reasonable costs include, but are not limited to, medical care and boarding of the animal.

2. The bond shall be placed with the agency that took custody of the animal. The agency shall provide an accounting of expenses to the court when the animal is no longer in the custody of the agency or upon request by the court. The agency may petition the court for a subsequent bond hearing at any time. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. When all expenses covered by the bond are exhausted and a subsequent bond has not been posted, the animal shall be forfeited to the agency.

3. If the animal is returned to the person who previously owned or had charge or custody of the animal, funds not used for the care of the animal shall be returned.

4. Nothing in this section shall prevent the euthanasia of a seized animal at any time as determined necessary by a licensed veterinarian of the state.

OKLA. STAT. tit. 21, § 1681 (2012). Poisoning animals.

Any person who willfully administers poison to any animal, the property of another, and every person who maliciously exposes any poisonous substance with intent that the same shall be taken by any such animal, shall be guilty of a felony and shall be punishable by imprisonment in the State Penitentiary not exceeding three (3) years, or in a county jail not exceeding one (1) year, or by a fine not exceeding Two Hundred Fifty Dollars (\$250.00), or by both such fine and imprisonment.

OKLA. STAT. tit. 21, § 1682(2012). Instigating fights between animals.

Every person who maliciously, or for any bet, stake or reward, instigates or encourages any fight between animals with the exception of dogs, or instigates or encourages any animal with the exception of dogs to attack, bite, wound or worry another, upon conviction, is guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1683(2012).Keeping places for fighting animals.

Every person who keeps any house, pit or other place, to be used in permitting any fight between animals with the exception of dogs or in any other violation of Section 1682 of this title, upon conviction, is guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1685(2012).Cruelty to animals.

Any person who shall willfully or maliciously torture, destroy or kill, or cruelly beat or injure, maim or mutilate any animal in subjugation or captivity, whether wild or tame, and whether belonging to the person or to another, or deprive any such animal of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall cause, procure or permit any such animal to be so tortured, destroyed or killed, or cruelly beaten or injured, maimed or mutilated, or deprived of necessary food, drink, shelter, or veterinary care to prevent suffering; or who shall willfully set on foot, instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00). Any animal so maltreated or abused shall be considered an abused or neglected animal.

OKLA. STAT. tit. 21, § 1686 (2012).Abandoned animals—Euthanasia—Custody of animal following arrest.

A. Any person owning or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons the animal or who allows the animal to lie in a public street, road, or public place one (1) hour after the person receives notice by a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor.

B. Any peace officer or animal control officer may humanely destroy or cause to be humanely destroyed any animal found abandoned and for which no proper care has been given.

C. When any person who is arrested is, at the time of the arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any peace officer, or animal control officer may take custody of the animal or of the vehicle and its contents, or deliver the animal or the vehicle and its contents into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody thereof. All necessary expenses incurred in taking custody of the animal or of the vehicle and its contents shall be a lien on such property.

D. For the purpose of the provisions of this section and Section 1691 of this title, the term “abandon” means the voluntary relinquishment of an animal and shall include but shall not be limited to vacating a premises and leaving the animal in or at the premises, or failing to feed the animal or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over the animal.

OKLA. STAT. tit. 21, § 1691 (2012).Abandoning of domestic animals along streets or highways or in any public place prohibited.

Any person who deposits any live dog, cat, or other domestic animal along any private or public roadway, or in any other private or public place with the intention of abandoning the domestic animal upon conviction, shall be guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1692(2012).Penalty.

Any person found guilty of violating any of the provisions of Sections 1686, 1688, 1689 and 1691 of this title shall be punished by a fine in an amount not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than one (1) year, or by both said fine and imprisonment.

OKLA. STAT. tit. 21, § 1692.1(2012).Definitions.

As used in this act:

A. “Cockfight” or “cockfighting” is a fight between birds, whether or not fitted with spurs, knives, or gaffs, and whether or not bets or wagers are made on the outcome of the fight, and includes any training fight in which birds are intended or encouraged to attack or fight with one another.

B. “Equipment used for training or handling a fighting bird” includes knives or gaffs, cages, pens, feeding apparatuses, training pens and other related devices and equipment, and is hereby declared contraband and subject to seizure.

OKLA. STAT. tit. 21, § 1692.2(2012).Instigating or encouraging cockfight.

Every person who willfully instigates or encourages any cockfight, upon conviction, shall be guilty of a felony. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.3(2012). Keeping place, equipment or facilities for cockfighting.

Every person who keeps any pit or other place, or knowingly provides any equipment or facilities to be used in permitting any cockfight, upon conviction, shall be guilty of a felony. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.4(2012).Servicing or facilitating cockfight.

Every person who does any act or performs any service in the furtherance of or to facilitate any cockfight, upon conviction, shall be guilty of a felony. Such activities and services specifically prohibited by this section include, but are not limited to: promoting or refereeing of birds at a cockfight, advertising a cockfight, or serving as a stakes holder of any money wagered on any cockfight. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.5(2012).Owning, possessing, keeping or training bird for fighting.

Every person who owns, possesses, keeps, or trains any bird with the intent that such bird shall be engaged in a cockfight, upon conviction, shall be guilty of a felony. The penalty for a violation of this section shall be as provided in Section 8 of this act.

OKLA. STAT. tit. 21, § 1692.6(2012). Spectators.

Every person who is knowingly present as a spectator at any place, building, or other site where preparations are being made for a cockfight with the intent to be present at such preparation or cockfight, or is knowingly present at such cockfight, upon conviction shall be guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1692.7(2012).Seizure, destruction, or forfeiture of cockfighting equipment or facilities

Following the conviction of a person for Sections 2, 3, 4, or 5 of this act, the court entering the judgment shall order that the birds and knives or gaffs used in violation of this act be forfeited to the state, and may order that any and all equipment described in Section 1 used in violation of this act be forfeited to the state.

OKLA. STAT. tit. 21, § 1692.8(2012). Punishment.

A. Every person who is guilty of a felony under any of the provisions of Sections 2, 3, 4, or 5 of this act shall be punished by imprisonment in the state penitentiary for not less than one (1) year nor more than ten (10) years, or shall be fined not less than Two Thousand Dollars (\$2,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

B. Every person who upon conviction is guilty of any of the provisions of Section 6 of this act shall be punished by imprisonment in the county jail for not more than one (1) year, or shall be fined not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

OKLA. STAT. tit. 21, § 1692.9(2012). Exemption.

Nothing in this act shall prohibit any of the following:

A. Hunting birds or fowl in accordance with Oklahoma regulation or statute, including but not limited to the sport of hunting game with trained raptors.

B. Agricultural production of fowl for human consumption.

OKLA. STAT. tit. 21, § 1693(2012). Definitions.

As used in this act:

1. "Equipment used for training or handling a fighting dog" includes harnesses, treadmills, cages, decoys, pens, houses, feeding apparatuses, training pens and other related devices and equipment.
2. "Equipment used for transporting a fighting dog" includes any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog to a fight;
3. "Concession equipment" includes any stands, equipment or devices intended to be used to sell or otherwise to dispense food, drinks, liquor, souvenirs or spectator comforts;
4. "Equipment used to promote or advertise a dogfight" includes any printing presses or similar equipment, any paper, ink, photography equipment, and related items and equipment intended to be used to transport same;

5. “Equipment used to stage a dogfight” includes, but is not limited to, dogfighting arenas, bleachers, or spectators’ stands or other seating, tents, canopies, buildings, fences, cages, speakers, public address systems, portable toilet facilities and related equipment; and

6. “Fighting dog” includes any dog trained, being trained, intended to be used for training, or intended to be used to attack, bite, wound or worry another dog.

OKLA. STAT. tit. 21, § 1694(2012).Instigating or encouraging dogfight—Felony—Penalty.

Every person who willfully or for any bet, stake or reward, instigates or encourages any fight between dogs, or instigates or encourages any dog to attack, bite, wound or worry another dog, except in the course of protection of life and property, upon conviction, shall be guilty of a felony, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1695(2012). Keeping place, equipment or facilities for dogfighting—Felony—Penalty.

Every person who keeps any house, pit or other place, or provides any equipment or facilities to be used in permitting any fight between dogs or in furtherance of any activity described in Section 1693 of this title, upon conviction, shall be guilty of a felony, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1696(2012).Servicing or facilitating dogfight—Felony—Penalty.

Every person who does any act or performs any service in the furtherance of or to facilitate any dogfight, upon conviction, shall be guilty of a felony. Such activities and services specifically prohibited by this section include, but are not limited to: Promotion, refereeing, handling of dogs at a fight, transportation of spectators to or from a dogfight, providing concessions at a dogfight, advertising a dogfight, or serving as a stakes holder of any money wagered on any dogfight, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1697(2012). Owning, possessing, keeping or training dog for fighting—Felony—Penalty.

Every person who owns, possesses, keeps or trains any dog with the intent that such dog shall be engaged in an exhibition of fighting with another dog, upon conviction, shall be guilty of a felony, punishable as provided in Section 1699.1 of this title.

OKLA. STAT. tit. 21, § 1698(2012). Spectators.

Every person who is knowingly present as a spectator at any place, building or other site where preparations are being made for an exhibition of dogfighting with the intent to be present at such preparation or fight, or is knowingly present at such exhibition, upon conviction, shall be guilty of a misdemeanor.

OKLA. STAT. tit. 21, § 1699(2012). Seizure, destruction or forfeiture of dogfighting equipment and facilities.

Following the conviction of a person for the offense of keeping a place for fighting dogs, providing facilities for fighting dogs, performing services in the furtherance of dogfighting, training, owning, possessing, handling fighting dogs, the court entering the judgment shall order that the machine, device, gambling equipment, training or handling instruments or equipment, transportation equipment, concession equipment, dogfighting equipment and instruments, and fighting dogs used in violation of this act be destroyed or forfeited to the state.

OKLA. STAT. tit. 21, § 1699.1(2012). Punishment.

A. Every person who is guilty of a felony under any of the provisions of Sections 1694, 1695, 1696 and 1697 of this title shall be punished by imprisonment in the State Penitentiary for not less than one (1) year nor more than ten (10) years, or a fine not less than Two Thousand Dollars (\$2,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

B. Every person who upon conviction is guilty of any of the provisions of Section 1698 of this title shall be punished by imprisonment in the county jail for not more than one (1) year, or shall be fined not more than Five Hundred Dollars (\$500.00).

OKLA. STAT. tit. 21, § 1699.2(2012). Exemptions.

Nothing in this act shall prohibit any of the following:

1. The use of dogs in hunting as permitted by the Game and Fish Code and by the rules and regulations adopted by the Oklahoma Wildlife Conservation Commission;
2. The use of dogs in the management of livestock by the owner of such livestock or his employees or agents or other persons in lawful custody thereof;
3. The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law; or

4. The raising, breeding, keeping or training of dogs or the use of equipment for the raising, breeding, keeping or training of dogs for sale or show purposes.

OKLA. STAT. tit. 21, § 1700(2012). Bear wrestling—Horse tripping.

A. It is unlawful for any person to:

1. Promote, engage in, or be employed at a bear wrestling exhibition or horse tripping event;
2. Receive money for the admission of another person to any place where bear wrestling or horse tripping will occur;
3. Sell, purchase, possess, or offer a horse for any horse tripping event;
4. Sell, purchase, possess, or train a bear for any bear wrestling exhibition;
5. Subject a bear to alteration in any form for purposes of bear wrestling including, but not limited to, removal of claws or teeth, or severing tendons; or
6. Give any substance to a bear, inject any substance into a bear, or cause a bear to ingest or inhale any substance for the purposes of bear wrestling.

B. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one (1) year, or by a fine of not more than Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment. In addition, the court may require the violator to make restitution and reimbursements to the state, any of its political subdivisions, or to any society which is incorporated for the prevention of cruelty to animals for housing, feeding, or providing medical treatment to any animals used or intended for use in violation of this section.

C. Upon the arrest of any person pursuant to any provision of this section, the arresting law enforcement agency or animal control office shall have authority to seize and take custody of all animals in the possession of the arrested person which are the basis of an arrest pursuant to the provisions of this section. Upon conviction, the court shall have authority to order the forfeiture of all animals seized which are the basis of the conviction pursuant to the provisions of this section. Any animals ordered forfeited may be placed in the custody of a society which is incorporated for the prevention of cruelty to animals.

D. As used in this section, “horse tripping” means to cause an animal of the equine species to fall or lose its balance with the use of a wire, pole, stick, rope or other object. The term does not include the lawful laying down of a horse for medical purposes or for the purposes of identification.

OKLA. STAT. tit. 22, § 60.2 (2012). Protective order—Petition—Complaint requirement for certain stalking victims—Fees.

A. A victim of domestic abuse, a victim of stalking, a victim of harassment, a victim of rape, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years may seek relief under the provisions of the Protection from Domestic Abuse Act.

1. The person seeking relief may file a petition for a protective order with the district court in the county in which the victim resides, the county in which the defendant resides, or the county in which the domestic violence occurred. If the person seeking relief is a victim of stalking but is not a family or household member or an individual who is or has been in a dating relationship with the defendant, the person seeking relief must file a complaint against the defendant with the proper law enforcement agency before filing a petition for a protective order with the district court. The person seeking relief shall provide a copy of the complaint that was filed with the law enforcement agency at the full hearing if the complaint is not available from the law enforcement agency. Failure to provide a copy of the complaint filed with the law enforcement agency shall constitute a frivolous filing and the court may assess attorney fees and court costs against the plaintiff pursuant to paragraph 2 of subsection C of this section. The filing of a petition for a protective order shall not require jurisdiction or venue of the criminal offense if either the plaintiff or defendant resides in the county. If a petition has been filed in an action for divorce or separate maintenance and either party to the action files a petition for a protective order in the same county where the action for divorce or separate maintenance is filed, the petition for the protective order may be heard by the court hearing the divorce or separate maintenance action if:

a. there is no established protective order docket in such court, or

b. the court finds that, in the interest of judicial economy, both actions may be heard together; provided, however, the petition for a protective order, including, but not limited to, a petition in which children are named as petitioners, shall remain a separate action and a separate order shall be entered in the protective order action. Protective orders may be dismissed in favor of restraining orders in the divorce or separate maintenance action if the court specifically finds, upon hearing, that such dismissal is in the best interests of the parties and does not compromise the safety of any petitioner.

If the defendant is a minor child, the petition shall be filed with the court having jurisdiction over juvenile matters.

2. When the abuse occurs when the court is not open for business, such person may request an emergency temporary order of protection as authorized by Section 40.3 of this title.

B. The petition forms shall be provided by the clerk of the court. The Administrative Office of the Courts shall develop a standard form for the petition.

C.

1. Except as otherwise provided by this section, no filing fee, service of process fee, attorney fees or any other fee or costs shall be charged the plaintiff or victim at any time for filing a petition for a protective order whether a protective order is granted or not granted. The court may assess court costs, service of process fees, attorney fees, other fees and filing fees against the defendant at the hearing on the petition, if a protective order is granted against the defendant; provided, the court shall have authority to waive the costs and fees if the court finds that the party does not have the ability to pay the costs and fees.

2. If the court makes specific findings that a petition for a protective order has been filed frivolously and no victim exists, the court may assess attorney fees and court costs against the plaintiff.

D. The person seeking relief shall prepare the petition or, at the request of the plaintiff, the court clerk or the victim-witness coordinator, victim support person, and court case manager shall prepare or assist the plaintiff in preparing the petition.

E. The person seeking a protective order may further request the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner, defendant or minor child residing in the residence of the petitioner or defendant. The court may order the defendant to make no contact with the animal and forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

OKLA. STAT. tit. 22, § 60.4 (2012).Service of emergency ex parte order, petition for protective order and notice of hearing—Full hearing—Final protective order.

A.

1. A copy of a petition for a protective order, notice of hearing and a copy of any emergency ex parte order issued by the court shall be served upon the defendant in the same manner as a bench warrant. In addition, if the service is to be in another county, the court clerk may issue service to the sheriff by facsimile or other electronic transmission for service by the sheriff. Any fee for service of a petition for protective order, notice of hearing, and emergency ex parte order shall only be charged pursuant to subsection C of Section 60.2 of this title and, if charged, shall be the same as the sheriff's service fee plus mileage expenses.

2. Emergency ex parte orders shall be given priority for service and can be served twenty-four (24) hours a day when the location of the defendant is known. When service cannot

be made upon the defendant by the sheriff, the sheriff may contact another law enforcement officer or a private investigator or private process server to serve the defendant.

3. An emergency ex parte order, a petition for protective order, and a notice of hearing shall have statewide validity and may be transferred to any law enforcement jurisdiction to effect service upon the defendant.

4. The return of service shall be submitted to the sheriff's office in the court where the petition, notice of hearing or order was issued.

5. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is taken pursuant to Section 2-2-101 of Title 10A of the Oklahoma Statutes.

B.

1. Within twenty (20) days of the filing of the petition for a protective order, the court shall schedule a full hearing on the petition, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing, regardless of whether an emergency ex parte order has been previously issued, requested or denied. Provided, however, when the defendant is a minor child who has been removed from the residence pursuant to Section 2-2-101 of Title 10A of the Oklahoma Statutes, the court shall schedule a full hearing on the petition within seventy-two (72) hours, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

2. The court may schedule a full hearing on the petition for a protective order within seventy-two (72) hours when the court issues an emergency ex parte order suspending child visitation rights due to physical violence or threat of abuse.

3. If service has not been made on the defendant at the time of the hearing, the court shall, at the request of the petitioner, issue a new emergency order reflecting a new hearing date and direct service to issue.

4. A petition for a protective order shall, upon the request of the petitioner, renew every twenty (20) days with a new hearing date assigned until the defendant is served. A petition for a protective order shall not expire unless the petitioner fails to appear at the hearing or fails to request a new order. A petitioner may move to dismiss the petition and emergency or final order at any time, however, a protective order must be dismissed by court order.

5. Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order unless the victim requests dismissal or fails to appear for the hearing thereon.

C.

1. At the hearing, the court may impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim or the immediate family of the victim and may order the defendant to obtain domestic abuse counseling or treatment in a program certified by the Attorney General at the expense of the defendant pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. If the court grants a protective order and the defendant is a minor child, the court shall order a preliminary inquiry in a juvenile proceeding to determine whether further court action pursuant to the Oklahoma Juvenile Code should be taken against a juvenile defendant.

D. Final protective orders authorized by this section shall be on a standard form developed by the Administrative Office of the Courts.

E.

1. After notice and hearing, protective orders authorized by this section may require the plaintiff or the defendant or both to undergo treatment or participate in the court-approved counseling services necessary to bring about cessation of domestic abuse against the victim pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. Either party or both may be required to pay all or any part of the cost of such treatment or counseling services. The court shall not be responsible for such cost.

F. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

G.

1. Any protective order issued on or after November 1, 1999, pursuant to subsection C of this section shall be for a fixed period not to exceed a period of three (3) years unless extended, modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant; provided, if the defendant is incarcerated, the protective order shall remain in full force and effect during the period of incarceration. The period of incarceration, in any jurisdiction, shall not be included in the calculation of the three-year time limitation.

2. The court shall notify the parties at the time of the issuance of the protective order of the duration of the protective order.

3. Upon the filing of a motion by either party to modify, extend, or vacate a protective order, a hearing shall be scheduled and notice given to the parties. At the hearing, the issuing court may take such action as is necessary under the circumstances.

4. If a child has been removed from the residence of a parent or custodial adult because of domestic abuse committed by the child, the parent or custodial adult may refuse the return of such child to the residence, unless upon further consideration by the court in a juvenile proceeding, it is determined that the child is no longer a threat and should be allowed to return to the residence.

H.

1. It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to the Protection from Domestic Abuse Act for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause.

2. The violator shall, upon conviction thereof, be guilty of a misdemeanor punishable by imprisonment in the county jail for a period not exceeding one (1) year or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

3. A second or subsequent conviction under this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

I.

1. A protective order issued under the Protection from Domestic Abuse Act shall not in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation or visitation schedules, child support or division of property or any other like relief obtainable pursuant to Title 43 of the Oklahoma Statutes, except child visitation orders may be temporarily suspended or modified to protect from threats of abuse or physical violence by the defendant or a threat to violate a custody order. Orders not affecting title may be entered for good cause found to protect an animal owned by either of the parties or any child living in the household.

2. When granting any protective order for the protection of a minor child from violence or threats of abuse, the court shall allow visitation only under conditions that provide adequate supervision and protection to the child while maintaining the integrity of a divorce decree or temporary order.

J.

1. A court shall not issue any mutual protective orders.

2. If both parties allege domestic abuse by the other party, the parties shall do so by separate petitions. The court shall review each petition separately, in an individual or a consolidated hearing and grant or deny each petition on its individual merits. If the court finds cause to grant both motions, the court shall do so by separate orders and with

specific findings justifying the issuance of each order.

3. The court may only consolidate a hearing if:

a. the court makes specific findings that:

(1) sufficient evidence exists of domestic abuse, stalking, harassment or rape against each party, and

(2) each party acted primarily as aggressors, and

b. the defendant filed a petition with the court for a protective order no less than three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the petition filed by the plaintiff, and

c. the defendant had no less than forty-eight (48) hours' notice prior to the full hearing on the petition filed by the plaintiff.

K. The court may allow a plaintiff or victim to be accompanied by a victim support person at court proceedings. A victim support person shall not make legal arguments; however, a victim support person who is not a licensed attorney may offer the plaintiff or victim comfort or support and may remain in close proximity to the plaintiff or victim.

ANIMAL PROTECTION LAWS OF ONTARIO

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains Ontario's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Ontario may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in Ontario. Because the law is continually evolving, always review an official source for the most current language of any statute.

ONTARIO

1. GENERAL PROHIBITIONS*	Standards of care R.S.O., c. O.36,s.11.1 Causing distress R.S.O., c. O.36,s.11.2(1) Permitting distress R.S.O., c. O.36,s.11.2(2) Regulation prescribing standards of care authorized R.S.O., c. O.36,s.22(2)
<i>Animals Covered in Definition</i>	-----
<i>Classification of Crimes</i>	Offence
2. MAXIMUM PENALTIES**	[Individuals] 2 years imprisonment <i>and/or</i> \$60,000 fine R.S.O., c. O.36,s.18.1(3) [Corporations] \$60,000 fine R.S.O., c. O.36,s.18.1(4) [Directors and officers] 2 years imprisonment <i>and/or</i> \$60,000 fine R.S.O., c. O.36,s.18.1(5)

ONTARIO <i>continued</i>	
3. EXEMPTIONS ***	<p>2 R.S.O., c. A.22,s.18(9)</p> <p>1, 4, 9 R.S.O., c. O.36,s.11.1</p> <p>1, 3, 4, 9 R.S.O., c. O.36,s.11.2</p> <p>4, 9 R.S.O., c. O.36,s.22(1)</p> <p>3 O. Reg. 62/09</p>
4. COUNSELING / EVALUATIONS ^H	<p>Court may order offender to undergo counselling or training R.S.O., c. O.36,s.18.1(8)</p>
5. PROTECTIVE ORDERS ^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS ^H	<p>The court may order owner or custodian of court-protected animal to pay costs of care R.S.O., c. O.36,s.14</p> <p>An owner or custodian of a court-protected animal may be liable for costs of care R.S.O., c. O.36,ss.15, 17</p> <p>Upon conviction, offender may be ordered to pay costs of care R.S.O., c. O.36,s.18.1</p>

ONTARIO*continued*

7. SEIZURE / ON-SITE SUPERVISION

Inspector or agents of the SPCA may enter and inspect commercial animal facilities, without a warrant, to determine whether standards of care are being met

R.S.O., c. O.36,s.11.4

Warrants may be issued for inspection of commercial animal facilities

R.S.O., c. O.36,s.11.5

Court may issue a warrant authorizing an inspector or an agent, either alone or accompanied by a veterinarian, to inspect the building or place for any animal in distress

R.S.O., c. O.36, ss. 12(1),(2)

Where an inspector or agent observes an animal in immediate distress, he or she may enter, without warrant, any premises, building or place other than a dwelling place or accredited veterinary facility

R.S.O., c. O.36, ss. 12(6), (7)

Where an inspector or an agent has entered any building or place pursuant to this Act and finds an animal in distress, he or she may supply the animal with food, care or treatment.

R.S.O., c. O.36, s. 12.1(3)

Where an inspector or an agent has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to undertake certain actions to relieve the distress; and may enter premises to ensure compliance with the order

	R.S.O., c. O.36, s.13
ONTARIO <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION <i>continued</i>	<p>An inspector or agent may take possession of an animal in distress under certain circumstances R.S.O., c. O.36, s.14</p> <p>Procedures for appeal of a compliance order or seizure R.S.O., c. O.36, ss.17, 18</p>
8. FORFEITURE / POSSESSION^H	<p>Court may order seized things disposed R.S.O., c. O.36,s.12.1</p> <p>An inspector or agent may destroy impounded animals with owner's consent, or if, in a veterinarian's opinion, it is the most humane course of action R.S.O., c. O.36, s.14</p> <p>If an owner does not pay expenses for an impounded animal within five days of receiving a statement, or if the owner cannot be found after reasonable attempts, the animal is forfeited to the Society R.S.O., c. O.36, s.15(2)</p> <p>Abandoned animals are deemed to be owned by the Society or affiliated society in custody of the animal after a prescribed period of time in which no one is identified as the owner or custodian R.S.O., c. O.36, s.15.1</p> <p>The Animal Care Review Board may modify orders relating to custody of impounded animals R.S.O., c. O.36,s.17</p>

ONTARIO <i>continued</i>	
8. FORFEITURE / POSSESSION^H <i>continued</i>	<p>Upon conviction, the court may prohibit an offender from owning, having custody or care of, or living with any animal for any period, including, for the remainder of an offender's life, or in the case of a corporation, forever R.S.O., c. O.36,s.18.1(8)</p> <p>The Society or affiliated society is deemed to be the owner of an animal if no person is identified as the animal's owner or custodian within three business days after being taken into custody O. Reg. 60/09, s. 2</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING / IMMUNITY	<p>Veterinarians shall report suspected animal abuse or neglect R.S.O., c. O.36,s.11.3</p> <p>Veterinarian has no liability for actions taken in good faith under or purporting to be under the authority of this Act R.S.O., c. O.36, s.19</p>
11. LAW ENFORCEMENT POLICIES	<p>Inspectors and agents have powers of police officer R.S.O., c. O.36, ss.11(1),(2)</p> <p>Any local police officer has and may exercise any of the powers of an inspector or agent of the Society under this Act R.S.O., c. O.36, s.11(3)</p> <p>An inspector or agent of the Society or member of the Board has no liability for actions taken in good faith under or</p>

	<p>purporting to be under the authority of this Act R.S.O., c. O.36, s.19</p>
<p>ONTARIO<i>continued</i></p>	
<p>11. LAW ENFORCEMENT POLICIES <i>continued</i></p>	<p>If there is a conflict between the Act and of a municipal law, the law that affords the greater protections to animals shall prevail R.S.O., c. O.36,s.21</p> <p>The Chief Inspector of the Society shall establish qualifications, requirements and standards for inspectors and agents of the Society; and oversee and appoint such inspectors and agents O. Reg. 59/09, s. 1</p>
<p>12. SEXUAL ASSAULT</p>	<p>-----</p>
<p>13. FIGHTING</p>	<p>Animal fighting and possession of animal fighting equipment or structures is prohibited R.S.O., c. O.36,ss.11.2(3), (4)</p>
<p>NOTES</p>	<p>Special provisions applicable to investigations relating to animals intended to be used in research R.S.O., c. A.22,s.18</p> <p>Additional standards of care and enclosures for different classifications of animals O. Reg. 60/09</p>

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 1, 11.1, 11.2, 18.1, 22 (2012)

Interpretation

1(1)

In this Act,

"accredited veterinary facility" means a veterinary facility as defined in the Veterinarians Act that is accredited under that Act;

"Board" means the Animal Care Review Board;

"distress" means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;

"place" includes a vehicle or vessel;

"prescribed" means prescribed by regulation made under this Act;

"veterinarian" means a person licensed as a veterinarian by the College of Veterinarians of Ontario.

Minor owner, custodian

1(2)

Where the owner or custodian of an animal is a minor, the owner or custodian for the purposes of this Act is deemed to be the minor's parents or guardians.

Obligations and Prohibitions re Care of and Harm to Animals

Standards of care for animals

11.1(1)

Every person who owns or has custody or care of an animal shall comply with the prescribed standards of care with respect to every animal that the person owns or has custody or care of.

Exception

11.1(2)

Subsection (1) does not apply in respect of,

- (a) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or
- (b) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.

Same

11.1(3)

Subsection (1) does not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the Veterinarians Act ;
- (b) a person acting under the supervision of a veterinarian described in clause (a); or
- (c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Prohibitions re distress, harm to an animal

Causing distress

11.2(1)

No person shall cause an animal to be in distress.

Permitting distress

11.2(2)

No owner or custodian of an animal shall permit the animal to be in distress.

Training, permitting animals to fight

11.2(3)

No person shall train an animal to fight with another animal or permit an animal that the person owns or has custody or care of to fight another animal.

Owning animal fighting equipment, structures

11.2(4)

No person shall own or have possession of equipment or structures that are used in animal fights or in training animals to fight.

Harming law enforcement animals

11.2(5)

No person shall harm or cause harm to a dog, horse or other animal that works with peace officers in the execution of their duties, whether or not the animal is working at the time of the harm.

Exception

11.2(6)

Subsections (1) and (2) do not apply in respect of,

- (a) an activity permitted under the Fish and Wildlife Conservation Act, 1997 in relation to wildlife in the wild;
- (b) an activity permitted under the Fish and Wildlife Conservation Act, 1997 or the Fisheries Act (Canada) in relation to fish;
- (c) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or
- (d) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.

Same

11.2(7)

Subsections (1) and (2) do not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the Veterinarians Act ;
- (b) a person acting under the supervision of a veterinarian described in clause (a); or
- (c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Offences

18.1(1)

Every person is guilty of an offence who,

- (a) contravenes subsection 11 (5);*
- (b) contravenes or fails to comply with section 11.1;*
- (c) contravenes subsection 11.2 (1), (2), (3), (4) or (5);*
- (d) contravenes subsection 13 (5); or*
- (e) contravenes or fails to comply with an order of the Board . ; or*
- (f) knowingly makes a false report to the Society in respect of an animal being in distress.*

Penalty - individuals

18.1(2)

Every individual who commits an offence under clause (1) (a), (d), (e) or (f) is liable on conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than 30 days, or to both.

Same

18.1(3)

Every individual who commits an offence under clause (1) (b) or (c) is liable on conviction to a fine of not more than \$60,000 or to imprisonment for a term of not more than two years, or to both.

Penalty - corporations

18.1(4)

Every corporation that commits an offence under subsection (1) is liable on conviction to the same fine to which an individual is liable for the offence.

Penalty - directors, officers

18.1(5)

Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under subsection (1) is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Prohibition order

18.1(6)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (5), from owning, having custody or care of, or living with any animal, or any kind of animal specified in the order, for any period of time specified in the order, including, in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever.

Restitution order

18.1(7)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost to the Society of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

18.1(8)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

Regulations

22(1)

The Lieutenant Governor in Council may make regulations,

- (a) prescribing activities that constitute activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry for the purposes of clauses 11.1 (2)(a) and 11.2 (6)(c);
- (b) prescribing classes of animals, circumstances and conditions or activities for the purposes of clauses 11.1 (2)(b) and 11.2 (6)(d);
- (c) exempting any person or class of persons from any provision of this Act or of a regulation made under this Act, and prescribing conditions and circumstances for any such exemption.

Same

22(2)

The Minister responsible for the administration of this Act may make regulations,

- (a) prescribing and governing the powers and duties of the Chief Inspector of the Society, including the power to establish qualifications, requirements and standards for inspectors and agents of the Society, to appoint inspectors and agents of the Society and to revoke their appointments and generally to oversee the inspectors and agents of the Society in the performance of their duties;*
- (b) prescribing standards of care for the purposes of section 11.1;*
- (c) governing the report required under section 11.3, including its contents and the manner of making the report;*

(d) prescribing forms for the information on oath required by subsection 11.5 (1), 12 (1) or 14 (1.1), for a warrant issued under subsection 11.5 (1) or 12 (1) and for an order issued under subsection 14 (1.1) or (1.4);

(e) governing applications for and the issue of warrants by telephone or other means of telecommunication for the purpose of subsection 11.5 (1.1) and 12 (2), prescribing the form required to apply for a warrant under those subsections and the forms for the warrants issued under those subsections, prescribing rules for the execution of such warrants and prescribing evidentiary rules with respect to such warrants;

(f) prescribing a period of time for the purpose of section 15.1;

(g) governing the service of orders, notices and statements of account for the purposes of section 20.

ONTARIO REGULATION 60/09

STANDARDS OF CARE

Application

1.

(1) The basic standards of care applicable to all animals are set out in section 2. O. Reg. 60/09, s. 1 (1).

(2) In addition to the basic standards of care applicable to all animals set out in section 2,

(a) standards of care specific to dogs that live primarily outdoors are set out in section 3; and

(b) standards of care specific to wildlife kept in captivity are set out in sections 4 and 5. O. Reg. 60/09, s. 1 (2).

(3) In addition to the basic standards of care applicable to all animals set out in section 2 and the standards of care specific to wildlife kept in captivity set out in sections 4 and 5, the standards of care specific to primates kept in captivity are set out in section 6. O. Reg. 60/09, s. 1. (3).

(4) A requirement that a standard of care be adequate and appropriate or necessary is a requirement that the standard of care be adequate and appropriate or necessary to the specific animal, having regard to its species, breed and other relevant factors. O. Reg. 60/09, s. 1 (4).

Basic standards of care for all animals

2.

- (1) Every animal must be provided with adequate and appropriate food and water. O. Reg. 60/09, s. 2 (1).*
- (2) Every animal must be provided with adequate and appropriate medical attention. O. Reg. 60/09, s. 2 (2).*
- (3) Every animal must be provided with the care necessary for its general welfare. O. Reg. 60/09, s. 2 (3).*
- (4) Every animal must be transported in a manner that ensures its physical safety and general welfare. O. Reg. 60/09, s. 2 (4).*
- (5) Every animal must be provided with an adequate and appropriate resting and sleeping area. O. Reg. 60/09, s. 2 (5).*
- (6) Every animal must be provided with adequate and appropriate,*
- (a) space to enable the animal to move naturally and to exercise;*
 - (b) sanitary conditions;*
 - (c) ventilation;*
 - (d) light, and;*
 - (e) protection from the elements, including harmful temperatures. O. Reg. 60/09, s. 2 (6).*
- (7) If an animal is confined to a pen or other enclosed structure or area,*
- (a) the pen or other enclosed structure or area, and any structures or material in it, must be in a state of good repair;*
 - (b) the pen or other enclosed structure or area, and any surfaces, structures and materials in it, must be made of and contain only materials that are,*
 - (i) safe and non-toxic for the animal, and*
 - (ii) of a texture and design that will not bruise, cut or otherwise injure the animal; and*

(c) the pen or other enclosed structure or area must not contain one or more other animals that may pose a danger to the animal. O. Reg. 60/09, s. 2 (7).

(8) Every animal that is to be killed must be killed by a method that is humane and minimizes the pain and distress to the animal; an animal's pain and distress are deemed to be minimized if it is killed by a method that produces rapid, irreversible unconsciousness and prompt subsequent death. O. Reg. 60/09, s. 2 (8).

Standards of care for dogs that live outdoors

3.

(1) Every dog that lives primarily outdoors must be provided with a structurally sound enclosure for its use at all times. O. Reg. 60/09, s. 3 (1).

(2) The enclosure must be weather-proofed and insulated. O. Reg. 60/09, s. 3 (2).

(3) The size and design of the enclosure must be adequate and appropriate for the dog. O. Reg. 60/09, s. 3 (3).

(4) A chain, rope or similar restraining device used to tether a dog that lives primarily outdoors,

(a) must be at least three metres long;

(b) must allow the dog to move safely and unrestricted (except by its length); and

(c) must allow the dog to have access to adequate and appropriate water and shelter. O. Reg. 60/09, s. 3 (4).

* * * * *

2. PENALTIES

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, s. 18.1 (2012)

Offences

18.1(1)

Every person is guilty of an offence who,

- (a) contravenes subsection 11 (5);
- (b) contravenes or fails to comply with section 11.1;
- (c) contravenes subsection 11.2 (1), (2), (3), (4) or (5);
- (d) contravenes subsection 13 (5); or
- (e) contravenes or fails to comply with an order of the Board . ; or
- (f) knowingly makes a false report to the Society in respect of an animal being in distress.

Penalty - individuals

18.1(2)

Every individual who commits an offence under clause (1) (a), (d), (e) or (f) is liable on conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than 30 days, or to both.

Same

18.1(3)

Every individual who commits an offence under clause (1) (b) or (c) is liable on conviction to a fine of not more than \$60,000 or to imprisonment for a term of not more than two years, or to both.

Penalty - corporations

18.1(4)

Every corporation that commits an offence under subsection (1) is liable on conviction to the same fine to which an individual is liable for the offence.

Penalty - directors, officers

18.1(5)

Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under subsection (1) is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Prohibition order

18.1(6)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (5), from owning, having custody or care of, or living with any animal, or any kind of animal specified in the order, for any period of time specified in the order, including, in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever.

Restitution order

18.1(7)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost to the Society of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

18.1(8)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

3. EXEMPTIONS

Animals for Research Act, R.S.O. 1990, c. A.22, s. 18 (2012)

Appointment of chief inspector and inspectors

18(1)

The Minister shall appoint a chief inspector who is a veterinarian and such other inspectors as he or she considers necessary, and, despite any other Act, such inspectors have exclusive authority to initiate proceedings to enforce this Act and the regulations.

Certificate of appointment

18(2)

The production by an inspector of a certificate of appointment purporting to be signed by the Minister is admissible in evidence as proof, in the absence of evidence to the contrary, of his or her appointment without further proof of the signature or authority of the Minister.

Powers of inspectors

18(3)

Subject to subsections (4), (5), (6), (7) and (8), an inspector, for the purpose of carrying out his or her duties under this Act, may, upon production of a certificate of appointment,

(a) enter any premises, car, truck or other conveyance in which he or she believes on reasonable and probable grounds there are animals that are used, or that are intended to be used, in research and inspect the premises, car, truck or other conveyance, any facilities or equipment therein and any animals therein;

(b) enter any pound and inspect the pound, any facilities or equipment therein and any animals therein; and

(c) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or of extracts there from relating to animals that,

(i) are in a pound, or

(ii) he or she believes on reasonable and probable grounds are used or intended to be used in research.

Entry of dwellings

18(4)

Except under the authority of a warrant under section 158 of the Provincial Offences Act, an inspector shall not enter any part of a dwelling without the consent of the owner or tenant unless,

- (a) the occupant is a licensed operator of a supply facility; and
- (b) the inspector has reasonable grounds for believing that the occupant is maintaining in such part animals that are used or intended to be used in research.

When powers to be exercised

18(5)

An inspector shall exercise the powers under subsection (3) only between sunrise and sunset, but nothing in this section affects the issuance and execution of a warrant under section 158 of the Provincial Offences Act.

Production and photocopying of records, etc.

18(6)

Where an inspector demands the production or furnishing of books, records, documents or extracts there from, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, if such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Certification of photocopy

18(7)

Where a book, record, document or extract has been photocopied under subsection (6), a photocopy purporting to be certified by the Minister, or a person thereunto authorized by the Minister, to be a copy made under subsection (6) is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to be in writing

18(8)

Where an inspector makes a demand under clause (3) (c), the demand shall be in writing and shall include a statement of the nature of the investigation and the general nature of the books, records, documents or extracts required.

Exception

18(9)

The Ontario Society for the Prevention of Cruelty to Animals Act does not apply in respect of animals in the possession of the operator of a registered research facility or of a licensed operator of a supply facility.

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 11.1, 11.2, 22 (2012)

Standards of care for animals

11.1(1)

Every person who owns or has custody or care of an animal shall comply with the prescribed standards of care with respect to every animal that the person owns or has custody or care of.

Exception

11.1(2)

Subsection (1) does not apply in respect of,

(a) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or

(b) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.

Same

11.1(3)

Subsection (1) does not apply to,

(a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the Veterinarians Act ;

(b) a person acting under the supervision of a veterinarian described in clause (a); or

(c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Prohibitions re distress, harm to an animal

Causing distress

11.2(1)

No person shall cause an animal to be in distress.

Permitting distress

11.2(2)

No owner or custodian of an animal shall permit the animal to be in distress.

Training, permitting animals to fight

11.2(3)

No person shall train an animal to fight with another animal or permit an animal that the person owns or has custody or care of to fight another animal.

Owning animal fighting equipment, structures

11.2(4)

No person shall own or have possession of equipment or structures that are used in animal fights or in training animals to fight.

Harming law enforcement animals

11.2(5)

No person shall harm or cause harm to a dog, horse or other animal that works with peace officers in the execution of their duties, whether or not the animal is working at the time of the harm.

Exception

11.2(6)

Subsections (1) and (2) do not apply in respect of,

(a) an activity permitted under the Fish and Wildlife Conservation Act, 1997 in relation to wildlife in the wild;

(b) an activity permitted under the Fish and Wildlife Conservation Act, 1997 or the Fisheries Act (Canada) in relation to fish;

(c) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or

(d) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.

Same

11.2(7)

Subsections (1) and (2) do not apply to,

(a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the Veterinarians Act ;

(b) a person acting under the supervision of a veterinarian described in clause (a); or

(c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Regulations

22(1)

The Lieutenant Governor in Council may make regulations,

(a) prescribing activities that constitute activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry for the purposes of clauses 11.1 (2)(a) and 11.2 (6)(c);

(b) prescribing classes of animals, circumstances and conditions or activities for the purposes of clauses 11.1 (2)(b) and 11.2 (6)(d);

(c) exempting any person or class of persons from any provision of this Act or of a regulation made under this Act, and prescribing conditions and circumstances for any such exemption.

Same

22(2)

The Minister responsible for the administration of this Act may make regulations,

(a) prescribing and governing the powers and duties of the Chief Inspector of the Society, including the power to establish qualifications, requirements and standards for inspectors and agents of the Society, to appoint inspectors and agents of the Society and to revoke their appointments and generally to oversee the inspectors and agents of the Society in the performance of their duties;

(b) prescribing standards of care for the purposes of section 11.1;

(c) governing the report required under section 11.3, including its contents and the manner of making the report;

(d) prescribing forms for the information on oath required by subsection 11.5 (1), 12 (1) or 14 (1.1), for a warrant issued under subsection 11.5 (1) or 12 (1) and for an order issued under subsection 14 (1.1) or (1.4);

(e) governing applications for and the issue of warrants by telephone or other means of telecommunication for the purpose of subsection 11.5 (1.1) and 12 (2), prescribing the form required to apply for a warrant under those subsections and the forms for the warrants issued under those subsections, prescribing rules for the execution of such warrants and prescribing evidentiary rules with respect to such warrants;

(f) prescribing a period of time for the purpose of section 15.1;

(g) governing the service of orders, notices and statements of account for the purposes of section 20.

ONTARIO REGULATION 62/09

EXEMPTIONS

Exemptions

1.

Subsections 11.2 (1) and (2) of the Act do not apply to,

(a) persons who are hunting as permitted under the Fish and Wildlife Conservation Act, 1997, other than as described in clause 11.2 (6) (a) of the Act; or

(b) persons who permit hunting as described in clause (a). O. Reg. 62/09, s. 1.

2.

Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 62/09, s. 2.

4. COUNSELING / EVALUATIONS

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, s. 18.1 (2012)

Offences

18.1(1)

Every person is guilty of an offence who,

- (a) contravenes subsection 11 (5);
- (b) contravenes or fails to comply with section 11.1;
- (c) contravenes subsection 11.2 (1), (2), (3), (4) or (5);
- (d) contravenes subsection 13 (5); or
- (e) contravenes or fails to comply with an order of the Board; or
- (f) knowingly makes a false report to the Society in respect of an animal being in distress.

Penalty - individuals

18.1(2)

Every individual who commits an offence under clause (1) (a), (d), (e) or (f) is liable on conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than 30 days, or to both.

Same

18.1(3)

Every individual who commits an offence under clause (1) (b) or (c) is liable on conviction to a fine of not more than \$60,000 or to imprisonment for a term of not more than two years, or to both.

Penalty - corporations

18.1(4)

Every corporation that commits an offence under subsection (1) is liable on conviction to the same fine to which an individual is liable for the offence.

Penalty - directors, officers

18.1(5)

Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under subsection (1) is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Prohibition order

18.1(6)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (5), from owning, having custody or care of, or living with any animal, or any kind of animal specified in the order, for any period of time specified in the order, including, in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever.

Restitution order

18.1(7)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost to the Society of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

18.1(8)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 114, 15, 17, 18.1 (2012)

Taking possession of animal

14(1)

An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where,

- (a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;
- (b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or
- (c) an order respecting the animal has been made under section 13 and the order has not been complied with.

Order for Society to keep animal

14(1.1)

A justice of the peace or provincial judge may make an order authorizing the Society to keep in its care an animal that was removed under subsection (1) if,

- (a) the owner or custodian of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection (1), with an offence under this Act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals; and
- (b) the justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian.

Order re costs

14(1.2)

Where a justice of the peace or provincial judge makes an order under subsection (1.1), he or she may also order that the whole or any part of the cost to the Society of providing food, care or treatment to the animal pursuant to its removal under subsection (1) and pursuant to the order under subsection (1.1) be paid by the owner or custodian of the animal to the Society.

Same

14(1.3)

The Society or owner or custodian of the animal may at any time apply to a justice of the peace or provincial judge to vary an order made under subsection (1.1) and the justice of the peace or provincial judge may make such order as he or she considers appropriate.

Order to return animal

14(1.4)

The Society or the owner or custodian may apply to a justice of the peace or provincial judge to order the return of an animal that is the subject of an order made under subsection (1.1) and, if satisfied that there are no longer reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian, the justice of the peace or provincial judge may order the return of the animal to its owner or custodian, subject to any conditions that the justice of the peace or provincial judge considers appropriate.

Destruction of animal

14(2)

An inspector or an agent of the Society may destroy an animal,

- (a) with the consent of the owner; or
- (b) if a veterinarian has examined the animal and has advised the inspector or agent in writing that, in his or her opinion, it is the most humane course of action.

Notice

14(3)

An inspector or an agent of the Society who has removed or destroyed an animal under subsection (1) or (2) shall forthwith serve written notice of his or her action on the owner or custodian of the animal, if known.

Same

14(4)

Every notice under subsection (3) respecting the removal of an animal under subsection (1) shall have printed or written on it the provisions of subsections 17(1) and (2).

Liability of owner for expenses

15(1)

If an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve on the owner or custodian of the animal a statement of account respecting the food, care or treatment and the owner or custodian is, subject to an order made under subsection 14 (1.1.1) or (1.1.2) or 17 (6), liable for the amount specified in the statement of account.

Power to sell

15(2)

Where the owner or custodian refuses to pay an account under subsection (1) within five business days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto.

Appeal to Board

17(1)

The owner or custodian of any animal who considers themselves aggrieved by an order made under subsection 13(1) or by the removal of an animal under subsection 14(1) may, within five business days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chair of the Board.

Same

17(1.1)

The notice shall set out the remedy or action sought and the reasons for the appeal or request.

No appeal if there is order for Society to keep animal

17(1.2)

Subsection (1) does not apply if an order in respect of the animal under subsection 14 (1.1) is in force.

Application for revocation of order

17(2)

Where, in the opinion of the owner or custodian of an animal in respect of which an order under subsection 13(1) has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chair of the Board.

Notice of hearing

17(3)

Within five business days of the receipt of a notice under subsection (1) or (2), the chair of the Board shall,

- (a) fix a time, date and place at which the Board will hear the matter; and
- (b) notify the Society and the owner or custodian who issued the notice of the time, date and place fixed under clause (a).

Date of hearing

17(4)

The date fixed for a hearing shall be not more than 10 business days after the receipt of a notice under subsection (1) or (2).

Procedure at hearing

17(5)

At a hearing, the Society and the owner or custodian are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by persons authorized under the *Law Society Act* to represent them.

Powers of Board

17(6)

After a hearing or, with the consent of the Society and the person who issued the notice under subsection (1) or (2), without a hearing, the Board may,

(a) respecting an order made under subsection 13(1), confirm, revoke or modify the order appealed against;

(b) respecting the removal of an animal under subsection 14(1), order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 13(1);

(c) order that the whole or any part of the cost to the owner or custodian of an animal of complying with an order made under subsection 13 (1) be paid by the Society to the owner or custodian; or

(d) order that the whole or any part of the cost to the Society of providing food, care or treatment to an animal pursuant to its removal under subsection 14 (1) be paid by the owner or custodian of the animal to the Society.

Notice of decision

17(7)

Notice of the decision of the Board made under subsection (6), together with reasons in writing for its decision, shall be served forthwith on the Society and the owner or custodian of the animal.

Society order not stayed

17(8)

An appeal to the Board in respect of an order made under subsection 13 (1) does not stay the operation of the order.

Offences

18.1(1)

Every person is guilty of an offence who,

- (a) contravenes subsection 11 (5);
- (b) contravenes or fails to comply with section 11.1;
- (c) contravenes subsection 11.2 (1), (2), (3), (4) or (5);
- (d) contravenes subsection 13 (5); or
- (e) contravenes or fails to comply with an order of the Board . ; or
- (f) knowingly makes a false report to the Society in respect of an animal being in distress.

Penalty - individuals

18.1(2)

Every individual who commits an offence under clause (1) (a), (d), (e) or (f) is liable on conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than 30 days, or to both.

Same

18.1(3)

Every individual who commits an offence under clause (1) (b) or (c) is liable on conviction to a fine of not more than \$60,000 or to imprisonment for a term of not more than two years, or to both.

Penalty - corporations

18.1(4)

Every corporation that commits an offence under subsection (1) is liable on conviction to the same fine to which an individual is liable for the offence.

Penalty - directors, officers

18.1(5)

Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under subsection (1) is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Prohibition order

18.1(6)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (5), from owning, having custody or care of, or living with any animal, or any kind of animal specified in the order, for any period of time specified in the order, including, in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever.

Restitution order

18.1(7)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost to the Society of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

18.1(8)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

7. SEIZURE / ON-SITE SUPERVISION

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 11-14, 17 (2012)

Protection of Animals by Society

Inspection - places used for animal exhibit, entertainment, boarding, hire or sale

11.4(1)

An inspector or an agent of the Society may, without a warrant, enter and inspect any building or place used for animal exhibit, entertainment, boarding, hire or sale, either alone or accompanied by one or more veterinarians or other persons as he or she considers advisable, in order to determine whether the standards of care prescribed for the purpose of section 11.1 are being complied with.

Dwellings

11.4(2)

The power to enter and inspect a building or place under this section shall not be exercised to enter and inspect a building or place used as a dwelling except with the consent of the occupier.

Accredited veterinary facilities

11.4(3)

The power to enter and inspect a building or place under this section shall not be exercised to enter and inspect a building or place that is an accredited veterinary facility.

Time of entry

11.4(4)

The power to enter and inspect a building or place under this section may be exercised only between the hours of 9 a.m. and 5 p.m., or at any other time when the building or place is open to the public.

Powers on inspection

11.4(5)

An inspector or an agent of the Society conducting an inspection under this section may,

(a) demand the production for inspection of a record or thing that is relevant to the inspection; and

(b) examine a record or thing that is relevant to the inspection.

Warrant - places used for animal exhibit, entertainment, boarding, hire or sale

11.5(1)

A justice of the peace or provincial judge may issue a warrant authorizing one or more inspectors or agents of the Society named in the warrant to enter a building or place specified in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspectors or agents consider advisable, and to inspect the building or place and do anything authorized under section 11.4 if the justice of the peace or provincial judge is satisfied by information on oath that,

(a) an inspector or an agent of the Society has been prevented from entering or inspecting the building or place under section 11.4; or

(b) there are reasonable grounds to believe that an inspector or an agent of the Society will be prevented from entering or inspecting the building or place under section 11.4.

Telewarrant

11.5(1.1)

If an inspector or an agent of the Society believes that it would be impracticable to appear personally before a justice of the peace or provincial judge to apply for a warrant under subsection (1), he or she may, in accordance with the regulations, seek the warrant by telephone or other means of telecommunication, and the justice of the peace or provincial judge may, in accordance with the regulations, issue the warrant by the same means.

When warrant to be executed

11.5(2)

Every warrant issued under subsection (1) or (1.1) shall,

(a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out; and

(b) state when the warrant expires.

Extension of time

11.5(3)

A justice of the peace or provincial judge may extend the date on which a warrant issued under this section expires for no more than 30 days, upon application without notice by the inspector or agent named in the warrant.

Other terms and conditions

11.5(4)

A warrant issued under this section may contain terms and conditions in addition to those provided for in subsections (1) to (3) as the justice of the peace or provincial judge considers advisable in the circumstances.

Entry where animal is in distress

Warrant

12(1)

If a justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that there is in any building or place an animal that is in distress, he or she may issue a warrant authorizing one or more inspectors or agents of the Society named in the warrant to enter the building or place, either alone or accompanied by one or more veterinarians or other persons as the inspectors or agents consider advisable, and inspect the building or place and all the animals found there for the purpose of ascertaining whether there is any animal in distress.

Telewarrant

12(2)

If an inspector or an agent of the Society believes that it would be impracticable to appear personally before a justice of the peace or provincial judge to apply for a warrant under subsection (1), he or she may, in accordance with the regulations, seek the warrant by telephone or other means of telecommunication, and the justice of the peace or provincial judge may, in accordance with the regulations, issue the warrant by the same means.

When warrant to be executed

12(3)

Every warrant issued under subsection (1) or (2) shall,

(a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out; and

(b) state when the warrant expires.

Extension of time

12(4)

A justice of the peace or provincial judge may extend the date on which a warrant issued under this section expires for no more than 30 days, upon application without notice by the inspector or agent named in the warrant.

Other terms and conditions

12(5)

A warrant issued under subsection (1) or (2) may contain terms and conditions in addition to those provided for in subsections (1) to (4) as the justice of the peace or provincial judge considers advisable in the circumstances.

Immediate distress - entry without warrant

12(6)

If an inspector or an agent of the Society has reasonable grounds to believe that there is an animal that is in immediate distress in any building or place, other than a dwelling, he or she may enter the building or place without a warrant, either alone or accompanied by one or more veterinarians or other persons as he or she considers advisable, and inspect the building or place and all the animals found there for the purpose of ascertaining whether there is any animal in immediate distress.

Accredited veterinary facilities

12(7)

The power to enter and inspect a building or place under subsection (6) shall not be exercised to enter and inspect a building or place that is an accredited veterinary facility.

Definition - immediate distress

12(8)

For the purpose of subsection (6),

"immediate distress" means distress that requires immediate intervention in order to alleviate suffering or to preserve life.

Authorized activities

Inspect animals, take samples, etc.

12.1(1)

An inspector or an agent of the Society or a veterinarian, who is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act, may examine any animal there and, upon giving a receipt for it, take a sample of any substance there or take a carcass or sample from a carcass there, for the purposes set out in the provision under which the inspector's, agent's or veterinarian's presence is authorized or the warrant is issued.

Same

12.1(2)

An inspector, agent or veterinarian who takes a sample or carcass under subsection (1) may conduct tests and analyses of the sample or carcass for the purposes described in subsection (1) and, upon conclusion of the tests and analyses, shall dispose of the sample or carcass.

Supply necessities to animals

12.1(3)

If an inspector or an agent of the Society is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act and finds an animal in distress, he or she may, in addition to any other action he or she is authorized to take under this Act, supply the animal with food, care or treatment.

Seizure of things in plain view

12.1(4)

An inspector or an agent of the Society who is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act may, upon giving a receipt for it, seize any thing that is produced to the inspector or agent or that is in plain view if the inspector or agent has reasonable grounds to believe,

(a) that the thing will afford evidence of an offence under this Act; or

(b) that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence.

Report to justice, judge

12.1(5)

An inspector or an agent of the Society shall,

(a) report the taking of a sample or a carcass under subsection (1) to a justice of the peace or provincial judge; and

(b) bring any thing seized under subsection (4) before a justice of the peace or provincial judge or, if that is not reasonably possible, report the seizure to a justice of the peace or provincial judge.

Order to detain, return, dispose of thing

12.1(6)

Where any thing is seized and brought before a justice of the peace or provincial judge under subsection (5), the justice of the peace or provincial judge shall by order,

- (a) detain it or direct it to be detained in the care of a person named in the order;
- (b) direct it to be returned; or
- (c) direct it to be disposed of, in accordance with the terms set out in the order.

Same

12.1(7)

In an order made under clause (6) (a) or (b), the justice of the peace or provincial judge may,

- (a) authorize the examination, testing, inspection or reproduction of the thing seized, on the conditions that are reasonably necessary and are directed in the order; and
- (b) make any other provision that, in his or her opinion, is necessary for the preservation of the thing.

Application of Provincial Offences Act

12.1(8)

Subsections 159 (2) to (5) and section 160 of the Provincial Offences Act apply with necessary modifications in respect of a thing seized by an inspector or an agent of the Society under subsection (4).

Order to owner of animals, etc.

13(1)

Where an inspector or an agent of the Society has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to,

- (a) take such action as may, in the opinion of the inspector or agent, be necessary to relieve the animal of its distress; or*

(b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to be in writing

13(2)

Every order under subsection (1) shall be in writing and shall have printed or written thereon the provisions of subsections 17(1) and (2).

13(3) [Repealed]

Time for compliance with order

13(4)

An inspector or an agent of the Society who makes an order under subsection (1) shall specify in the order the time within which any action required by the order shall be performed.

Idem

13(5)

Every person who is served with an order under subsection (1) shall comply with the order in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed.

Authority to determine compliance with order

13(6)

If an order made under subsection (1) remains in force, an inspector or an agent of the Society may enter without a warrant any building or place where the animal that is the subject of the order is located, either alone or accompanied by one or more veterinarians or other persons as he or she considers advisable, and inspect the animal and the building or place for the purpose of determining whether the order has been complied with.

Revocation of order

13(7)

If, in the opinion of an inspector or an agent of the Society, the order made under subsection (1) has been complied with, he or she shall revoke the order and shall serve notice of the revocation in writing forthwith on the owner or custodian of the animal that is the subject of the order.

Taking possession of animal

14(1)

An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where,

(a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;

(b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or

(c) an order respecting the animal has been made under section 13 and the order has not been complied with.

Order for Society to keep animal

14(1.1)

A justice of the peace or provincial judge may make an order authorizing the Society to keep in its care an animal that was removed under subsection (1) if,

(a) the owner or custodian of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection (1), with an offence under this Act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals; and

(b) the justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian.

Order re costs

14(1.2)

Where a justice of the peace or provincial judge makes an order under subsection (1.1), he or she may also order that the whole or any part of the cost to the Society of providing food, care or treatment to the animal pursuant to its removal under subsection (1) and pursuant to the order under subsection (1.1) be paid by the owner or custodian of the animal to the Society.

Same

14(1.3)

The Society or owner or custodian of the animal may at any time apply to a justice of the peace or provincial judge to vary an order made under subsection (1.1) and the justice of the peace or provincial judge may make such order as he or she considers appropriate.

Order to return animal

14(1.4)

The Society or the owner or custodian may apply to a justice of the peace or provincial judge to order the return of an animal that is the subject of an order made under subsection (1.1) and, if satisfied that there are no longer reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian, the justice of the peace or provincial judge may order the return of the animal to its owner or custodian, subject to any conditions that the justice of the peace or provincial judge considers appropriate.

Destruction of animal

14(2)

An inspector or an agent of the Society may destroy an animal,

- (a) with the consent of the owner; or
- (b) if a veterinarian has examined the animal and has advised the inspector or agent in writing that, in his or her opinion, it is the most humane course of action.

Notice

14(3)

An inspector or an agent of the Society who has removed or destroyed an animal under subsection (1) or (2) shall forthwith serve written notice of his or her action on the owner or custodian of the animal, if known.

Same

14(4)

Every notice under subsection (3) respecting the removal of an animal under subsection (1) shall have printed or written on it the provisions of subsections 17(1) and (2).

Appeal to Board

17(1)

The owner or custodian of any animal who considers themselves aggrieved by an order made under subsection 13(1) or by the removal of an animal under subsection 14(1) may, within five business days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chair of the Board.

Same

17(1.1)

The notice shall set out the remedy or action sought and the reasons for the appeal or request.

No appeal if there is order for Society to keep animal

17(1.2)

Subsection (1) does not apply if an order in respect of the animal under subsection 14 (1.1) is in force.

Application for revocation of order

17(2)

Where, in the opinion of the owner or custodian of an animal in respect of which an order under subsection 13(1) has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chair of the Board.

Notice of hearing

17(3)

Within five business days of the receipt of a notice under subsection (1) or (2), the chair of the Board shall,

(a) fix a time, date and place at which the Board will hear the matter; and

(b) notify the Society and the owner or custodian who issued the notice of the time, date and place fixed under clause (a).

Date of hearing

17(4)

The date fixed for a hearing shall be not more than 10 business days after the receipt of a notice under subsection (1) or (2).

Procedure at hearing

17(5)

At a hearing, the Society and the owner or custodian are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by persons authorized under the Law Society Act to represent them.

Powers of Board

17(6)

After a hearing or, with the consent of the Society and the person who issued the notice under subsection (1) or (2), without a hearing, the Board may,

- (a) respecting an order made under subsection 13(1), confirm, revoke or modify the order appealed against;
- (b) respecting the removal of an animal under subsection 14(1), order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 13(1);
- (c) order that the whole or any part of the cost to the owner or custodian of an animal of complying with an order made under subsection 13 (1) be paid by the Society to the owner or custodian; or
- (d) order that the whole or any part of the cost to the Society of providing food, care or treatment to an animal pursuant to its removal under subsection 14 (1) be paid by the owner or custodian of the animal to the Society.

Notice of decision

17(7)

Notice of the decision of the Board made under subsection (6), together with reasons in writing for its decision, shall be served forthwith on the Society and the owner or custodian of the animal.

Society order not stayed

17(8)

An appeal to the Board in respect of an order made under subsection 13 (1) does not stay the operation of the order.

Appeal

18(1)

The Society or the owner or custodian may appeal the decision of the Board to a judge of the Superior Court of Justice.

Notice of appeal

18(2)

The appeal shall be made by filing a notice of appeal with the local registrar of the court and serving a copy thereof on the other parties before the Board within 15 business days after the notice of the Board's decision is served on the appellant under subsection 17(7).

Date of hearing

18(3)

The appellant or any person served with notice of appeal may, upon at least two business days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal.

Decision

18(4)

The appeal shall be a new hearing and the judge may rescind, alter or confirm the decision of the Board and make such order as to costs as he or she considers appropriate, and the decision of the judge is final.

8. FORFEITURE / POSSESSION

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 12.1, 14, 15, 15.1, 17, 18.1 (2012)

Authorized activities

Inspect animals, take samples, etc.

12.1(1)

An inspector or an agent of the Society or a veterinarian, who is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act, may examine any animal there and, upon giving a receipt for it, take a sample of any substance there or take a carcass or sample from a carcass there, for the purposes set out in the provision under which the inspector's, agent's or veterinarian's presence is authorized or the warrant is issued.

Same

12.1(2)

An inspector, agent or veterinarian who takes a sample or carcass under subsection (1) may conduct tests and analyses of the sample or carcass for the purposes described in subsection (1) and, upon conclusion of the tests and analyses, shall dispose of the sample or carcass.

Supply necessities to animals

12.1(3)

If an inspector or an agent of the Society is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act and finds an animal in distress, he or she may, in addition to any other action he or she is authorized to take under this Act, supply the animal with food, care or treatment.

Seizure of things in plain view

12.1(4)

An inspector or an agent of the Society who is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act may, upon giving a receipt for it, seize any thing that is produced to the inspector or agent or that is in plain view if the inspector or agent has reasonable grounds to believe,

- (a) that the thing will afford evidence of an offence under this Act; or

(b) that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence.

Report to justice, judge

12.1(5)

An inspector or an agent of the Society shall,

(a) report the taking of a sample or a carcass under subsection (1) to a justice of the peace or provincial judge; and

(b) bring any thing seized under subsection (4) before a justice of the peace or provincial judge or, if that is not reasonably possible, report the seizure to a justice of the peace or provincial judge.

Order to detain, return, dispose of thing

12.1(6)

Where any thing is seized and brought before a justice of the peace or provincial judge under subsection (5), the justice of the peace or provincial judge shall by order,

(a) detain it or direct it to be detained in the care of a person named in the order;

(b) direct it to be returned; or

(c) direct it to be disposed of, in accordance with the terms set out in the order.

Same

12.1(7)

In an order made under clause (6) (a) or (b), the justice of the peace or provincial judge may,

(a) authorize the examination, testing, inspection or reproduction of the thing seized, on the conditions that are reasonably necessary and are directed in the order; and

(b) make any other provision that, in his or her opinion, is necessary for the preservation of the thing.

Application of Provincial Offences Act

12.1(8)

Subsections 159 (2) to (5) and section 160 of the Provincial Offences Act apply with necessary modifications in respect of a thing seized by an inspector or an agent of the Society under subsection (4).

Taking possession of animal

14(1)

An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where,

- (a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;
- (b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or
- (c) an order respecting the animal has been made under section 13 and the order has not been complied with.

Order for Society to keep animal

14(1.1)

A justice of the peace or provincial judge may make an order authorizing the Society to keep in its care an animal that was removed under subsection (1) if,

- (a) the owner or custodian of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection (1), with an offence under this Act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals; and
- (b) the justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian.

Order re costs

14(1.2)

Where a justice of the peace or provincial judge makes an order under subsection (1.1), he or she may also order that the whole or any part of the cost to the Society of providing food, care or treatment to the animal pursuant to its removal under subsection (1) and pursuant to the order under subsection (1.1) be paid by the owner or custodian of the animal to the Society.

Same

14(1.3)

The Society or owner or custodian of the animal may at any time apply to a justice of the peace or provincial judge to vary an order made under subsection (1.1) and the justice of the peace or provincial judge may make such order as he or she considers appropriate.

Order to return animal

14(1.4)

The Society or the owner or custodian may apply to a justice of the peace or provincial judge to order the return of an animal that is the subject of an order made under subsection (1.1) and, if satisfied that there are no longer reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian, the justice of the peace or provincial judge may order the return of the animal to its owner or custodian, subject to any conditions that the justice of the peace or provincial judge considers appropriate.

Destruction of animal

14(2)

An inspector or an agent of the Society may destroy an animal,

(a) with the consent of the owner; or

(b) if a veterinarian has examined the animal and has advised the inspector or agent in writing that, in his or her opinion, it is the most humane course of action.

Notice

14(3)

An inspector or an agent of the Society who has removed or destroyed an animal under subsection (1) or (2) shall forthwith serve written notice of his or her action on the owner or custodian of the animal, if known.

Same

14(4)

Every notice under subsection (3) respecting the removal of an animal under subsection (1) shall have printed or written on it the provisions of subsections 17(1) and (2).

Liability of owner for expenses

15(1)

If an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve on the owner or custodian of the animal a statement of account respecting the food, care or treatment and the owner or custodian is, subject to an order made under subsection 14 (1.1.1) or (1.1.2) or 17 (6), liable for the amount specified in the statement of account.

Power to sell

15(2)

Where the owner or custodian refuses to pay an account under subsection (1) within five business days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto.

Society, affiliated society deemed to be owner of abandoned animal

15.1

If the Society or an affiliated society takes custody of an animal and no person is identified as the animal's owner or custodian within a prescribed period of time, the Society or affiliated society, as the case may be, is deemed to be the owner of the animal for all purposes.

Appeal to Board

17(1)

The owner or custodian of any animal who considers themselves aggrieved by an order made under subsection 13(1) or by the removal of an animal under subsection 14(1) may, within five business days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chair of the Board.

Same

17(1.1)

The notice shall set out the remedy or action sought and the reasons for the appeal or request.

No appeal if there is order for Society to keep animal

17(1.2)

Subsection (1) does not apply if an order in respect of the animal under subsection 14 (1.1) is in force.

Application for revocation of order

17(2)

Where, in the opinion of the owner or custodian of an animal in respect of which an order under subsection 13(1) has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chair of the Board.

Notice of hearing

17(3)

Within five business days of the receipt of a notice under subsection (1) or (2), the chair of the Board shall,

- (a) fix a time, date and place at which the Board will hear the matter; and
- (b) notify the Society and the owner or custodian who issued the notice of the time, date and place fixed under clause (a).

Date of hearing

17(4)

The date fixed for a hearing shall be not more than 10 business days after the receipt of a notice under subsection (1) or (2).

Procedure at hearing

17(5)

At a hearing, the Society and the owner or custodian are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by persons authorized under the *Law Society Act* to represent them.

Powers of Board

17(6)

After a hearing or, with the consent of the Society and the person who issued the notice under subsection (1) or (2), without a hearing, the Board may,

(a) respecting an order made under subsection 13(1), confirm, revoke or modify the order appealed against;

(b) respecting the removal of an animal under subsection 14(1), order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 13(1);

(c) order that the whole or any part of the cost to the owner or custodian of an animal of complying with an order made under subsection 13 (1) be paid by the Society to the owner or custodian; or

(d) order that the whole or any part of the cost to the Society of providing food, care or treatment to an animal pursuant to its removal under subsection 14 (1) be paid by the owner or custodian of the animal to the Society.

Notice of decision

17(7)

Notice of the decision of the Board made under subsection (6), together with reasons in writing for its decision, shall be served forthwith on the Society and the owner or custodian of the animal.

Society order not stayed

17(8)

An appeal to the Board in respect of an order made under subsection 13 (1) does not stay the operation of the order.

Offences

18.1(1)

Every person is guilty of an offence who,

- (a) contravenes subsection 11 (5);
- (b) contravenes or fails to comply with section 11.1;
- (c) contravenes subsection 11.2 (1), (2), (3), (4) or (5);
- (d) contravenes subsection 13 (5); or
- (e) contravenes or fails to comply with an order of the Board . ; or
- (f) knowingly makes a false report to the Society in respect of an animal being in distress.

Penalty - individuals

18.1(2)

Every individual who commits an offence under clause (1) (a), (d), (e) or (f) is liable on conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than 30 days, or to both.

Same

18.1(3)

Every individual who commits an offence under clause (1) (b) or (c) is liable on conviction to a fine of not more than \$60,000 or to imprisonment for a term of not more than two years, or to both.

Penalty - corporations

18.1(4)

Every corporation that commits an offence under subsection (1) is liable on conviction to the same fine to which an individual is liable for the offence.

Penalty - directors, officers

18.1(5)

Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under subsection (1) is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Prohibition order

18.1(6)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (5), from owning, having custody or care of, or living with any animal, or any kind of animal specified in the order, for any period of time specified in the order, including, in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever.

Restitution order

18.1(7)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost to the Society of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

18.1(8)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

ONTARIO REGULATION 59/09

GENERAL

Additional powers and duties of Chief Inspector

1.

(1) The Chief Inspector of the Society shall,

(a) establish qualifications, requirements and standards for inspectors and agents of the Society; and

(b) generally oversee inspectors and agents of the Society in the performance of their duties. O. Reg. 59/09, s. 1 (1).

(2) The Chief Inspector of the Society shall appoint inspectors and agents of the Society and may revoke any such appointment. O. Reg. 59/09, s. 1 (2).

Society etc. deemed owner of animal with unknown owner, custodian — prescribed period

2.

For the purpose of section 15.1 of the Act, the Society or affiliated society is deemed to be the owner of an animal if no person is identified as the animal's owner or custodian within three business days after the day the Society or affiliated society took custody of the animal. O. Reg. 59/09, s. 2.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 11.3, 19 (2012)

Veterinarians' obligation to report

11.3

Every veterinarian who has reasonable grounds to believe that an animal has been or is being abused or neglected shall report his or her belief to an inspector or an agent of the Society.

Inspector, etc., not personally liable

19

No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him or her in good faith under or purporting to be under the authority of this Act.

11. LAW ENFORCEMENT POLICIES

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 11, 19, 21(2012)

Inspectors and agents

Powers of police officer

11(1)

For the purposes of the enforcement of this Act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the Society has and may exercise any of the powers of a police officer

Inspectors and agents of affiliates

11(2)

Every inspector and agent of an affiliated society who has been appointed by the Society or by the Chief Inspector of the Society may exercise any of the powers and perform any of the duties of an inspector or an agent of the Society under this Act and every reference in this Act to an inspector or an agent of the Society is deemed to include a reference to an inspector or agent of an affiliated society who has been appointed by the Society or by the Chief Inspector of the Society.

Local police powers

11(3)

In any part of Ontario in which the Society or an affiliated society does not function, any police officer having jurisdiction in that part has and may exercise any of the powers of an inspector or agent of the Society under this Act.

Identification

11(4)

An inspector or an agent of the Society who is exercising any power or performing any duty under this Act shall produce, on request, evidence of his or her appointment.

Interfering with inspectors, agents

11(5)

No person shall hinder, obstruct or interfere with an inspector or an agent of the Society in the performance of his or her duties under this Act.

Inspector, etc., not personally liable

19

No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him or her in good faith under or purporting to be under the authority of this Act.

Conflict with municipal by-laws

21

In the event of a conflict between a provision of this Act or of a regulation made under this Act and of a municipal by-law pertaining to the welfare of or the prevention of cruelty to animals, the provision that affords the greater protection to animals shall prevail.

ONTARIO REGULATION 59/09

GENERAL

Additional powers and duties of Chief Inspector

1.

(1) The Chief Inspector of the Society shall,

(a) establish qualifications, requirements and standards for inspectors and agents of the Society; and

(b) generally oversee inspectors and agents of the Society in the performance of their duties. O. Reg. 59/09, s. 1 (1).

(2) The Chief Inspector of the Society shall appoint inspectors and agents of the Society and may revoke any such appointment. O. Reg. 59/09, s. 1 (2).

Society etc. deemed owner of animal with unknown owner, custodian — prescribed period

2.

For the purpose of section 15.1 of the Act, the Society or affiliated society is deemed to be the owner of an animal if no person is identified as the animal's owner or custodian within three business days after the day the Society or affiliated society took custody of the animal. O. Reg. 59/09, s. 2.

12. SEXUAL ASSAULT

13. FIGHTING

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, s. 11.2 (2012)

Prohibitions re distress, harm to an animal

Causing distress

11.2(1)

No person shall cause an animal to be in distress.

Permitting distress

11.2(2)

No owner or custodian of an animal shall permit the animal to be in distress.

Training, permitting animals to fight

11.2(3)

No person shall train an animal to fight with another animal or permit an animal that the person owns or has custody or care of to fight another animal.

Owning animal fighting equipment, structures

11.2(4)

No person shall own or have possession of equipment or structures that are used in animal fights or in training animals to fight.

Harming law enforcement animals

11.2(5)

No person shall harm or cause harm to a dog, horse or other animal that works with peace officers in the execution of their duties, whether or not the animal is working at the time of the harm.

Exception

11.2(6)

Subsections (1) and (2) do not apply in respect of,

- (a) an activity permitted under the Fish and Wildlife Conservation Act, 1997 in relation to wildlife in the wild;
- (b) an activity permitted under the Fish and Wildlife Conservation Act, 1997 or the Fisheries Act (Canada) in relation to fish;
- (c) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or
- (d) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.

Same

11.2(7)

Subsections (1) and (2) do not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the Veterinarians Act ;
- (b) a person acting under the supervision of a veterinarian described in clause (a); or
- (c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

14. REFERENCED STATUTES & REGULATIONS

Animals for Research Act, R.S.O. 1990, c. A.22, s. 18 (2012)

Appointment of chief inspector and inspectors

18(1)

The Minister shall appoint a chief inspector who is a veterinarian and such other inspectors as he or she considers necessary, and, despite any other Act, such inspectors have exclusive authority to initiate proceedings to enforce this Act and the regulations.

Certificate of appointment

18(2)

The production by an inspector of a certificate of appointment purporting to be signed by the Minister is admissible in evidence as proof, in the absence of evidence to the contrary, of his or her appointment without further proof of the signature or authority of the Minister.

Powers of inspectors

18(3)

Subject to subsections (4), (5), (6), (7) and (8), an inspector, for the purpose of carrying out his or her duties under this Act, may, upon production of a certificate of appointment,

(a) enter any premises, car, truck or other conveyance in which he or she believes on reasonable and probable grounds there are animals that are used, or that are intended to be used, in research and inspect the premises, car, truck or other conveyance, any facilities or equipment therein and any animals therein;

(b) enter any pound and inspect the pound, any facilities or equipment therein and any animals therein; and

(c) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or of extracts there from relating to animals that,

(i) are in a pound, or

(ii) he or she believes on reasonable and probable grounds are used or intended to be used in research.

Entry of dwellings

18(4)

Except under the authority of a warrant under section 158 of the Provincial Offences Act, an inspector shall not enter any part of a dwelling without the consent of the owner or tenant unless,

- (a) the occupant is a licensed operator of a supply facility; and
- (b) the inspector has reasonable grounds for believing that the occupant is maintaining in such part animals that are used or intended to be used in research.

When powers to be exercised

18(5)

An inspector shall exercise the powers under subsection (3) only between sunrise and sunset, but nothing in this section affects the issuance and execution of a warrant under section 158 of the Provincial Offences Act.

Production and photocopying of records, etc.

18(6)

Where an inspector demands the production or furnishing of books, records, documents or extracts there from, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, if such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Certification of photocopy

18(7)

Where a book, record, document or extract has been photocopied under subsection (6), a photocopy purporting to be certified by the Minister, or a person thereunto authorized by the Minister, to be a copy made under subsection (6) is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to be in writing

18(8)

Where an inspector makes a demand under clause (3) (c), the demand shall be in writing and shall include a statement of the nature of the investigation and the general nature of the books, records, documents or extracts required.

Exception

18(9)

The *Ontario Society for the Prevention of Cruelty to Animals Act* does not apply in respect of animals in the possession of the operator of a registered research facility or of a licensed operator of a supply facility.

Ontario Society for the Prevention of Cruelty to Animals Act, R.S.O. 1990, c. O.36, ss. 1-22 (2012)

Interpretation

1(1)

In this Act,

"accredited veterinary facility" means a veterinary facility as defined in the Veterinarians Act that is accredited under that Act; ("établissement vétérinaire agréé ")

"Board" means the Animal Care Review Board; ("Commission")

"distress" means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect; ("détresse")

"place" includes a vehicle or vessel; ("lieu")

"prescribed" means prescribed by regulation made under this Act; ("prescrit")

"veterinarian" means a person licensed as a veterinarian by the College of Veterinarians of Ontario. ("vétérinaire")

Minor owner, custodian

1(2)

Where the owner or custodian of an animal is a minor, the owner or custodian for the purposes of this Act is deemed to be the minor's parents or guardians.

Society continued

2

The Ontario Society for the Prevention of Cruelty to Animals, a body politic and corporate incorporated by *An Act to Incorporate the Ontario Society for the Prevention of Cruelty to Animals*, being chapter 124 of the Statutes of Ontario, 1919, is continued under the name The Ontario Society for the Prevention of Cruelty to Animals in English and Soci t  de protection des animaux de l'Ontario in French.

Object

3

The object of the Society is to facilitate and provide for the prevention of cruelty to animals and their protection and relief therefrom.

Membership

4

The Society shall consist of class A members, being affiliated societies, class B members, being individual members, and class C members, being honorary members, and each class has such rights and obligations as are provided in the by-laws of the Society.

Board of directors: executive committee

5

The affairs of the Society shall be controlled and managed by a board of directors and by an executive committee, both of which shall be composed and have such powers and duties as are provided in the by-laws of the Society.

Officers

6

The Society shall have such officers with such powers and duties as are provided in the by-laws of the Society.

Chief Inspector

6.1(1)

The Society shall appoint an employee of the Society as the Chief Inspector.

Powers, duties

6.1(2)

In addition to the powers and duties of an inspector or an agent of the Society, the Chief Inspector shall have the powers and duties that may be prescribed by regulation, including the power to establish qualifications, requirements and standards for inspectors and agents of the Society, to appoint inspectors and agents of the Society and to revoke their appointments and generally to oversee the inspectors and agents of the Society in the performance of their duties.

Same

6.1(3)

The Chief Inspector of the Society may have additional powers and duties as are provided in the by-laws of the Society.

By-laws

7(1)

The Society may pass such by-laws, not contrary to law, as it considers necessary for the control and management of its affairs and the carrying out of its object.

Approval

7(2)

No by-law of the Society is valid or shall be acted upon until it has been approved by a majority of the votes cast in accordance with the by-laws of the Society at an annual or special general meeting.

Annulment

7(3)

The Lieutenant Governor in Council may annul any by-law of the Society.

Powers

8

The Society,

- (a) may acquire and hold as a purchaser, donee, devisee or legatee, or in any other capacity, any interest in real estate;
- (b) may accept, receive and hold gifts, bequests or subscriptions of personal estate;
- (c) may grant, lease, bargain for, mortgage, sell, assign or otherwise dispose of any of its real or personal estate;
- (d) may erect, construct, equip and maintain such buildings and works as it considers advisable for its purposes; and
- (e) may do all such other matters and things as it considers advisable for carrying out its object.

Exemption of property from taxation

9

The lands and buildings of the Society are exempt from taxation except for local improvements and school purposes so long as they are held, used and occupied for the purposes of the Society.

Prohibitions re holding out as Society, affiliated society

10(1)

No corporation or other entity, other than the Society or an affiliated society, shall,

- (a) hold itself out as being the Society or an affiliated society having authority under this Act; or

(b) use the name "humane society", "society for the prevention of cruelty to animals" or "spca" or the equivalent of any of those names in any other language, alone or in combination with any other word, name, initial or description.

Exception

10(2)

Despite clause (1) (b), a corporation or other entity that was an affiliated society on April 3, 2008 may continue to use the name "humane society", "society for the prevention of cruelty to animals" or "spca", or the equivalent of any of those names in any other language, alone or in combination with any other word, name, initial or description, even if it is no longer an affiliated society.

Inspectors and agents

Powers of police officer

11(1)

For the purposes of the enforcement of this Act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the Society has and may exercise any of the powers of a police officer

Inspectors and agents of affiliates

11(2)

Every inspector and agent of an affiliated society who has been appointed by the Society or by the Chief Inspector of the Society may exercise any of the powers and perform any of the duties of an inspector or an agent of the Society under this Act and every reference in this Act to an inspector or an agent of the Society is deemed to include a reference to an inspector or agent of an affiliated society who has been appointed by the Society or by the Chief Inspector of the Society.

Local police powers

11(3)

In any part of Ontario in which the Society or an affiliated society does not function, any police officer having jurisdiction in that part has and may exercise any of the powers of an inspector or agent of the Society under this Act.

Identification

11(4)

An inspector or an agent of the Society who is exercising any power or performing any duty under this Act shall produce, on request, evidence of his or her appointment.

Interfering with inspectors, agents

11(5)

No person shall hinder, obstruct or interfere with an inspector or an agent of the Society in the performance of his or her duties under this Act.

Obligations and Prohibitions re Care of and Harm to Animals

Standards of care for animals

11.1(1)

Every person who owns or has custody or care of an animal shall comply with the prescribed standards of care with respect to every animal that the person owns or has custody or care of.

Exception

11.1(2)

Subsection (1) does not apply in respect of,

- (a) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or
- (b) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.

Same

11.1(3)

Subsection (1) does not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the Veterinarians Act ;

(b) a person acting under the supervision of a veterinarian described in clause (a); or

(c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Prohibitions re distress, harm to an animal

Causing distress

11.2(1)

No person shall cause an animal to be in distress.

Permitting distress

11.2(2)

No owner or custodian of an animal shall permit the animal to be in distress.

Training, permitting animals to fight

11.2(3)

No person shall train an animal to fight with another animal or permit an animal that the person owns or has custody or care of to fight another animal.

Owning animal fighting equipment, structures

11.2(4)

No person shall own or have possession of equipment or structures that are used in animal fights or in training animals to fight.

Harming law enforcement animals

11.2(5)

No person shall harm or cause harm to a dog, horse or other animal that works with peace officers in the execution of their duties, whether or not the animal is working at the time of the harm.

Exception

11.2(6)

Subsections (1) and (2) do not apply in respect of,

- (a) an activity permitted under the Fish and Wildlife Conservation Act, 1997 in relation to wildlife in the wild;
- (b) an activity permitted under the Fish and Wildlife Conservation Act, 1997 or the Fisheries Act (Canada) in relation to fish;
- (c) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or
- (d) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.

Same

11.2(7)

Subsections (1) and (2) do not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the Veterinarians Act ;
- (b) a person acting under the supervision of a veterinarian described in clause (a); or
- (c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Veterinarians' obligation to report

11.3

Every veterinarian who has reasonable grounds to believe that an animal has been or is being abused or neglected shall report his or her belief to an inspector or an agent of the Society.

Protection of Animals by Society

Inspection - places used for animal exhibit, entertainment, boarding, hire or sale

11.4(1)

An inspector or an agent of the Society may, without a warrant, enter and inspect any building or place used for animal exhibit, entertainment, boarding, hire or sale, either alone or accompanied by one or more veterinarians or other persons as he or she considers advisable, in order to determine whether the standards of care prescribed for the purpose of section 11.1 are being complied with.

Dwellings

11.4(2)

The power to enter and inspect a building or place under this section shall not be exercised to enter and inspect a building or place used as a dwelling except with the consent of the occupier.

Accredited veterinary facilities

11.4(3)

The power to enter and inspect a building or place under this section shall not be exercised to enter and inspect a building or place that is an accredited veterinary facility.

Time of entry

11.4(4)

The power to enter and inspect a building or place under this section may be exercised only between the hours of 9 a.m. and 5 p.m., or at any other time when the building or place is open to the public.

Powers on inspection

11.4(5)

An inspector or an agent of the Society conducting an inspection under this section may,

- (a) demand the production for inspection of a record or thing that is relevant to the inspection; and
- (b) examine a record or thing that is relevant to the inspection.

Warrant - places used for animal exhibit, entertainment, boarding, hire or sale

11.5(1)

A justice of the peace or provincial judge may issue a warrant authorizing one or more inspectors or agents of the Society named in the warrant to enter a building or place specified in the warrant, either alone or accompanied by one or more veterinarians or other persons as the inspectors or agents consider advisable, and to inspect the building or place and do anything authorized under section 11.4 if the justice of the peace or provincial judge is satisfied by information on oath that,

(a) an inspector or an agent of the Society has been prevented from entering or inspecting the building or place under section 11.4; or

(b) there are reasonable grounds to believe that an inspector or an agent of the Society will be prevented from entering or inspecting the building or place under section 11.4.

Telewarrant

11.5(1.1)

If an inspector or an agent of the Society believes that it would be impracticable to appear personally before a justice of the peace or provincial judge to apply for a warrant under subsection (1), he or she may, in accordance with the regulations, seek the warrant by telephone or other means of telecommunication, and the justice of the peace or provincial judge may, in accordance with the regulations, issue the warrant by the same means.

When warrant to be executed

11.5(2)

Every warrant issued under subsection (1) or (1.1) shall,

(a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out; and

(b) state when the warrant expires.

Extension of time

11.5(3)

A justice of the peace or provincial judge may extend the date on which a warrant issued under this section expires for no more than 30 days, upon application without notice by the inspector or agent named in the warrant.

Other terms and conditions

11.5(4)

A warrant issued under this section may contain terms and conditions in addition to those provided for in subsections (1) to (3) as the justice of the peace or provincial judge considers advisable in the circumstances.

Entry where animal is in distress

Warrant

12(1)

If a justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that there is in any building or place an animal that is in distress, he or she may issue a warrant authorizing one or more inspectors or agents of the Society named in the warrant to enter the building or place, either alone or accompanied by one or more veterinarians or other persons as the inspectors or agents consider advisable, and inspect the building or place and all the animals found there for the purpose of ascertaining whether there is any animal in distress.

Telewarrant

12(2)

If an inspector or an agent of the Society believes that it would be impracticable to appear personally before a justice of the peace or provincial judge to apply for a warrant under subsection (1), he or she may, in accordance with the regulations, seek the warrant by telephone or other means of telecommunication, and the justice of the peace or provincial judge may, in accordance with the regulations, issue the warrant by the same means.

When warrant to be executed

12(3)

Every warrant issued under subsection (1) or (2) shall,

(a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out; and

(b) state when the warrant expires.

Extension of time

12(4)

A justice of the peace or provincial judge may extend the date on which a warrant issued under this section expires for no more than 30 days, upon application without notice by the inspector or agent named in the warrant.

Other terms and conditions

12(5)

A warrant issued under subsection (1) or (2) may contain terms and conditions in addition to those provided for in subsections (1) to (4) as the justice of the peace or provincial judge considers advisable in the circumstances.

Immediate distress - entry without warrant

12(6)

If an inspector or an agent of the Society has reasonable grounds to believe that there is an animal that is in immediate distress in any building or place, other than a dwelling, he or she may enter the building or place without a warrant, either alone or accompanied by one or more veterinarians or other persons as he or she considers advisable, and inspect the building or place and all the animals found there for the purpose of ascertaining whether there is any animal in immediate distress.

Accredited veterinary facilities

12(7)

The power to enter and inspect a building or place under subsection (6) shall not be exercised to enter and inspect a building or place that is an accredited veterinary facility.

Definition - immediate distress

12(8)

For the purpose of subsection (6),

"immediate distress" means distress that requires immediate intervention in order to alleviate suffering or to preserve life.

Authorized activities

Inspect animals, take samples, etc.

12.1(1)

An inspector or an agent of the Society or a veterinarian, who is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act, may examine any animal there and, upon giving a receipt for it, take a sample of any substance there or take a carcass or sample from a carcass there, for the purposes set out in the provision under which the inspector's, agent's or veterinarian's presence is authorized or the warrant is issued.

Same

12.1(2)

An inspector, agent or veterinarian who takes a sample or carcass under subsection (1) may conduct tests and analyses of the sample or carcass for the purposes described in subsection (1) and, upon conclusion of the tests and analyses, shall dispose of the sample or carcass.

Supply necessities to animals

12.1(3)

If an inspector or an agent of the Society is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act and finds an animal in distress, he or she may, in addition to any other action he or she is authorized to take under this Act, supply the animal with food, care or treatment.

Seizure of things in plain view

12.1(4)

An inspector or an agent of the Society who is lawfully present in a building or place under the authority of any provision of this Act or of a warrant issued under this Act may, upon giving a receipt for it, seize any thing that is produced to the inspector or agent or that is in plain view if the inspector or agent has reasonable grounds to believe,

- (a) that the thing will afford evidence of an offence under this Act; or
- (b) that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence.

Report to justice, judge

12.1(5)

An inspector or an agent of the Society shall,

- (a) report the taking of a sample or a carcass under subsection (1) to a justice of the peace or provincial judge; and
- (b) bring any thing seized under subsection (4) before a justice of the peace or provincial judge or, if that is not reasonably possible, report the seizure to a justice of the peace or provincial judge.

Order to detain, return, dispose of thing

12.1(6)

Where any thing is seized and brought before a justice of the peace or provincial judge under subsection (5), the justice of the peace or provincial judge shall by order,

- (a) detain it or direct it to be detained in the care of a person named in the order;
- (b) direct it to be returned; or
- (c) direct it to be disposed of, in accordance with the terms set out in the order.

Same

12.1(7)

In an order made under clause (6) (a) or (b), the justice of the peace or provincial judge may,

(a) authorize the examination, testing, inspection or reproduction of the thing seized, on the conditions that are reasonably necessary and are directed in the order; and

(b) make any other provision that, in his or her opinion, is necessary for the preservation of the thing.

Application of Provincial Offences Act

12.1(8)

Subsections 159 (2) to (5) and section 160 of the Provincial Offences Act apply with necessary modifications in respect of a thing seized by an inspector or an agent of the Society under subsection (4).

Order to owner of animals, etc.

13(1)

Where an inspector or an agent of the Society has reasonable grounds for believing that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to,

(a) take such action as may, in the opinion of the inspector or agent, be necessary to relieve the animal of its distress; or

(b) have the animal examined and treated by a veterinarian at the expense of the owner or custodian.

Order to be in writing

13(2)

Every order under subsection (1) shall be in writing and shall have printed or written thereon the provisions of subsections 17(1) and (2).

13(3) [Repealed]

Time for compliance with order

13(4)

An inspector or an agent of the Society who makes an order under subsection (1) shall specify in the order the time within which any action required by the order shall be performed.

Idem

13(5)

Every person who is served with an order under subsection (1) shall comply with the order in accordance with its terms until such time as it may be modified, confirmed or revoked and shall thereafter comply with the order as modified or confirmed.

Authority to determine compliance with order

13(6)

If an order made under subsection (1) remains in force, an inspector or an agent of the Society may enter without a warrant any building or place where the animal that is the subject of the order is located, either alone or accompanied by one or more veterinarians or other persons as he or she considers advisable, and inspect the animal and the building or place for the purpose of determining whether the order has been complied with.

Revocation of order

13(7)

If, in the opinion of an inspector or an agent of the Society, the order made under subsection (1) has been complied with, he or she shall revoke the order and shall serve notice of the revocation in writing forthwith on the owner or custodian of the animal that is the subject of the order.

Taking possession of animal

14(1)

An inspector or an agent of the Society may remove an animal from the building or place where it is and take possession thereof on behalf of the Society for the purpose of providing it with food, care or treatment to relieve its distress where,

- (a) a veterinarian has examined the animal and has advised the inspector or agent in writing that the health and well-being of the animal necessitates its removal;

(b) the inspector or agent has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or

(c) an order respecting the animal has been made under section 13 and the order has not been complied with.

Order for Society to keep animal

14(1.1)

A justice of the peace or provincial judge may make an order authorizing the Society to keep in its care an animal that was removed under subsection (1) if,

(a) the owner or custodian of the animal has been charged, in connection with the same fact situation that gave rise to the removal of the animal under subsection (1), with an offence under this Act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals; and

(b) the justice of the peace or provincial judge is satisfied by information on oath that there are reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian.

Order re costs

14(1.2)

Where a justice of the peace or provincial judge makes an order under subsection (1.1), he or she may also order that the whole or any part of the cost to the Society of providing food, care or treatment to the animal pursuant to its removal under subsection (1) and pursuant to the order under subsection (1.1) be paid by the owner or custodian of the animal to the Society.

Same

14(1.3)

The Society or owner or custodian of the animal may at any time apply to a justice of the peace or provincial judge to vary an order made under subsection (1.1) and the justice of the peace or provincial judge may make such order as he or she considers appropriate.

Order to return animal

14(1.4)

The Society or the owner or custodian may apply to a justice of the peace or provincial judge to order the return of an animal that is the subject of an order made under subsection (1.1) and, if satisfied that there are no longer reasonable grounds to believe that the animal may be harmed if returned to its owner or custodian, the justice of the peace or provincial judge may order the return of the animal to its owner or custodian, subject to any conditions that the justice of the peace or provincial judge considers appropriate.

Destruction of animal

14(2)

An inspector or an agent of the Society may destroy an animal,

- (a) with the consent of the owner; or
- (b) if a veterinarian has examined the animal and has advised the inspector or agent in writing that, in his or her opinion, it is the most humane course of action.

Notice

14(3)

An inspector or an agent of the Society who has removed or destroyed an animal under subsection (1) or (2) shall forthwith serve written notice of his or her action on the owner or custodian of the animal, if known.

Same

14(4)

Every notice under subsection (3) respecting the removal of an animal under subsection (1) shall have printed or written on it the provisions of subsections 17(1) and (2).

Liability of owner for expenses

15(1)

If an inspector or an agent of the Society has provided an animal with food, care or treatment, the Society may serve on the owner or custodian of the animal a statement of account respecting the food, care or treatment and the owner or custodian is, subject to an order made under subsection 14 (1.1.1) or (1.1.2) or 17 (6), liable for the amount specified in the statement of account.

Power to sell

15(2)

Where the owner or custodian refuses to pay an account under subsection (1) within five business days after service of the statement of account or where the owner or custodian, after reasonable inquiry, cannot be found, the Society may sell or dispose of the animal and reimburse itself out of the proceeds, holding the balance in trust for the owner or other person entitled thereto.

Society, affiliated society deemed to be owner of abandoned animal

15.1

If the Society or an affiliated society takes custody of an animal and no person is identified as the animal's owner or custodian within a prescribed period of time, the Society or affiliated society, as the case may be, is deemed to be the owner of the animal for all purposes.

Animal Care Review Board

Board continued

16(1)

The Animal Care Review Board is continued under the name Animal Care Review Board in English and Commission d'étude des soins aux animaux in French.

Idem

16(2)

The Board shall consist of not fewer than three persons who shall be appointed by the Lieutenant Governor in Council.

Chair, vice-chair

16(3)

The Lieutenant Governor in Council may appoint one of the members of the Board as chair and another of the members as vice-chair.

Composition of Board for hearings

16(4)

A proceeding before the Board shall be heard and determined by a panel consisting of one or more members of the Board, as assigned by the chair or vice-chair of the Board.

Remuneration of members

16(5)

The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

Appeal to Board

17(1)

The owner or custodian of any animal who considers themselves aggrieved by an order made under subsection 13(1) or by the removal of an animal under subsection 14(1) may, within five business days of receiving notice of the order or removal, appeal against the order or request the return of the animal by notice in writing to the chair of the Board.

Same

17(1.1)

The notice shall set out the remedy or action sought and the reasons for the appeal or request.

No appeal if there is order for Society to keep animal

17(1.2)

Subsection (1) does not apply if an order in respect of the animal under subsection 14 (1.1) is in force.

Application for revocation of order

17(2)

Where, in the opinion of the owner or custodian of an animal in respect of which an order under subsection 13(1) has been made, the animal has ceased to be in distress, the owner or custodian may apply to the Board to have the order revoked by notice in writing to the chair of the Board.

Notice of hearing

17(3)

Within five business days of the receipt of a notice under subsection (1) or (2), the chair of the Board shall,

- (a) fix a time, date and place at which the Board will hear the matter; and
- (b) notify the Society and the owner or custodian who issued the notice of the time, date and place fixed under clause (a).

Date of hearing

17(4)

The date fixed for a hearing shall be not more than 10 business days after the receipt of a notice under subsection (1) or (2).

Procedure at hearing

17(5)

At a hearing, the Society and the owner or custodian are entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by persons authorized under the *Law Society Act* to represent them.

Powers of Board

17(6)

After a hearing or, with the consent of the Society and the person who issued the notice under subsection (1) or (2), without a hearing, the Board may,

- (a) respecting an order made under subsection 13(1), confirm, revoke or modify the order appealed against;

(b) respecting the removal of an animal under subsection 14(1), order that the animal be returned to the owner or custodian and may make an order in the same terms as an order may be made under subsection 13(1);

(c) order that the whole or any part of the cost to the owner or custodian of an animal of complying with an order made under subsection 13 (1) be paid by the Society to the owner or custodian; or

(d) order that the whole or any part of the cost to the Society of providing food, care or treatment to an animal pursuant to its removal under subsection 14 (1) be paid by the owner or custodian of the animal to the Society.

Notice of decision

17(7)

Notice of the decision of the Board made under subsection (6), together with reasons in writing for its decision, shall be served forthwith on the Society and the owner or custodian of the animal.

Society order not stayed

17(8)

An appeal to the Board in respect of an order made under subsection 13 (1) does not stay the operation of the order.

Appeal

18(1)

The Society or the owner or custodian may appeal the decision of the Board to a judge of the Superior Court of Justice.

Notice of appeal

18(2)

The appeal shall be made by filing a notice of appeal with the local registrar of the court and serving a copy thereof on the other parties before the Board within 15 business days after the notice of the Board's decision is served on the appellant under subsection 17(7).

Date of hearing

18(3)

The appellant or any person served with notice of appeal may, upon at least two business days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal.

Decision

18(4)

The appeal shall be a new hearing and the judge may rescind, alter or confirm the decision of the Board and make such order as to costs as he or she considers appropriate, and the decision of the judge is final.

Offences

18.1(1)

Every person is guilty of an offence who,

- (a) contravenes subsection 11 (5);
- (b) contravenes or fails to comply with section 11.1;
- (c) contravenes subsection 11.2 (1), (2), (3), (4) or (5);
- (d) contravenes subsection 13 (5); or
- (e) contravenes or fails to comply with an order of the Board . ; or
- (f) knowingly makes a false report to the Society in respect of an animal being in distress.

Penalty - individuals

18.1(2)

Every individual who commits an offence under clause (1) (a), (d), (e) or (f) is liable on conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than 30 days, or to both.

Same

18.1(3)

Every individual who commits an offence under clause (1) (b) or (c) is liable on conviction to a fine of not more than \$60,000 or to imprisonment for a term of not more than two years, or to both.

Penalty - corporations

18.1(4)

Every corporation that commits an offence under subsection (1) is liable on conviction to the same fine to which an individual is liable for the offence.

Penalty - directors, officers

18.1(5)

Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under subsection (1) is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Prohibition order

18.1(6)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (5), from owning, having custody or care of, or living with any animal, or any kind of animal specified in the order, for any period of time specified in the order, including, in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever.

Restitution order

18.1(7)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost to the Society of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

18.1(8)

If a person is convicted of an offence under clause (1) (b) or (c), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

Miscellaneous Matters

Inspector, etc., not personally liable

19

No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him or her in good faith under or purporting to be under the authority of this Act.

Service of orders, notices, etc.

20

Any order, notice or statement of account required or authorized to be served under this Act shall be served personally or by registered mail, fax, electronic mail or other prescribed method in accordance with the regulations.

Conflict with municipal by-laws

21

In the event of a conflict between a provision of this Act or of a regulation made under this Act and of a municipal by-law pertaining to the welfare of or the prevention of cruelty to animals, the provision that affords the greater protection to animals shall prevail.

Regulations

22(1)

The Lieutenant Governor in Council may make regulations,

- (a) prescribing activities that constitute activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry for the purposes of clauses 11.1 (2)(a) and 11.2 (6)(c);
- (b) prescribing classes of animals, circumstances and conditions or activities for the purposes of clauses 11.1 (2)(b) and 11.2 (6)(d);
- (c) exempting any person or class of persons from any provision of this Act or of a regulation made under this Act, and prescribing conditions and circumstances for any such exemption.

Same

22(2)

The Minister responsible for the administration of this Act may make regulations,

- (a) prescribing and governing the powers and duties of the Chief Inspector of the Society, including the power to establish qualifications, requirements and standards for inspectors and agents of the Society, to appoint inspectors and agents of the Society and to revoke their appointments and generally to oversee the inspectors and agents of the Society in the performance of their duties;
- (b) prescribing standards of care for the purposes of section 11.1;
- (c) governing the report required under section 11.3, including its contents and the manner of making the report;
- (d) prescribing forms for the information on oath required by subsection 11.5 (1), 12 (1) or 14 (1.1), for a warrant issued under subsection 11.5 (1) or 12 (1) and for an order issued under subsection 14 (1.1) or (1.4);
- (e) governing applications for and the issue of warrants by telephone or other means of telecommunication for the purpose of subsection 11.5 (1.1) and 12 (2), prescribing the form required to apply for a warrant under those subsections and the forms for the warrants issued under those subsections, prescribing rules for the execution of such warrants and prescribing evidentiary rules with respect to such warrants;
- (f) prescribing a period of time for the purpose of section 15.1;

(g) governing the service of orders, notices and statements of account for the purposes of section 20.

ONTARIO REGULATION 59/09

GENERAL

Additional powers and duties of Chief Inspector

1.

(1) The Chief Inspector of the Society shall,

(a) establish qualifications, requirements and standards for inspectors and agents of the Society; and

(b) generally oversee inspectors and agents of the Society in the performance of their duties. O. Reg. 59/09, s. 1 (1).

(2) The Chief Inspector of the Society shall appoint inspectors and agents of the Society and may revoke any such appointment. O. Reg. 59/09, s. 1 (2).

Society etc. deemed owner of animal with unknown owner, custodian — prescribed period

2.

For the purpose of section 15.1 of the Act, the Society or affiliated society is deemed to be the owner of an animal if no person is identified as the animal's owner or custodian within three business days after the day the Society or affiliated society took custody of the animal. O. Reg. 59/09, s. 2.

ONTARIO REGULATION 60/09

STANDARDS OF CARE

Application

1.

(1) The basic standards of care applicable to all animals are set out in section 2. O. Reg. 60/09, s. 1 (1).

- (2) In addition to the basic standards of care applicable to all animals set out in section 2,
- (a) standards of care specific to dogs that live primarily outdoors are set out in section 3; and
 - (b) standards of care specific to wildlife kept in captivity are set out in sections 4 and 5. O. Reg. 60/09, s. 1 (2).
- (3) In addition to the basic standards of care applicable to all animals set out in section 2 and the standards of care specific to wildlife kept in captivity set out in sections 4 and 5, the standards of care specific to primates kept in captivity are set out in section 6. O. Reg. 60/09, s. 1. (3).
- (4) A requirement that a standard of care be adequate and appropriate or necessary is a requirement that the standard of care be adequate and appropriate or necessary to the specific animal, having regard to its species, breed and other relevant factors. O. Reg. 60/09, s. 1 (4).

Basic standards of care for all animals

2.

- (1) Every animal must be provided with adequate and appropriate food and water. O. Reg. 60/09, s. 2 (1).
- (2) Every animal must be provided with adequate and appropriate medical attention. O. Reg. 60/09, s. 2 (2).
- (3) Every animal must be provided with the care necessary for its general welfare. O. Reg. 60/09, s. 2 (3).
- (4) Every animal must be transported in a manner that ensures its physical safety and general welfare. O. Reg. 60/09, s. 2 (4).
- (5) Every animal must be provided with an adequate and appropriate resting and sleeping area. O. Reg. 60/09, s. 2 (5).
- (6) Every animal must be provided with adequate and appropriate,
- (a) space to enable the animal to move naturally and to exercise;
 - (b) sanitary conditions;
 - (c) ventilation;
 - (d) light, and;

(e) protection from the elements, including harmful temperatures. O. Reg. 60/09, s. 2 (6).

(7) If an animal is confined to a pen or other enclosed structure or area,

(a) the pen or other enclosed structure or area, and any structures or material in it, must be in a state of good repair;

(b) the pen or other enclosed structure or area, and any surfaces, structures and materials in it, must be made of and contain only materials that are,

(i) safe and non-toxic for the animal, and

(ii) of a texture and design that will not bruise, cut or otherwise injure the animal;
and

(c) the pen or other enclosed structure or area must not contain one or more other animals that may pose a danger to the animal. O. Reg. 60/09, s. 2 (7).

(8) Every animal that is to be killed must be killed by a method that is humane and minimizes the pain and distress to the animal; an animal's pain and distress are deemed to be minimized if it is killed by a method that produces rapid, irreversible unconsciousness and prompt subsequent death. O. Reg. 60/09, s. 2 (8).

Standards of care for dogs that live outdoors

3.

(1) Every dog that lives primarily outdoors must be provided with a structurally sound enclosure for its use at all times. O. Reg. 60/09, s. 3 (1).

(2) The enclosure must be weather-proofed and insulated. O. Reg. 60/09, s. 3 (2).

(3) The size and design of the enclosure must be adequate and appropriate for the dog. O. Reg. 60/09, s. 3 (3).

(4) A chain, rope or similar restraining device used to tether a dog that lives primarily outdoors,

(a) must be at least three metres long;

(b) must allow the dog to move safely and unrestricted (except by its length); and

(c) must allow the dog to have access to adequate and appropriate water and shelter. O. Reg. 60/09, s. 3 (4).

* * * * *

ONTARIO REGULATION 62/09

EXEMPTIONS

Exemptions

1.

Subsections 11.2 (1) and (2) of the Act do not apply to,

(a) persons who are hunting as permitted under the Fish and Wildlife Conservation Act, 1997, other than as described in clause 11.2 (6) (a) of the Act; or

(b) persons who permit hunting as described in clause (a). O. Reg. 62/09, s. 1.

2.

Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 62/09, s. 2.

ANIMAL PROTECTION LAWS OF OREGON

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Oregon's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Oregon may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

OREGON

1. GENERAL PROHIBITIONS*	<p>(1) Animal abuse in the second degree OR. REV. STAT. § 167.315</p> <p>(2) Animal abuse in the first degree OR. REV. STAT. § 167.320</p> <p>(3) Aggravated animal abuse in the first degree OR. REV. STAT. § 167.322</p> <p>(4) Animal neglect in the second degree OR. REV. STAT. § 167.325</p> <p>(5) Animal neglect in the first degree OR. REV. STAT. § 167.330</p> <p>(6) Animal abandonment OR. REV. STAT. § 167.340</p> <p>(7) Encouraging animal abuse OR. REV. STAT. § 167.349</p>
<i>Animals Covered in Definition</i>	<p>“[A]ny nonhuman mammal, bird, reptile, amphibian or fish” OR. REV. STAT. § 167.310(1)</p> <p>“‘Domestic animal’ means an animal, other than livestock or equines, that is owned or possessed by a person” OR. REV. STAT. § 167.310(2)</p>

OREGON*continued*

<p><i>Classification of Crimes</i></p>	<p>(1), (4), (6) Class B misdemeanor</p> <p>(2) Class A misdemeanor <i>or</i> Class C felony</p> <p>(3) Class C felony</p> <p>(5) Class A misdemeanor</p> <p>(7) Class C misdemeanor</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1), (4), (6) [Class B misdemeanor]: 6 months imprisonment OR. REV. STAT. § 161.615(2) <i>and/or</i> \$2,500 fine OR. REV. STAT. § 161.635(1)(b)</p> <p>(2), (5) [Class A misdemeanor]: 1 year imprisonment OR. REV. STAT. § 161.615(1) <i>and/or</i> \$6,250 fine OR. REV. STAT. § 161.635(1)(a)</p> <p>(2), (3) [Class C felony]: 5 years imprisonment OR. REV. STAT. § 161.605(3) <i>and/or</i> \$125,000 fine OR. REV. STAT. § 161.625(1)(d)</p>

OREGON*continued*

<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(7) [Class C misdemeanor]: 30 days imprisonment OR. REV. STAT. § 161.615(3) <i>and/or</i> \$1,250 fine OR. REV. STAT. § 161.635(1)(c)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>4 OR. REV. STAT. §§ 167.315(2), 167.320(2)</p> <p>1, 2, 3, 4, 5, 6, 7, 9 OR. REV. STAT. § 167.335</p> <p>Exemption provisions do not protect acts committed with gross negligence. OR. REV. STAT. § 167.335</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>Court may order participation in counseling or cruelty prevention programs at defendant's expense. OR. REV. STAT. § 167.350(4)</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>OR. REV. STAT. § 107.718</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>A person or governmental agency that transports, pastures, feeds, cares for or provides treatment for an impounded animal has a lien on the animal and may retain possession until lien is satisfied. OR. REV. STAT. § 87.159</p> <p>When animals that were in possession of person arrested for violating animal protection laws are impounded, the person making the arrest shall have a lien upon the animals for costs of care. OR. REV. STAT. § 133.377(3)</p>

OREGON*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H<i>continued</i></p>	<p>The court may require a defendant to post a security bond for costs of care from impoundment to the date of trial, which may be used for actual reasonable costs of care. OR. REV. STAT. §§ 167.347(3),(4),(5)</p> <p>Upon conviction, the court may order defendant to repay all reasonable costs of care. OR. REV. STAT. §§ 167.350(1),(3)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Animals that are in possession or charge of a person arrested for violating animal protection laws may be impounded. OR. REV. STAT. §§ 133.377(1),(2)</p> <p>Peace officer, after obtaining a search warrant or in any other lawful manner, may impound animal if has probable cause to believe mistreatment is occurring. OR. REV. STAT. § 167.345</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>A person convicted of a misdemeanor violation of the animal protection laws may not possess a domestic animal for five years; or for fifteen years following a felony conviction. Violating the possession ban is a Class C misdemeanor. OR. REV. STAT. § 167.332</p> <p>The court, prior to disposition of criminal charges, may order forfeiture of animals seized pursuant to a search warrant, if the court finds that probable cause of mistreatment existed and the defendant fails to issue a bond for costs of care. OR. REV. STAT. § 167.347</p>

OREGON*continued*

<p>8. FORFEITURE / POSSESSION^H<i>continued</i></p>	<p>If animal is forfeited, the court, in placing animal with a new owner, shall give preference to persons who had prior contact with the animal. The new owner shall agree to provide the animal with minimum care. New owner may not be someone who resides with the former owner. OR. REV. STAT. § 167.348</p> <p>Upon conviction, the court may order forfeiture of the mistreated animal. OR. REV. STAT. §§ 167.350(1),(2)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>Certain professionals may report suspected or imminent aggravated animal cruelty and are immune from civil liability or exertion of professional privilege. OR. REV. STAT. § 40.252</p> <p>Certain public and private officials may report suspected aggravated animal abuse and are immune from civil or criminal liability for such reporting done in good faith. OR. REV. STAT. § 609.654</p>

OREGON*continued*

10. VETERINARIAN REPORTING / IMMUNITY

The Legislature finds that a direct link exists between animal abuse and human abuse, and that it is in the public interest to require mandatory veterinarian reporting of aggravated animal abuse.

OR. REV. STAT. § 686.442

Veterinarians may report suspected mistreatment of any animal to peace officers, animal control officers or officers of private organizations devoted to humane treatment of animals and is immune from any civil or criminal liability by reason of making the report.

OR. REV. STAT. § 686.445

A veterinarian who has reasonable cause to believe an animal has suffered aggravated animal abuse shall immediately report it to a law enforcement agency.

OR. REV. STAT. § 686.455

A veterinarian who acts in good faith and has reasonable grounds for making a report of suspected aggravated animal abuse is immune from any civil or criminal liability as a result of making such a report.

OR. REV. STAT. § 686.465

Failure of a veterinarian to report suspected aggravated animal abuse is a Class A violation.

OR. REV. STAT. § 686.990

OREGON*continued*

11. LAW ENFORCEMENT POLICIES

The Governor may appoint special state agents to collect evidence and to effect the apprehension and conviction of criminals.
OR. REV. STAT. § 131.805

Any person violating the animal protection laws may be arrested and held without warrant; the person making the arrest shall use reasonable diligence to notify any owners of animals found in the charge of the person arrested and shall properly care for them; any peace officer who cares for such animals is immune from civil or criminal liability.
OR. REV. STAT. § 133.377

Peace officers have a duty to arrest and prosecute any person violating the animal protection laws.
OR. REV. STAT. § 133.379(1)

Peace officer may enter premises, under a search warrant or in any lawful manner, where animals are being mistreated and provide them with necessary sustenance and aid and may impound them; officer is not liable for damages for any entry unless caused by unnecessary actions that were intentional or reckless.
OR. REV. STAT. § 167.345

Peace officer may obtain search warrant and seize animal if has probable cause to believe they are being mistreated.
OR. REV. STAT. § 167.345(2)

A law enforcement agency that receives a report of suspected aggravated animal abuse from a veterinarian or public or private official shall investigate and process the case.
OR. REV. STAT. § 686.460

OREGON*continued*

12. SEXUAL ASSAULT	Sexually assaulting an animal is a Class A misdemeanor, OR. REV. STAT. § 167.333 and is a sex crime, and those convicted of it are sex offenders. OR. REV. STAT. § 181.594(5),(6) Court may order psychiatric or psychological evaluation of a defendant convicted of sexually assaulting an animal. OR. REV. STAT. § 167.334
13. FIGHTING	Involvement in animal fighting is a Class C felony OR. REV. STAT. § 167.355 Dogfighting definitions OR. REV. STAT. § 167.360 Dogfighting is a Class C felony. OR. REV. STAT. § 167.365 Participation in dogfighting is a Class C felony. OR. REV. STAT. § 167.370 Possessing dogfighting paraphernalia is a Class C felony. OR. REV. STAT. § 167.372 Cockfighting definitions OR. REV. STAT. § 167.426 Cockfighting is a Class C felony. OR. REV. STAT. § 167.428 Participation in cockfighting is a Class C felony. OR. REV. STAT. § 167.431 Seizure of an alleged fighting bird OR. REV. STAT. § 167.433

OREGON*continued*

<p>13. FIGHTING <i>continued</i></p>	<p>Additional cockfighting penalties OR. REV. STAT. § 167.435</p> <p>Constructive possession of bird by peace officer. OR. REV. STAT. § 167.437</p> <p>Forcible recovery of a fighting bird is a Class C felony. OR. REV. STAT. § 167.439</p> <p>Animal fighting violations are qualifying offenses under state RICO laws. OR. REV. STAT. § 166.715</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>Assaulting a law enforcement animal OR. REV. STAT. § 167.339</p>
<p>NOTES</p>	<p>“Law enforcement unit” includes humane agents OR. REV. STAT. § 181.610</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 1 This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

OR. REV. STAT. § 167.310 (2012). Definitions.

As used in ORS 167.310 to 167.351:

- (1) *'Animal' means any nonhuman mammal, bird, reptile, amphibian or fish.*
- (2) *'Domestic animal' means an animal, other than livestock or equines, that is owned or possessed by a person.*
- (3) *'Equine' means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.*
- (4) *'Good animal husbandry' includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.*
- (5) *'Law enforcement animal' means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 181.610, who has successfully completed at least 360 hours of training in the care and use of a law enforcement animal, or who has passed the demonstration of minimum standards established by the Oregon Police Canine Association or other accredited and recognized animal handling organization.*
- (6) *'Livestock' has the meaning provided in ORS 609.125.*
- (7) *'Minimum care' means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:*
 - (a) *Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.*
 - (b) *Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Access to snow or ice is not adequate access to potable water.*
 - (c) *For a domestic animal other than a dog engaged in herding or protecting livestock, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and that has adequate bedding to protect against cold and dampness.*
 - (d) *Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.*

(e) For a domestic animal, continuous access to an area:

(A) With adequate space for exercise necessary for the health of the animal;

(B) With air temperature suitable for the animal; and

(C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.

(f) For a livestock animal that cannot walk or stand without assistance:

(A) Humane euthanasia; or

(B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.

(8) 'Physical injury' means physical trauma, impairment of physical condition or substantial pain.

(9) 'Physical trauma' means fractures, cuts, punctures, bruises, burns or other wounds.

(10) 'Possess' has the meaning provided in ORS 161.015.

(11) 'Serious physical injury' means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.

OR. REV. STAT. § 167.315 (2012). Animal abuse in the second degree.

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the second degree is a Class B misdemeanor.

OR. REV. STAT. §167.320 (2012). Animal abuse in the first degree.

(1) *A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly:*

(a) *Causes serious physical injury to an animal; or*

(b) *Cruelly causes the death of an animal.*

(2) *Any practice of good animal husbandry is not a violation of this section.*

(3) *Animal abuse in the first degree is a Class A misdemeanor.*

(4) *Notwithstanding subsection (3) of this section, animal abuse in the first degree is a Class C felony if:*

(a) *The person committing the animal abuse has previously been convicted of two or more of the following offenses:*

(A) *Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or*

(B) *Any offense under this section or ORS 167.322, or the equivalent laws of another jurisdiction; or*

(b) *The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.*

OR. REV. STAT. §167.322 (2012). Aggravated animal abuse in the first degree.

(1) *A person commits the crime of aggravated animal abuse in the first degree if the person:*

(a) *Maliciously kills an animal; or*

(b) *Intentionally or knowingly tortures an animal.*

(2) *Aggravated animal abuse in the first degree is a Class C felony.*

(3) *As used in this section:*

(a) *“Maliciously” means intentionally acting with a depravity of mind and reckless and wanton disregard of life.*

(b) *“Torture” means an action taken for the primary purpose of inflicting pain.*

OR. REV. STAT. § 167.325 (2012). Animal neglect in the second degree.

(1) *A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in such person’s custody or control.*

(2) *Animal neglect in the second degree is a Class B misdemeanor.*

OR. REV. STAT. § 167.330 (2012). Animal neglect in the first degree.

(1) *A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in the person’s custody or control and the failure to provide care results in serious physical injury or death to the animal.*

(2) *Animal neglect in the first degree is a Class A misdemeanor.*

OR. REV. STAT. § 167.340 (2012). Animal abandonment.

(1) *A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal or an equine at a location without providing minimum care.*

(2) *It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.*

(3) *Animal abandonment is a Class B misdemeanor.*

OR. REV. STAT. § 167.349 (2012). Encouraging animal abuse.

(1) A person commits the crime of encouraging animal abuse if the person:

(a) Obtains a previously abused, neglected or abandoned animal from an animal care agency under ORS 167.348 or the court under ORS 167.350; and

(b) Knowingly allows the person from whom the animal was forfeited to possess the animal.

(2) Encouraging animal abuse is a Class C misdemeanor.

2. PENALTIES

OR. REV. STAT. § 161.605 (2012). Maximum prison terms for felonies.

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

- (1) For a Class A felony, 20 years.
- (2) For a Class B felony, 10 years.
- (3) *For a Class C felony, 5 years.*
- (4) For an unclassified felony as provided in the statute defining the crime.

OR. REV. STAT. § 161.615 (2012). Prison terms for misdemeanors.

Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

- (1) *For a Class A misdemeanor, 1 year.*
- (2) *For a Class B misdemeanor, 6 months.*
- (3) *For a Class C misdemeanor, 30 days.*
- (4) For an unclassified misdemeanor, as provided in the statute defining the crime.

OR. REV. STAT. § 161.625 (2012). Felonies; fines

(1) *A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding:*

- (a) \$500,000 for murder or aggravated murder.
- (b) \$375,000 for a Class A felony.
- (c) \$250,000 for a Class B felony.
- (d) *\$125,000 for a Class C felony.*

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)

(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section does not apply to a corporation.

OR. REV. STAT. §161.635 (2012). Misdemeanors; fines.

(1) *A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:*

(a) *\$6,250 for a Class A misdemeanor.*

(b) *\$2,500 for a Class B misdemeanor.*

(c) *\$1,250 for a Class C misdemeanor.*

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) If a person has gained money or property through the commission of a misdemeanor, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(4) This section does not apply to corporations.

3. EXEMPTIONS

OR. REV. STAT. § 167.315 (2012). Animal abuse in the second degree.

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

(2) *Any practice of good animal husbandry is not a violation of this section.*

(3) Animal abuse in the second degree is a Class B misdemeanor.

OR. REV. STAT. § 167.320 (2012). Animal abuse in the first degree.

(1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly:

(a) Causes serious physical injury to an animal; or

(b) Cruelly causes the death of an animal.

(2) *Any practice of good animal husbandry is not a violation of this section.*

(3) Animal abuse in the first degree is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, animal abuse in the first degree is a Class C felony if:

(a) The person committing the animal abuse has previously been convicted of two or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322, or the equivalent laws of another jurisdiction; or

(b) The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.

OR. REV. STAT. §167.335 (2012). Exemption from ORS 167.315 to 167.333.

Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not apply to:

- (1) The treatment of livestock being transported by owner or common carrier;*
- (2) Animals involved in rodeos or similar exhibitions;*
- (3) Commercially grown poultry;*
- (4) Animals subject to good animal husbandry practices;*
- (5) The killing of livestock according to the provisions of ORS 603.065;*
- (6) Animals subject to good veterinary practices as described in ORS 686.030;*
- (7) Lawful fishing, hunting and trapping activities;*
- (8) Wildlife management practices under color of law;*
- (9) Lawful scientific or agricultural research or teaching that involves the use of animals;*
- (10) Reasonable activities undertaken in connection with the control of vermin or pests; and*
- (11) Reasonable handling and training techniques.*

4. COUNSELING / EVALUATIONS

OR. REV. STAT. § 167.350 (2012). Forfeiture of rights in mistreated animal; costs; penalty.

(1) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to the violation.

(2)

(A) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(B) This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime.

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay the reasonable costs incurred by any person or agency in providing minimum care to the animal.

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435.

5. PROTECTIVE ORDERS

OR. REV. STAT. § 107.718 (2012). Court order when petitioner in imminent danger of abuse; contents of petition, order and related forms.

(1) When a person files a petition under ORS 107.710, the circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day. Upon a showing that the petitioner has been the victim of abuse committed by the respondent within 180 days preceding the filing of the petition, that there is an imminent danger of further abuse to the petitioner and that the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:

- (a) Except as provided in subsection (2) of this section, that temporary custody of the children of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent, subject to reasonable parenting time rights of the noncustodial parent, which the court shall order, unless such parenting time is not in the best interest of the child;
- (b) That the respondent be required to move from the petitioner's residence, if in the sole name of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the parties are married to each other;
- (c) That the respondent be restrained from entering, or attempting to enter, a reasonable area surrounding the petitioner's current or subsequent residence if the respondent is required to move from petitioner's residence;
- (d) That a peace officer accompany the party who is leaving or has left the parties' residence to remove essential personal effects of the party or the party's children, or both, including but not limited to clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identification and tools of the trade;
- (e) That the respondent be restrained from intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;
- (f) That the respondent be restrained from intimidating, molesting, interfering with or menacing any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or menace any children in the custody of the petitioner;
- (g) That the respondent be restrained from entering, or attempting to enter, on any premises and a reasonable area surrounding the premises when it appears to the court that such restraint is necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the petitioner or children whose custody is awarded to the petitioner;

(h) Other relief that the court considers necessary to:

(A) Provide for the safety and welfare of the petitioner and the children in the custody of the petitioner, including but not limited to emergency monetary assistance from the respondent; and

(B) Prevent the neglect and protect the safety of any service or therapy animal or any animal kept for personal protection or companionship, but not an animal kept for any business, commercial, agricultural or economic purpose; or

(i) Except as described in subsection (12) of this section or parenting time ordered under this section, that the respondent have no contact with the petitioner in person, by telephone or by mail.

(2) If the court determines that exceptional circumstances exist that affect the custody of a child, the court shall order the parties to appear and provide additional evidence at a hearing to determine temporary custody and resolve other contested issues. Pending the hearing, the court may make any orders regarding the child's residence and the parties' contact with the child that the court finds appropriate to provide for the child's welfare and the safety of the parties. The court shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing at the same time the court issues the restraining order.

(3) The court's order under subsection (1) of this section is effective for a period of one year or until the order is withdrawn or amended, or until the order is superseded as provided in ORS 107.722, whichever is sooner.

(4) If respondent is restrained from entering, or attempting to enter, an area surrounding petitioner's residence or any other premises, the order restraining respondent shall specifically describe the area.

(5) Imminent danger under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with additional bodily harm.

(6) If the court awards parenting time to a parent who committed abuse, the court shall make adequate provision for the safety of the child and of the petitioner. The order of the court may include, but is not limited to, the following:

(a) That exchange of a child between parents shall occur at a protected location.

(b) That parenting time be supervised by another person or agency.

(c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or any other counseling program designated by the court as a condition of the parenting time.

(d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances during the parenting time and for 24 hours preceding the parenting time.

(e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting time, and any program designated by the court as a condition of parenting time.

(f) That no overnight parenting time occur.

(7) The State Court Administrator shall prescribe the content and form of the petition, order and related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

(8) If the court orders relief:

(a) The clerk of the court shall provide without charge the number of certified true copies of the petition and order necessary to provide the petitioner with one copy and to effect service and shall have a true copy of the petition and order delivered to the county sheriff for service upon the respondent, unless the court finds that further service is unnecessary because the respondent appeared in person before the court. In addition and upon request by the petitioner, the clerk shall provide the petitioner, without charge, two exemplified copies of the petition and order.

(b) The county sheriff shall serve the respondent personally unless the petitioner elects to have the respondent served personally by a private party or by a peace officer who is called to the scene of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be made in accordance with ORS 107.720. When the order does not contain the respondent's date of birth and service is effected by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth with the respondent and shall record that date on the order or proof of service entered into the Law Enforcement Data System under ORS 107.720.

(c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the relief provided under ORS 107.700 to 107.735.

(9) If the county sheriff:

(a) Determines that the order and petition are incomplete, the sheriff shall return the order and petition to the clerk of the court. The clerk of the court shall notify the petitioner, at the address provided by the petitioner, of the error or omission.

(b) After accepting the order and petition, cannot complete service within 10 days, the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the sheriff shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(10)

(a) Within 30 days after a restraining order is served under this section, the respondent therein may request a court hearing upon any relief granted. The hearing request form shall be available from the clerk of the court in the form prescribed by the State Court Administrator.

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the court information sufficient to allow such notification.

(c) The hearing shall not be limited to the issues raised in the respondent's request for hearing form. If the respondent seeks to raise an issue at the hearing not previously raised in the request for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order, the other party shall be entitled to a reasonable continuance for the purpose of preparing a response to the issue.

(11) If the respondent fails to request a hearing within 30 days after a restraining order is served, the restraining order is confirmed by operation of law. The provisions of this section are sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received actual notice of the right to request a hearing and the opportunity to participate at the hearing but the respondent failed to exercise those rights.

(12) Service of process or other legal documents upon the petitioner is not a violation of this section if the petitioner is served as provided in ORCP 7 or 9.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

OR. REV. STAT. § 87.159 (2012). Lien for care of an animal.

A person who, or governmental agency that, transports, pastures, feeds, cares for or provides treatment to an animal that has been impounded under ORS 167.345 has a lien on the animal in the possession of the person or governmental agency for the reasonable charges for transportation, pasturage, feed, care or treatment provided by the person or governmental agency, and the person or governmental agency may retain possession of the animal until those charges are paid.

OR. REV. STAT. § 133.377 (2012). Animal abuse; animal care.

(1) Any person violating ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

(4) Any peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by a peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided.

OR. REV. STAT. § 167.347 (2012). Forfeiture of impounded animal.

(1) If any animal is impounded pursuant to ORS 167.345 and is being held by a county animal shelter or other animal care agency pending outcome of criminal action charging a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to final disposition of the criminal charge, the county or other animal care agency or, on behalf of the county or other animal care agency, the district attorney, may file a petition in the criminal action requesting that the court issue an order forfeiting the animal to the county or other animal care agency prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and, unless the district attorney has filed the petition on behalf of the county or other animal care agency, the district attorney.

(2) Upon receipt of a petition pursuant to subsection (1) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.

(3)

(a) At a hearing conducted pursuant to subsection (2) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment to the date of trial.

(b) Notwithstanding paragraph (a) of this subsection, a court may waive for good cause shown the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3) of this section, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the animal until the new date of trial.

(5) If a security deposit or bond has been posted in accordance with subsection (4) of this section, the petitioner may draw from that security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the impounded animal from the date of initial impoundment to the date of final disposition of the animal in the criminal action.

(6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS 167.350 and 167.435.

OR. REV. STAT. § 167.350 (2012). Forfeiture of rights in mistreated animal; costs; penalty.

(1) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to the violation.

(2)

(a) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(b) This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime .

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay the reasonable costs incurred by any person or agency in providing minimum care to the animal.

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435.

7. SEIZURE / ON-SITE SUPERVISION

OR. REV. STAT. § 133.377 (2012).Animal abuse; animal care.

(1) Any person violating ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

(4) Any peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by a peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided.

OR. REV. STAT. § 167.345 (2012).Search and seizure; impoundment; liability.

(1) As used in this section, 'peace officer' has the meaning given that term in ORS 161.015.

(2) If there is probable cause to believe that any animal is being subjected to treatment in violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the animal is located to provide the animal with food, water and emergency medical treatment and may impound the animal. If after reasonable effort the owner or person having custody of the animal cannot be found and notified of the impoundment, the notice shall be conspicuously posted on the premises and within 72 hours after the impoundment the notice shall be sent by certified mail to the address, if any, where the animal was impounded.

(3) A peace officer is not liable for any damages for an entry under subsection (2) of this section, unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.

(4)

(a) A court may order an animal impounded under subsection (2) of this section to be held at any animal care facility in the state. A facility receiving the animal shall provide adequate food and water and may provide veterinary care.

(b) A court may order a fighting bird impounded under subsection (2) of this section to be held on the property of the owner, possessor or keeper of the fighting bird in accordance with ORS 167.433.

8. FORFEITURE / POSSESSION

OR. REV. STAT. § 167.332 (2012). Possession of domestic animals by violator.

(1) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.325, 167.330, 167.333, 167.340 or 167.355 or of a misdemeanor under ORS 167.320, may not possess a domestic animal for a period of five years following entry of the conviction.

(2) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.365 or 167.428 or of a felony under ORS 167.320, may not possess a domestic animal for a period of 15 years following entry of the conviction.

(3) A person who possesses a domestic animal in violation of this section commits a Class C misdemeanor. When a person is convicted of possessing a domestic animal in violation of this section, the court may order the removal of domestic animals from the person's residence.

OR. REV. STAT. § 167.347 (2012). Forfeiture of impounded animal.

(1) If any animal is impounded pursuant to ORS 167.345 and is being held by a county animal shelter or other animal care agency pending outcome of criminal action charging a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to final disposition of the criminal charge, the county or other animal care agency or, on behalf of the county or other animal care agency, the district attorney, may file a petition in the criminal action requesting that the court issue an order forfeiting the animal to the county or other animal care agency prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and, unless the district attorney has filed the petition on behalf of the county or other animal care agency, the district attorney.

(2) Upon receipt of a petition pursuant to subsection (1) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.

(3)

(a) At a hearing conducted pursuant to subsection (2) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment to the date of trial.

(b) Notwithstanding paragraph (a) of this subsection, a court may waive for good cause shown the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3) of this section, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the animal until the new date of trial.

(5) If a security deposit or bond has been posted in accordance with subsection (4) of this section, the petitioner may draw from that security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the impounded animal from the date of initial impoundment to the date of final disposition of the animal in the criminal action.

(6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS 167.350 and 167.435.

OR. REV. STAT. § 167.348 (2012). Placement of forfeited animal; preference.

(1) If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, the agency to which the animal was forfeited may place the animal with a new owner. The agency shall give placement preference to any person or persons who had prior contact with the animal, including but not limited to family members and friends of the former owner whom the agency determines are capable of providing necessary, adequate and appropriate levels of care for the animal. As a condition of placement, the agency shall require the new owner to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the former owner to possess the animal constitutes a crime.

(2) Notwithstanding subsection (1) of this section, the agency may not place the animal with any person who resides with the former owner.

OR. REV. STAT. § 167.350 (2012). Forfeiture of rights in mistreated animal; costs; penalty.

(1) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to the violation.

(2)

(a) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(b) This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime.

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay the reasonable costs incurred by any person or agency in providing minimum care to the animal.

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435.

9. CROSS ENFORCEMENT / REPORTING

OR. REV. STAT. § 40.252 (2012). Rule 504-5. Communications revealing intent to commit certain crimes.

(1) In addition to any other limitations on privilege that may be imposed by law, there is no privilege under ORS 40.225, 40.230 or 40.250 for communications if:

(a) In the professional judgment of the person receiving the communications, the communications reveal that the declarant has a clear and serious intent at the time the communications are made to subsequently commit a crime involving physical injury, a threat to the physical safety of any person, sexual abuse or death or involving an act described in ORS 167.322;

(b) In the professional judgment of the person receiving the communications, the declarant poses a danger of committing the crime; and

(c) The person receiving the communications makes a report to another person based on the communications.

(2) The provisions of this section do not create a duty to report any communication to any person.

(3) A person who discloses a communication described in subsection (1) of this section, or fails to disclose a communication described in subsection (1) of this section, is not liable to any other person in a civil action for any damage or injury arising out of the disclosure or failure to disclose.

OR. REV. STAT. § 609.654 (2012). Public or private official reporting of aggravated animal abuse; immunity.

(1) Notwithstanding ORS 40.225 to 40.295, a public or private official who has reasonable cause to believe that an animal with which the official has come in contact has suffered aggravated animal abuse, or that any person with whom the official has come in contact has committed aggravated animal abuse, may immediately report the suspected aggravated animal abuse in the manner prescribed in subsection (2) of this section.

(2) A report of suspected aggravated animal abuse authorized under subsection (1) of this section may be made to a law enforcement agency, either orally or in writing, and may include, if known:

(a) The name and description of each animal involved;

(b) The address and telephone number of the owner or other person responsible for the care of the animal;

(c) The nature and extent of the suspected abuse;

(d) Any evidence of previous aggravated animal abuse;

(e) Any explanation given for the suspected abuse; and

(f) Any other information that the person making the report believes may be helpful in establishing the cause of the suspected abuse or the identity of the person causing the abuse.

(3) A public or private official who acts in good faith and has reasonable grounds for making a report of suspected aggravated animal abuse under this section is not liable in any civil or criminal proceeding brought as a result of making the report.

10. VETERINARIAN REPORTING / IMMUNITY

OR. REV. STAT. §686.442 (2012). Link between animal abuse and human abuse, mandatory reporting of aggravated animal abuse

The Legislative Assembly finds that there is a direct link between the problems of animal abuse and human abuse and further finds that for the purposes of identifying and prosecuting individuals who have committed crimes against animals, preventing further abuse of animals and preventing animal abuse from escalating to abuse against humans, it is necessary and in the public interest to require mandatory reporting of aggravated animal abuse by veterinarians.

OR. REV. STAT. §686.445 (2012). Reports of abandoned, neglected or abused animals or animals injured in trapping devices; immunity from liability.

(1) Except as provided in ORS 686.455, licensed veterinarians and veterinary technicians may report to peace officers, animal control officers or officers of private organizations devoted to humane treatment of animals any animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected or abused. Any veterinarian or veterinary technician making a report under this section is immune from any civil or criminal liability by reason of making the report.

(2) Veterinarians licensed and practicing in Oregon shall report to the Dean of the College of Veterinary Medicine, Oregon State University, in a form established by the dean, incidences of treating animals purported to have been injured by a trapping device.

OR. REV. STAT. § 686.450 (2012). Definitions.

As used in ORS 686.450 to 686.465 and 686.990 (3):

(1)

(a) “Aggravated animal abuse” means any animal abuse as described in ORS 167.322.

(b) “Aggravated animal abuse” does not include:

(A) Good animal husbandry, as defined in ORS 167.310; or

(B) Any exemption listed in ORS 167.335.

(2) “Law enforcement agency” means:

(a) Any city or municipal police department.

(b) A police department established by a university under section 1 of this 2011 Act.

(c) Any county sheriff's office.

(d) The Oregon State Police.

(e) A law enforcement division of a humane society in Oregon that employs special agents authorized under ORS 131.805 or humane special agents commissioned under section 1 of this 2012 Act.

(f) A law enforcement division of a county or municipal animal control agency that employs sworn officers.

(3) "Veterinarian" means a person licensed to practice veterinary medicine under ORS chapter 686.

OR. REV. STAT. §686.455 (2012). Veterinarian reports.

(1) A veterinarian who has reasonable cause to believe that an animal with which the veterinarian has come in contact has suffered aggravated animal abuse, or that any person with whom the veterinarian has come in contact has committed aggravated animal abuse, shall immediately report the suspected aggravated animal abuse in the manner prescribed in subsection (2) of this section.

(2) A report of suspected aggravated animal abuse required under subsection (1) of this section shall be made to a law enforcement agency, either orally or in writing, and shall include, if known:

(a) The name and description of each animal involved;

(b) The address and telephone number of the owner or other person responsible for the care of the animal;

(c) The nature and extent of the suspected aggravated animal abuse;

(d) Any evidence of previous aggravated animal abuse;

(e) Any explanation given for the suspected aggravated animal abuse; and

(f) Any other information that the person making the report believes may be helpful in establishing the cause of the suspected aggravated animal abuse or the identity of the person causing the aggravated animal abuse.

OR. REV. STAT. §686.465 (2012). Veterinarian liability.

A veterinarian who acts in good faith and has reasonable grounds for making a report of suspected aggravated animal abuse under ORS 686.455 is not liable in any civil or criminal proceeding brought as a result of making the report.

OR. REV. STAT. § 686.990 (2012). Penalties.

(1) Violation of ORS 686.020 (1)(a) is a Class A misdemeanor.

(2) In addition to any other sanction imposed by law, the Oregon State Veterinary Medical Examining Board may impose a civil penalty not to exceed \$5,000 for each violation of ORS 686.020 (1).

(3) *Failure to file a report of suspected aggravated animal abuse as required by ORS 686.455 is a Class A violation.*

11. LAW ENFORCEMENT POLICIES

OR. REV. STAT. § 131.805 (2012). Authority to employ special agents.

The Governor may employ, at such salaries as the Governor deems reasonable for the services rendered, special agents to effect the apprehension and conviction of criminals, the return of fugitives from justice, the investigation of cases in which the Governor believes the laws of the state are being violated, the supervision of persons paroled or conditionally pardoned from the Department of Corrections or the collection of evidence in any case, civil or criminal, in which the state is interested whenever in the judgment of the Governor it is necessary from the conditions existing in any case, whenever the Governor is convinced that criminals are likely to escape punishment and justice cannot be done by the regularly constituted authorities of any county of the state or of the state or whenever any emergency has arisen which in the judgment of the Governor would justify the Governor so doing.

OR. REV. STAT. § 133.377 (2012). Animal abuse; animal care.

(1) Any person violating ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

(4) Any peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by a peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided.

OR. REV. STAT. § 133.379 (2012).Duty to arrest and prosecute animal abusers; fines and forfeitures.

It shall be the duty of any peace officer to arrest and prosecute any violator of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 for any violation which comes to the knowledge or notice of the officer.

OR. REV. STAT. § 167.345 (2012).Search and seizure; impoundment; liability.

(1) As used in this section, 'peace officer' has the meaning given that term in ORS 161.015.

(2) If there is probable cause to believe that any animal is being subjected to treatment in violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the animal is located to provide the animal with food, water and emergency medical treatment and may impound the animal. If after reasonable effort the owner or person having custody of the animal cannot be found and notified of the impoundment, the notice shall be conspicuously posted on the premises and within 72 hours after the impoundment the notice shall be sent by certified mail to the address, if any, where the animal was impounded.

(3) A peace officer is not liable for any damages for an entry under subsection (2) of this section, unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.

(4)

(a) A court may order an animal impounded under subsection (2) of this section to be held at any animal care facility in the state. A facility receiving the animal shall provide adequate food and water and may provide veterinary care.

(b) A court may order a fighting bird impounded under subsection (2) of this section to be held on the property of the owner, possessor or keeper of the fighting bird in accordance with ORS 167.433.

OR. REV. STAT. § 686.460 (2012).Duty of law enforcement agency after receiving report of aggravated animal abuse.

(1) A law enforcement agency receiving a report of suspected aggravated animal abuse pursuant to ORS 609.654 or 686.455 shall investigate the nature and cause of the suspected aggravated animal abuse.

(2) If the law enforcement agency finds reasonable cause to believe that aggravated animal abuse has occurred, the law enforcement agency shall process the case in the same manner as any other criminal investigation.

12. SEXUAL ASSAULT

OR. REV. STAT. §167.333 (2012). Sexual assault of animal.

(1) *A person commits the crime of sexual assault of an animal if the person:*

(a) *Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or*

(b) *Causes an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person for the purpose of arousing or gratifying the sexual desire of a person.*

(2) *Subsection (1) of this section does not apply to the use of products derived from animals.*

(3) *Sexual assault of an animal is a Class A misdemeanor.*

OR. REV. STAT. §167.334 (2012). Evaluation of person convicted of violating ORS 167.333.

Upon the conviction of a defendant for violation of ORS 167.333, the court may order a psychiatric or psychological evaluation of the defendant for inclusion in the presentence report as described in ORS 137.077.

OR. REV. STAT. §181.594 (2012). Definitions.

As used in this section and ORS 181.595, 181.596, 181.597, 181.603, 181.609, 181.826, 181.830 and 181.833:

(1) "Another United States court" means a federal court, a military court, the tribal court of a federally recognized Indian tribe or a court of:

(a) A state other than Oregon;

(b) The District of Columbia;

(c) The Commonwealth of Puerto Rico;

(d) Guam;

(e) American Samoa;

- (f) The Commonwealth of the Northern Mariana Islands; or
 - (g) The United States Virgin Islands.
- (2) “Attends” means is enrolled on a full-time or part-time basis.
- (3)
- (a) “Correctional facility” means any place used for the confinement of persons:
 - (A) Charged with or convicted of a crime or otherwise confined under a court order.
 - (B) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime.
 - (b) “Correctional facility” applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.370.
- (4) “Institution of higher education” means a public or private educational institution that provides a program of post-secondary education.
- (5) “*Sex crime*” means:
- (a) Rape in any degree;
 - (b) Sodomy in any degree;
 - (c) Unlawful sexual penetration in any degree;
 - (d) Sexual abuse in any degree;
 - (e) Incest with a child victim;
 - (f) Using a child in a display of sexually explicit conduct;
 - (g) Encouraging child sexual abuse in any degree;
 - (h) Transporting child pornography into the state;
 - (i) Paying for viewing a child’s sexually explicit conduct;
 - (j) Compelling prostitution;

- (k) Promoting prostitution;
- (L) Kidnapping in the first degree if the victim was under 18 years of age;
- (m) Contributing to the sexual delinquency of a minor;
- (n) Sexual misconduct if the offender is at least 18 years of age;
- (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
- (q) Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;
- (r) *Sexual assault of an animal*;
- (s) Any attempt to commit any of the crimes set forth in paragraphs (a) to (r) of this subsection;
- (t) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (r) or (u) of this subsection; or
- (u) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection.

(6) “*Sex offender*” means a person who:

- (a) *Has been convicted of a sex crime*;
- (b) Has been found guilty except for insanity of a sex crime;
- (c) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state; or
- (d) Is described in ORS 181.609.

(7) “Works” or “carries on a vocation” means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit.

13. FIGHTING

OR. REV. STAT. §167.355 (2012). Involvement in animal fighting.

(1) A person commits the crime of involvement in animal fighting if the person:

(a) Owns or trains an animal with the intention that the animal engage in an exhibition of fighting;

(b) Promotes, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto;

(c) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or

(d) Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

(2) For purposes of this section:

(a) "Animal" means any bird, reptile, amphibian, fish or nonhuman mammal, other than a dog or a fighting bird as defined in ORS 167.426.

(b) "Exhibition of fighting" means a public or private display of combat between two or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. "Exhibition of fighting" does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

(3) Involvement in animal fighting is a Class C felony.

OR. REV. STAT. § 167.360 (2012). Definitions.

As used in ORS 167.360 to 167.375:

(1) "Breaking stick" means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object.

(2) "Cat mill" means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit or other small animal beyond the grasp of the dog.

(3) *“Dogfight” means a fight, arranged by any person, between two or more dogs the purpose or probable result of which fight is the infliction of injury by one dog upon another.*

(4) *“Dogfighting paraphernalia” means:*

(a) A breaking stick;

(b) A springpole;

(c) A cat mill;

(d) A treadmill;

(e) A fighting pit;

(f) A leather or mesh collar with a strap more than two inches in width;

(g) A weighted or unweighted chain collar weighing 10 pounds or more; or

(h) An unprescribed veterinary medicine that is a prescription drug as defined in ORS 689.005.

(5) *“Fighting dog” means a dog that is intentionally bred or trained to be used in, or that is actually used in, a dogfight. A dog does not constitute a fighting dog solely on account of its breed.*

(6) *“Fighting pit” means a walled area designed to contain a dogfight.*

(7) *“Springpole” means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground.*

(8) *“Treadmill” means:*

(a) A carpet mill made of narrow sections of carpet;

(b) A modified electric treadmill for the purpose of conditioning dogs; or

(c) A slat mill with a running surface constructed of slats made of wood, fiberglass, plastic or other similar material.

OR. REV. STAT. §167.365 (2012). Dogfighting.

(1) A person commits the crime of dogfighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells or offers to sell a fighting dog, including but not limited to any advertisement by the person to sell such a dog.

(b) Promotes, conducts or participates in, or performs any service in the furtherance of, an exhibition of dogfighting, including but not limited to refereeing of a dogfight, handling of dogs at a dogfight, transportation of spectators to a dogfight, organizing a dogfight, advertising a dogfight, providing or serving as a stakes holder for any money wagered on a fight.

(c) Keeps, uses or manages, or accepts payment of admission to, any place kept or used for the purpose of dogfighting.

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of dogfighting.

(2) Dogfighting is a Class C felony.

OR. REV. STAT. § 167.370 (2012). Participation in dogfighting.

(1) A person commits the crime of participation in dogfighting if the person knowingly:

(a) Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.

(b) Advertises or otherwise offers to sell equipment that the person knows or reasonably should know will be used for the purpose of training and handling a fighting dog.

(2) Participation in dogfighting is a Class C felony.

OR. REV. STAT. § 167.372 (2012). Possessing dogfighting paraphernalia.

(1) A person commits the crime of possessing dogfighting paraphernalia if the person owns or possesses dogfighting paraphernalia with the intent that the paraphernalia be used to train a dog as a fighting dog or be used in the furtherance of a dogfight.

(2) Possessing dogfighting paraphernalia is a Class C felony.

OR. REV. STAT. § 167.426 (2012). Definitions.

As used in ORS 167.426 to 167.439:

- (1) “Cockfight” means a fight between two or more birds that is arranged by a person and that has the purpose or probable result of one bird inflicting injury to another bird.*
- (2) “Constructive possession” means an exercise of dominion and control over the location and treatment of property without taking physical possession of the property.*
- (3) “Fighting bird” means a bird that is intentionally reared or trained for use in, or that actually is used in, a cockfight.*
- (4) “Gaff” means an artificial steel spur designed for attachment to the leg of a fighting bird in replacement of the bird’s natural spurs.*
- (5) “Slasher” means a steel weapon resembling a curved knife blade designed for attachment to the foot of a fighting bird.*

OR. REV. STAT. § 167.428 (2012). Crime of cockfighting.

(1) A person commits the crime of cockfighting if the person knowingly:

- (a) Owns, possesses, keeps, rears, trains, buys, sells or advertises or otherwise offers to sell a fighting bird.*
- (b) Promotes or participates in, or performs services in furtherance of, the conducting of a cockfight. As used in this paragraph, “services in furtherance” includes, but is not limited to, transporting spectators to a cockfight, handling fighting birds, organizing, advertising or refereeing a cockfight and providing, or acting as stakeholder for, money wagered on a cockfight.*
- (c) Keeps, uses or manages, or accepts payment of admission to, a place for the conducting of a cockfight.*
- (d) Suffers or permits a place in the possession or control of the person to be occupied, kept or used for the conducting of a cockfight.*
- (e) Manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell a gaff, slasher or other sharp implement designed for attachment to a fighting bird with the intent that the gaff, slasher or other sharp implement be used in cockfighting.*

(2) Subsection (1)(a) of this section does not apply to the owning, possessing, keeping, rearing, buying, selling, advertising or otherwise offering for sale of a bird for purposes other than training the bird as a fighting bird, using or intending to use the bird in cockfighting or supplying the bird knowing that the bird is intended to be used in cockfighting.

(3) Cockfighting is a Class C felony.

OR. REV. STAT. § 167.431 (2012).Crime of participation in cockfighting.

(1) A person commits the crime of participation in cockfighting if the person knowingly:

(a) Attends a cockfight or pays admission at any location to view or bet on a cockfight; or

(b) Manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell equipment with the intent that the equipment be used in training or handling a fighting bird or for enhancing the fighting ability of a fighting bird. This paragraph does not apply to a gaff, slasher or other sharp implement designed for attachment to a fighting bird.

(2) Participation in cockfighting is a Class C felony.

OR. REV. STAT. § 167.433 (2012).Seizure of an alleged fighting bird.

(1) Pursuant to ORS 133.525 to 133.703, a judge may order the seizure of an alleged fighting bird owned, possessed or kept by any person.

(2) A judge ordering the seizure of an alleged fighting bird under subsection (1) of this section may order that the bird be impounded on the property of the owner, possessor or keeper of the bird. If a judge orders an alleged fighting bird impounded on the property of the owner, possessor or keeper of the bird, the court shall order the owner, possessor or keeper to provide all necessary care for the bird and to allow regular and continuing inspection of the bird by a person designated by the court, or the agent of a person designated by the court. The owner, possessor or keeper shall pay the costs of conducting the inspections. The court shall further order the owner, possessor or keeper not to sell or otherwise dispose of the bird unless the court authorizes the sale or disposition, or until the seized bird is forfeited pursuant to an order under ORS 167.435 or restored to the person pursuant to an order under ORS 133.643.

OR. REV. STAT. § 167.435 (2012). Penalties.

(1) In addition to and not in lieu of any other penalty the court may impose upon a person convicted of cockfighting under ORS 167.428 or participation in cockfighting under ORS 167.431, the court shall include in the judgment an order for forfeiture to the city or county where the crime occurred of the person's rights in any property proved to have been used by the person as an instrumentality in the commission of the crime, including any fighting bird. This subsection does not limit the ability of the court to dispose of a fighting bird as provided under subsection (2) of this section.

(2) A fighting bird is a public nuisance, regardless of whether a person has been convicted of cockfighting or participation in cockfighting. If a bird is ordered forfeited under subsection (1) of this section or is proved by a preponderance of the evidence in a forfeiture proceeding to be a fighting bird, the court shall order that the bird be destroyed or be otherwise disposed of. Upon the conviction of the person charged, the court shall adjudge all of the seized property of the person to be forfeited and shall order that the property be destroyed or otherwise disposed of.

OR. REV. STAT. § 167.437 (2012). Constructive possession of bird by peace officer.

(1) A peace officer having jurisdiction may, upon probable cause to believe that a bird is a fighting bird, take constructive possession of the bird on behalf of the law enforcement agency employing the officer.

(2) A peace officer who takes constructive possession of an alleged fighting bird pursuant to this section must do the following:

(a) Place a tag or other device approved by the law enforcement agency on the cage or other enclosure where the fighting bird is located. The tag or other device must clearly state that it is unlawful to conceal, remove or release the bird for purposes of interfering with law enforcement agency control over the bird.

(b) Notify the owner, possessor or keeper of the bird that the bird has been seized by the law enforcement agency and may not be concealed, removed or released until authorized by a court or as provided in this section.

(c) Promptly apply to an appropriate court for an order described in ORS 167.433.

(3) If a law enforcement agency takes constructive possession of a fighting bird under this section, the owner, possessor or keeper of the bird shall provide all necessary care for the bird.

(4) Constructive possession of an alleged fighting bird pursuant to this section terminates when a court order described in ORS 167.433 is served on the owner, possessor or keeper of the bird, or after 24 hours, whichever occurs first.

OR. REV. STAT. § 167.439 (2012). Forcible recovery of fighting bird.

(1) A person commits the crime of forcible recovery of a fighting bird if the person knowingly dispossesses, or knowingly attempts to dispossess, a law enforcement agency of constructive possession of a fighting bird.

(2) Forcible recovery of a fighting bird is a Class C felony.

OR. REV. STAT. § 166.715 (2012). Definitions.

As used in ORS 166.715 to 166.735, unless the context requires otherwise:

* * * * *

(4) “Pattern of racketeering activity” means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.

(5) “Person” means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) “Racketeering activity” includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

* * * * *

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;

* * * * *

14. REFERENCED STATUTES

OR. REV. STAT. § 40.252 (2012). Rule 504-5. Communications revealing intent to commit certain crimes.

(1) In addition to any other limitations on privilege that may be imposed by law, there is no privilege under ORS 40.225, 40.230 or 40.250 for communications if:

(a) In the professional judgment of the person receiving the communications, the communications reveal that the declarant has a clear and serious intent at the time the communications are made to subsequently commit a crime involving physical injury, a threat to the physical safety of any person, sexual abuse or death or involving an act described in ORS 167.322;

(b) In the professional judgment of the person receiving the communications, the declarant poses a danger of committing the crime; and

(c) The person receiving the communications makes a report to another person based on the communications.

(2) The provisions of this section do not create a duty to report any communication to any person.

(3) A person who discloses a communication described in subsection (1) of this section, or fails to disclose a communication described in subsection (1) of this section, is not liable to any other person in a civil action for any damage or injury arising out of the disclosure or failure to disclose.

OR. REV. STAT. § 87.159 (2012). Lien for care of an animal.

A person who, or governmental agency that, transports, pastures, feeds, cares for or provides treatment to an animal that has been impounded under ORS 167.345 has a lien on the animal in the possession of the person or governmental agency for the reasonable charges for transportation, pasturage, feed, care or treatment provided by the person or governmental agency, and the person or governmental agency may retain possession of the animal until those charges are paid.

OR. REV. STAT. § 107.718 (2012). Court order when petitioner in imminent danger of abuse; contents of petition, order and related forms.

(1) When a person files a petition under ORS 107.710, the circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day. Upon a showing that the petitioner has been the victim of abuse committed by the respondent within 180 days preceding the filing of the petition, that there is an imminent danger of further abuse to the petitioner and that the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:

- (a) Except as provided in subsection (2) of this section, that temporary custody of the children of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent, subject to reasonable parenting time rights of the noncustodial parent, which the court shall order, unless such parenting time is not in the best interest of the child;
- (b) That the respondent be required to move from the petitioner's residence, if in the sole name of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the parties are married to each other;
- (c) That the respondent be restrained from entering, or attempting to enter, a reasonable area surrounding the petitioner's current or subsequent residence if the respondent is required to move from petitioner's residence;
- (d) That a peace officer accompany the party who is leaving or has left the parties' residence to remove essential personal effects of the party or the party's children, or both, including but not limited to clothing, toiletries, diapers, medications, Social Security cards, birth certificates, identification and tools of the trade;
- (e) That the respondent be restrained from intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;
- (f) That the respondent be restrained from intimidating, molesting, interfering with or menacing any children in the custody of the petitioner, or attempting to intimidate, molest, interfere with or menace any children in the custody of the petitioner;
- (g) That the respondent be restrained from entering, or attempting to enter, on any premises and a reasonable area surrounding the premises when it appears to the court that such restraint is necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the petitioner or children whose custody is awarded to the petitioner;

(h) Other relief that the court considers necessary to:

(A) Provide for the safety and welfare of the petitioner and the children in the custody of the petitioner, including but not limited to emergency monetary assistance from the respondent; and

(B) Prevent the neglect and protect the safety of any service or therapy animal or any animal kept for personal protection or companionship, but not an animal kept for any business, commercial, agricultural or economic purpose; or

(i) Except as described in subsection (12) of this section or parenting time ordered under this section, that the respondent have no contact with the petitioner in person, by telephone or by mail.

(2) If the court determines that exceptional circumstances exist that affect the custody of a child, the court shall order the parties to appear and provide additional evidence at a hearing to determine temporary custody and resolve other contested issues. Pending the hearing, the court may make any orders regarding the child's residence and the parties' contact with the child that the court finds appropriate to provide for the child's welfare and the safety of the parties. The court shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing at the same time the court issues the restraining order.

(3) The court's order under subsection (1) of this section is effective for a period of one year or until the order is withdrawn or amended, or until the order is superseded as provided in ORS 107.722, whichever is sooner.

(4) If respondent is restrained from entering, or attempting to enter, an area surrounding petitioner's residence or any other premises, the order restraining respondent shall specifically describe the area.

(5) Imminent danger under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with additional bodily harm.

(6) If the court awards parenting time to a parent who committed abuse, the court shall make adequate provision for the safety of the child and of the petitioner. The order of the court may include, but is not limited to, the following:

(a) That exchange of a child between parents shall occur at a protected location.

(b) That parenting time be supervised by another person or agency.

(c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or any other counseling program designated by the court as a condition of the parenting time.

(d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances during the parenting time and for 24 hours preceding the parenting time.

(e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting time, and any program designated by the court as a condition of parenting time.

(f) That no overnight parenting time occur.

(7) The State Court Administrator shall prescribe the content and form of the petition, order and related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

(8) If the court orders relief:

(a) The clerk of the court shall provide without charge the number of certified true copies of the petition and order necessary to provide the petitioner with one copy and to effect service and shall have a true copy of the petition and order delivered to the county sheriff for service upon the respondent, unless the court finds that further service is unnecessary because the respondent appeared in person before the court. In addition and upon request by the petitioner, the clerk shall provide the petitioner, without charge, two exemplified copies of the petition and order.

(b) The county sheriff shall serve the respondent personally unless the petitioner elects to have the respondent served personally by a private party or by a peace officer who is called to the scene of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of the order within a reasonable amount of time. Proof of service shall be made in accordance with ORS 107.720. When the order does not contain the respondent's date of birth and service is effected by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth with the respondent and shall record that date on the order or proof of service entered into the Law Enforcement Data System under ORS 107.720.

(c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the relief provided under ORS 107.700 to 107.735.

(9) If the county sheriff:

(a) Determines that the order and petition are incomplete, the sheriff shall return the order and petition to the clerk of the court. The clerk of the court shall notify the petitioner, at the address provided by the petitioner, of the error or omission.

(b) After accepting the order and petition, cannot complete service within 10 days, the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the sheriff shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(10)

(a) Within 30 days after a restraining order is served under this section, the respondent therein may request a court hearing upon any relief granted. The hearing request form shall be available from the clerk of the court in the form prescribed by the State Court Administrator.

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the court information sufficient to allow such notification.

(c) The hearing shall not be limited to the issues raised in the respondent's request for hearing form. If the respondent seeks to raise an issue at the hearing not previously raised in the request for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order, the other party shall be entitled to a reasonable continuance for the purpose of preparing a response to the issue.

(11) If the respondent fails to request a hearing within 30 days after a restraining order is served, the restraining order is confirmed by operation of law. The provisions of this section are sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received actual notice of the right to request a hearing and the opportunity to participate at the hearing but the respondent failed to exercise those rights.

(12) Service of process or other legal documents upon the petitioner is not a violation of this section if the petitioner is served as provided in ORCP 7 or 9.

OR. REV. STAT. § 131.805 (2012). Authority to employ special agents.

The Governor may employ, at such salaries as the Governor deems reasonable for the services rendered, special agents to effect the apprehension and conviction of criminals, the return of fugitives from justice, the investigation of cases in which the Governor believes the laws of the state are being violated, the supervision of persons paroled or conditionally pardoned from the Department of Corrections or the collection of evidence in any case, civil or criminal, in which the state is interested whenever in the judgment of the Governor it is necessary from the conditions existing in any case, whenever the Governor is convinced that criminals are likely to escape punishment and justice cannot be done by the regularly constituted authorities of any county of the state or of the state or whenever any emergency has arisen which in the judgment of the Governor would justify the Governor so doing.

OR. REV. STAT. § 133.377 (2012). Animal abuse; animal care.

(1) Any person violating ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

(4) Any peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by a peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided.

OR. REV. STAT. § 133.379 (2012). Duty to arrest and prosecute animal abusers; fines and forfeitures.

It shall be the duty of any peace officer to arrest and prosecute any violator of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 for any violation which comes to the knowledge or notice of the officer.

OR. REV. STAT. § 161.605 (2012). Maximum prison terms for felonies.

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

- (1) For a Class A felony, 20 years.
- (2) For a Class B felony, 10 years.
- (3) For a Class C felony, 5 years.
- (4) For an unclassified felony as provided in the statute defining the crime.

OR. REV. STAT. § 161.615 (2012). Prison terms for misdemeanors.

Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class A misdemeanor, 1 year.
- (2) For a Class B misdemeanor, 6 months.
- (3) For a Class C misdemeanor, 30 days.
- (4) For an unclassified misdemeanor, as provided in the statute defining the crime.

OR. REV. STAT. § 161.625 (2012). Felonies; fines

(1) A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding:

- (a) \$500,000 for murder or aggravated murder.
- (b) \$375,000 for a Class A felony.
- (c) \$250,000 for a Class B felony.
- (d) \$125,000 for a Class C felony.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)

(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section does not apply to a corporation.

OR. REV. STAT. §161.635 (2012). Misdemeanors; fines.

(1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) \$6,250 for a Class A misdemeanor.

(b) \$2,500 for a Class B misdemeanor.

(c) \$1,250 for a Class C misdemeanor.

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3) If a person has gained money or property through the commission of a misdemeanor, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(4) This section does not apply to corporations.

OR. REV. STAT. § 166.715 (2012). Definitions.

As used in ORS 166.715 to 166.735, unless the context requires otherwise:

* * * * *

(4) “Pattern of racketeering activity” means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.

(5) “Person” means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) “Racketeering activity” includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

* * * * *

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;

* * * * *

OR. REV. STAT. § 167.310 (2012). Definitions

As used in ORS 167.310 to 167.351:

(1) ‘Animal’ means any nonhuman mammal, bird, reptile, amphibian or fish.

(2) 'Domestic animal' means an animal, other than livestock or equines, that is owned or possessed by a person.

(3) 'Equine' means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.

(4) 'Good animal husbandry' includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

(5) 'Law enforcement animal' means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 181.610, who has successfully completed at least 360 hours of training in the care and use of a law enforcement animal, or who has passed the demonstration of minimum standards established by the Oregon Police Canine Association or other accredited and recognized animal handling organization.

(6) 'Livestock' has the meaning provided in ORS 609.125.

(7) 'Minimum care' means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

(a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Access to snow or ice is not adequate access to potable water.

(c) For a domestic animal other than a dog engaged in herding or protecting livestock, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and that has adequate bedding to protect against cold and dampness.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

- (e) For a domestic animal, continuous access to an area:
 - (A) With adequate space for exercise necessary for the health of the animal;
 - (B) With air temperature suitable for the animal; and
 - (C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.
- (f) For a livestock animal that cannot walk or stand without assistance:
 - (A) Humane euthanasia; or
 - (B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.

(8) 'Physical injury' means physical trauma, impairment of physical condition or substantial pain.

(9) 'Physical trauma' means fractures, cuts, punctures, bruises, burns or other wounds.

(10) 'Possess' has the meaning provided in ORS 161.015.

(11) 'Serious physical injury' means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.

OR. REV. STAT. § 167.315 (2012). Animal abuse in the second degree.

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the second degree is a Class B misdemeanor.

OR. REV. STAT. §167.320 (2012). Animal abuse in the first degree.

(1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly:

- (a) Causes serious physical injury to an animal; or
- (b) Cruelly causes the death of an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, animal abuse in the first degree is a Class C felony if:

(a) The person committing the animal abuse has previously been convicted of two or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322, or the equivalent laws of another jurisdiction; or

(b) The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.

OR. REV. STAT. §167.322 (2012). Aggravated animal abuse in the first degree.

(1) A person commits the crime of aggravated animal abuse in the first degree if the person:

- (a) Maliciously kills an animal; or
- (b) Intentionally or knowingly tortures an animal.

(2) Aggravated animal abuse in the first degree is a Class C felony.

(3) As used in this section:

(a) “Maliciously” means intentionally acting with a depravity of mind and reckless and wanton disregard of life.

(b) “Torture” means an action taken for the primary purpose of inflicting pain.

OR. REV. STAT. § 167.325 (2012). Animal neglect in the second degree.

(1) A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in such person’s custody or control.

(2) Animal neglect in the second degree is a Class B misdemeanor.

OR. REV. STAT. § 167.330 (2012). Animal neglect in the first degree.

(1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in the person’s custody or control and the failure to provide care results in serious physical injury or death to the animal.

(2) Animal neglect in the first degree is a Class A misdemeanor.

OR. REV. STAT. § 167.332 (2012). Possession of domestic animals by violator.

(1) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.325, 167.330, 167.333, 167.340 or 167.355 or of a misdemeanor under ORS 167.320, may not possess a domestic animal for a period of five years following entry of the conviction.

(2) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.365 or 167.428 or of a felony under ORS 167.320, may not possess a domestic animal for a period of 15 years following entry of the conviction.

(3) A person who possesses a domestic animal in violation of this section commits a Class C misdemeanor. When a person is convicted of possessing a domestic animal in violation of this section, the court may order the removal of domestic animals from the person’s residence.

OR. REV. STAT. §167.333 (2012). Sexual assault of animal.

(1) A person commits the crime of sexual assault of an animal if the person:

(a) Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or

(b) Causes an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person for the purpose of arousing or gratifying the sexual desire of a person.

(2) Subsection (1) of this section does not apply to the use of products derived from animals.

(3) Sexual assault of an animal is a Class A misdemeanor.

OR. REV. STAT. §167.334 (2012). Evaluation of person convicted of violating ORS 167.333.

Upon the conviction of a defendant for violation of ORS 167.333, the court may order a psychiatric or psychological evaluation of the defendant for inclusion in the presentence report as described in ORS 137.077.

OR. REV. STAT. §167.335 (2012). Exemption from ORS 167.315 to 167.333.

Unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not apply to:

(1) The treatment of livestock being transported by owner or common carrier;

(2) Animals involved in rodeos or similar exhibitions;

(3) Commercially grown poultry;

(4) Animals subject to good animal husbandry practices;

(5) The killing of livestock according to the provisions of ORS 603.065;

(6) Animals subject to good veterinary practices as described in ORS 686.030;

(7) Lawful fishing, hunting and trapping activities;

(8) Wildlife management practices under color of law;

(9) Lawful scientific or agricultural research or teaching that involves the use of animals;

(10) Reasonable activities undertaken in connection with the control of vermin or pests; and

(11) Reasonable handling and training techniques.

OR. REV. STAT. §167.340 (2012). Animal abandonment.

(1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal or an equine at a location without providing minimum care.

(2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(3) Animal abandonment is a Class B misdemeanor.

OR. REV. STAT. §167.345 (2012). Search and seizure; impoundment; liability.

(1) As used in this section, 'peace officer' has the meaning given that term in ORS 161.015.

(2) If there is probable cause to believe that any animal is being subjected to treatment in violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the animal is located to provide the animal with food, water and emergency medical treatment and may impound the animal. If after reasonable effort the owner or person having custody of the animal cannot be found and notified of the impoundment, the notice shall be conspicuously posted on the premises and within 72 hours after the impoundment the notice shall be sent by certified mail to the address, if any, where the animal was impounded.

(3) A peace officer is not liable for any damages for an entry under subsection (2) of this section, unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.

(4)

(a) A court may order an animal impounded under subsection (2) of this section to be held at any animal care facility in the state. A facility receiving the animal shall provide adequate food and water and may provide veterinary care.

(b) A court may order a fighting bird impounded under subsection (2) of this section to be held on the property of the owner, possessor or keeper of the fighting bird in accordance with ORS 167.433.

OR. REV. STAT. § 167.347 (2012). Forfeiture of impounded animal.

(1) If any animal is impounded pursuant to ORS 167.345 and is being held by a county animal shelter or other animal care agency pending outcome of criminal action charging a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to final disposition of the criminal charge, the county or other animal care agency or, on behalf of the county or other animal care agency, the district attorney, may file a petition in the criminal action requesting that the court issue an order forfeiting the animal to the county or other animal care agency prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and, unless the district attorney has filed the petition on behalf of the county or other animal care agency, the district attorney.

(2) Upon receipt of a petition pursuant to subsection (1) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.

(3)

(a) At a hearing conducted pursuant to subsection (2) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment to the date of trial.

(b) Notwithstanding paragraph (a) of this subsection, a court may waive for good cause shown the requirement that the defendant post a security deposit or bond.

(4) If a security deposit or bond has been posted in accordance with subsection (3) of this section, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the animal until the new date of trial.

(5) If a security deposit or bond has been posted in accordance with subsection (4) of this section, the petitioner may draw from that security deposit or bond the actual reasonable costs incurred by the petitioner in caring for the impounded animal from the date of initial impoundment to the date of final disposition of the animal in the criminal action.

(6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS 167.350 and 167.435.

OR. REV. STAT. § 167.348 (2012). Placement of forfeited animal; preference.

(1) If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, the agency to which the animal was forfeited may place the animal with a new owner. The agency shall give placement preference to any person or persons who had prior contact with the animal, including but not limited to family members and friends of the former owner whom the agency determines are capable of providing necessary, adequate and appropriate levels of care for the animal. As a condition of placement, the agency shall require the new owner to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the former owner to possess the animal constitutes a crime.

(2) Notwithstanding subsection (1) of this section, the agency may not place the animal with any person who resides with the former owner.

OR. REV. STAT. § 167.349 (2012). Encouraging animal abuse.

(1) A person commits the crime of encouraging animal abuse if the person:

(a) Obtains a previously abused, neglected or abandoned animal from an animal care agency under ORS 167.348 or the court under ORS 167.350; and

(b) Knowingly allows the person from whom the animal was forfeited to possess the animal.

(2) Encouraging animal abuse is a Class C misdemeanor.

OR. REV. STAT. § 167.350 (2012). Forfeiture of rights in mistreated animal; costs; penalty.

(1) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to the violation.

(2)

(a) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(b) This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime .

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay the reasonable costs incurred by any person or agency in providing minimum care to the animal.

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435.

OR. REV. STAT. §167.355 (2012). Involvement in animal fighting.

(1) A person commits the crime of involvement in animal fighting if the person:

(a) Owns or trains an animal with the intention that the animal engage in an exhibition of fighting;

(b) Promotes, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto;

(c) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or

(d) Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

(2) For purposes of this section:

(a) 'Animal' means any bird, reptile, amphibian, fish or nonhuman mammal, other than a dog or a fighting bird as defined in ORS 167.426.

(b) 'Exhibition of fighting' means a public or private display of combat between two or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. 'Exhibition of fighting' does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

(3) Involvement in animal fighting is a Class C felony.

OR. REV. STAT. §167.360(2012). Definitions.

As used in ORS 167.360 to 167.375:

(1) "Breaking stick" means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object.

(2) "Cat mill" means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit or other small animal beyond the grasp of the dog.

(3) "Dogfight" means a fight, arranged by any person, between two or more dogs the purpose or probable result of which fight is the infliction of injury by one dog upon another.

(4) "Dogfighting paraphernalia" means:

(a) A breaking stick;

(b) A springpole;

(c) A cat mill;

(d) A treadmill;

(e) A fighting pit;

(f) A leather or mesh collar with a strap more than two inches in width;

(g) A weighted or unweighted chain collar weighing 10 pounds or more; or

(h) An unapproved veterinary medicine that is a prescription drug as defined in ORS 689.005.

(5) "Fighting dog" means a dog that is intentionally bred or trained to be used in, or that is actually used in, a dogfight. A dog does not constitute a fighting dog solely on account of its breed.

(6) "Fighting pit" means a walled area designed to contain a dogfight.

(7) "Springpole" means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground.

(8) "Treadmill" means:

(a) A carpet mill made of narrow sections of carpet;

(b) A modified electric treadmill for the purpose of conditioning dogs; or

(c) A slat mill with a running surface constructed of slats made of wood, fiberglass, plastic or other similar material.

OR. REV. STAT. §167.365 (2012). Dogfighting.

(1) A person commits the crime of dogfighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells or offers to sell a fighting dog, including but not limited to any advertisement by the person to sell such a dog.

(b) Promotes, conducts or participates in, or performs any service in the furtherance of, an exhibition of dogfighting, including but not limited to refereeing of a dogfight, handling of dogs at a dogfight, transportation of spectators to a dogfight, organizing a dogfight, advertising a dogfight, providing or serving as a stakes holder for any money wagered on a fight.

(c) Keeps, uses or manages, or accepts payment of admission to, any place kept or used for the purpose of dogfighting.

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of dogfighting.

(2) Dogfighting is a Class C felony.

OR. REV. STAT. §167.370 (2012). Participation in dogfighting.

- (1) A person commits the crime of participation in dogfighting if the person knowingly:
 - (a) Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.
 - (b) Advertises or otherwise offers to sell equipment that the person knows or reasonably should know will be used for the purpose of training and handling a fighting dog.
- (2) Participation in dogfighting is a Class C felony.

OR. REV. STAT. § 167.372 (2012). Possessing dogfighting paraphernalia.

- (1) A person commits the crime of possessing dogfighting paraphernalia if the person owns or possesses dogfighting paraphernalia with the intent that the paraphernalia be used to train a dog as a fighting dog or be used in the furtherance of a dogfight.
- (2) Possessing dogfighting paraphernalia is a Class C felony.

OR. REV. STAT. § 167.426 (2012). Definitions.

As used in ORS 167.426 to 167.439:

- (1) “Cockfight” means a fight between two or more birds that is arranged by a person and that has the purpose or probable result of one bird inflicting injury to another bird.
- (2) “Constructive possession” means an exercise of dominion and control over the location and treatment of property without taking physical possession of the property.
- (3) “Fighting bird” means a bird that is intentionally reared or trained for use in, or that actually is used in, a cockfight.
- (4) “Gaff” means an artificial steel spur designed for attachment to the leg of a fighting bird in replacement of the bird’s natural spurs.
- (5) “Slasher” means a steel weapon resembling a curved knife blade designed for attachment to the foot of a fighting bird.

OR. REV. STAT. § 167.428 (2012).Crime of cockfighting.

(1) A person commits the crime of cockfighting if the person knowingly:

(a) Owns, possesses, keeps, rears, trains, buys, sells or advertises or otherwise offers to sell a fighting bird.

(b) Promotes or participates in, or performs services in furtherance of, the conducting of a cockfight. As used in this paragraph, “services in furtherance” includes, but is not limited to, transporting spectators to a cockfight, handling fighting birds, organizing, advertising or refereeing a cockfight and providing, or acting as stakeholder for, money wagered on a cockfight.

(c) Keeps, uses or manages, or accepts payment of admission to, a place for the conducting of a cockfight.

(d) Suffers or permits a place in the possession or control of the person to be occupied, kept or used for the conducting of a cockfight.

(e) Manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell a gaff, slasher or other sharp implement designed for attachment to a fighting bird with the intent that the gaff, slasher or other sharp implement be used in cockfighting.

(2) Subsection (1)(a) of this section does not apply to the owning, possessing, keeping, rearing, buying, selling, advertising or otherwise offering for sale of a bird for purposes other than training the bird as a fighting bird, using or intending to use the bird in cockfighting or supplying the bird knowing that the bird is intended to be used in cockfighting.

(3) Cockfighting is a Class C felony.

OR. REV. STAT. § 167.431 (2012).Crime of participation in cockfighting.

(1) A person commits the crime of participation in cockfighting if the person knowingly:

(a) Attends a cockfight or pays admission at any location to view or bet on a cockfight; or

(b) Manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell equipment with the intent that the equipment be used in training or handling a fighting bird or for enhancing the fighting ability of a fighting bird. This paragraph does not apply to a gaff, slasher or other sharp implement designed for attachment to a fighting bird.

(2) Participation in cockfighting is a Class C felony.

OR. REV. STAT. § 167.433 (2012). Seizure of an alleged fighting bird.

(1) Pursuant to ORS 133.525 to 133.703, a judge may order the seizure of an alleged fighting bird owned, possessed or kept by any person.

(2) A judge ordering the seizure of an alleged fighting bird under subsection (1) of this section may order that the bird be impounded on the property of the owner, possessor or keeper of the bird. If a judge orders an alleged fighting bird impounded on the property of the owner, possessor or keeper of the bird, the court shall order the owner, possessor or keeper to provide all necessary care for the bird and to allow regular and continuing inspection of the bird by a person designated by the court, or the agent of a person designated by the court. The owner, possessor or keeper shall pay the costs of conducting the inspections. The court shall further order the owner, possessor or keeper not to sell or otherwise dispose of the bird unless the court authorizes the sale or disposition, or until the seized bird is forfeited pursuant to an order under ORS 167.435 or restored to the person pursuant to an order under ORS 133.643.

OR. REV. STAT. § 167.435 (2012). Penalties.

(1) In addition to and not in lieu of any other penalty the court may impose upon a person convicted of cockfighting under ORS 167.428 or participation in cockfighting under ORS 167.431, the court shall include in the judgment an order for forfeiture to the city or county where the crime occurred of the person's rights in any property proved to have been used by the person as an instrumentality in the commission of the crime, including any fighting bird. This subsection does not limit the ability of the court to dispose of a fighting bird as provided under subsection (2) of this section.

(2) A fighting bird is a public nuisance, regardless of whether a person has been convicted of cockfighting or participation in cockfighting. If a bird is ordered forfeited under subsection (1) of this section or is proved by a preponderance of the evidence in a forfeiture proceeding to be a fighting bird, the court shall order that the bird be destroyed or be otherwise disposed of. Upon the conviction of the person charged, the court shall adjudge all of the seized property of the person to be forfeited and shall order that the property be destroyed or otherwise disposed of.

OR. REV. STAT. § 167.437 (2012). Constructive possession of bird by peace officer.

(1) A peace officer having jurisdiction may, upon probable cause to believe that a bird is a fighting bird, take constructive possession of the bird on behalf of the law enforcement agency employing the officer.

(2) A peace officer who takes constructive possession of an alleged fighting bird pursuant to this section must do the following:

(a) Place a tag or other device approved by the law enforcement agency on the cage or other enclosure where the fighting bird is located. The tag or other device must clearly state that it is unlawful to conceal, remove or release the bird for purposes of interfering with law enforcement agency control over the bird.

(b) Notify the owner, possessor or keeper of the bird that the bird has been seized by the law enforcement agency and may not be concealed, removed or released until authorized by a court or as provided in this section.

(c) Promptly apply to an appropriate court for an order described in ORS 167.433.

(3) If a law enforcement agency takes constructive possession of a fighting bird under this section, the owner, possessor or keeper of the bird shall provide all necessary care for the bird.

(4) Constructive possession of an alleged fighting bird pursuant to this section terminates when a court order described in ORS 167.433 is served on the owner, possessor or keeper of the bird, or after 24 hours, whichever occurs first.

OR. REV. STAT. § 167.439 (2012). Forcible recovery of fighting bird.

(1) A person commits the crime of forcible recovery of a fighting bird if the person knowingly dispossesses, or knowingly attempts to dispossess, a law enforcement agency of constructive possession of a fighting bird.

(2) Forcible recovery of a fighting bird is a Class C felony.

OR. REV. STAT. § 181.594 (2012). Definitions.

As used in this section and ORS 181.595, 181.596, 181.597, 181.603, 181.609, 181.826, 181.830 and 181.833:

(1) “Another United States court” means a federal court, a military court, the tribal court of a federally recognized Indian tribe or a court of:

(a) A state other than Oregon;

(b) The District of Columbia;

(c) The Commonwealth of Puerto Rico;

(d) Guam;

(e) American Samoa;

(f) The Commonwealth of the Northern Mariana Islands; or

(g) The United States Virgin Islands.

(2) “Attends” means is enrolled on a full-time or part-time basis.

(3)

(a) “Correctional facility” means any place used for the confinement of persons:

(A) Charged with or convicted of a crime or otherwise confined under a court order.

(B) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime.

(b) “Correctional facility” applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.370.

(4) “Institution of higher education” means a public or private educational institution that provides a program of post-secondary education.

(5) “*Sex crime*” means:

(a) Rape in any degree;

(b) Sodomy in any degree;

(c) Unlawful sexual penetration in any degree;

(d) Sexual abuse in any degree;

(e) Incest with a child victim;

(f) Using a child in a display of sexually explicit conduct;

(g) Encouraging child sexual abuse in any degree;

(h) Transporting child pornography into the state;

(i) Paying for viewing a child’s sexually explicit conduct;

- (j) Compelling prostitution;
- (k) Promoting prostitution;
- (L) Kidnapping in the first degree if the victim was under 18 years of age;
- (m) Contributing to the sexual delinquency of a minor;
- (n) Sexual misconduct if the offender is at least 18 years of age;
- (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
- (q) Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;
- (r) *Sexual assault of an animal*;
- (s) Any attempt to commit any of the crimes set forth in paragraphs (a) to (r) of this subsection;
- (t) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (r) or (u) of this subsection; or
- (u) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection.

(6) *“Sex offender” means a person who:*

- (a) *Has been convicted of a sex crime;*
- (b) Has been found guilty except for insanity of a sex crime;
- (c) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state; or
- (d) Is described in ORS 181.609.

(7) *“Works” or “carries on a vocation” means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit.*

OR. REV. STAT. § 609.654 (2012). Public or private official reporting of aggravated animal abuse; immunity.

(1) Notwithstanding ORS 40.225 to 40.295, a public or private official who has reasonable cause to believe that an animal with which the official has come in contact has suffered aggravated animal abuse, or that any person with whom the official has come in contact has committed aggravated animal abuse, may immediately report the suspected aggravated animal abuse in the manner prescribed in subsection (2) of this section.

(2) A report of suspected aggravated animal abuse authorized under subsection (1) of this section may be made to a law enforcement agency, either orally or in writing, and may include, if known:

- (a) The name and description of each animal involved;
- (b) The address and telephone number of the owner or other person responsible for the care of the animal;
- (c) The nature and extent of the suspected abuse;
- (d) Any evidence of previous aggravated animal abuse;
- (e) Any explanation given for the suspected abuse; and
- (f) Any other information that the person making the report believes may be helpful in establishing the cause of the suspected abuse or the identity of the person causing the abuse.

(3) A public or private official who acts in good faith and has reasonable grounds for making a report of suspected aggravated animal abuse under this section is not liable in any civil or criminal proceeding brought as a result of making the report.

OR. REV. STAT. §686.442 (2012). Link between animal abuse and human abuse, mandatory reporting of aggravated animal abuse.

The Legislative Assembly finds that there is a direct link between the problems of animal abuse and human abuse and further finds that for the purposes of identifying and prosecuting individuals who have committed crimes against animals, preventing further abuse of animals and preventing animal abuse from escalating to abuse against humans, it is necessary and in the public interest to require mandatory reporting of aggravated animal abuse by veterinarians.

OR. REV. STAT. §686.445 (2012). Reports of abandoned, neglected or abused animals or animals injured in trapping devices; immunity from liability.

(1) Except as provided in ORS 686.455, licensed veterinarians and veterinary technicians may report to peace officers, animal control officers or officers of private organizations devoted to humane treatment of animals any animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected or abused. Any veterinarian or veterinary technician making a report under this section is immune from any civil or criminal liability by reason of making the report.

(2) Veterinarians licensed and practicing in Oregon shall report to the Dean of the College of Veterinary Medicine, Oregon State University, in a form established by the dean, incidences of treating animals purported to have been injured by a trapping device.

OR. REV. STAT. § 686.450 (2012). Definitions.

As used in ORS 686.450 to 686.465 and 686.990 (3):

- (1)
- (a) “Aggravated animal abuse” means any animal abuse as described in ORS 167.322.
 - (b) “Aggravated animal abuse” does not include:
 - (A) Good animal husbandry, as defined in ORS 167.310; or
 - (B) Any exemption listed in ORS 167.335.
- (2) “Law enforcement agency” means:
- (a) Any city or municipal police department.
 - (b) A police department established by a university under section 1 of this 2011 Act.
 - (c) Any county sheriff’s office.

(d) The Oregon State Police.

(e) A law enforcement division of a humane society in Oregon that employs special agents authorized under ORS 131.805 or humane special agents commissioned under section 1 of this 2012 Act.

(f) A law enforcement division of a county or municipal animal control agency that employs sworn officers.

(3) “Veterinarian” means a person licensed to practice veterinary medicine under ORS chapter 686.

OR. REV. STAT. §686.455 (2012). Veterinarian reports.

(1) A veterinarian who has reasonable cause to believe that an animal with which the veterinarian has come in contact has suffered aggravated animal abuse, or that any person with whom the veterinarian has come in contact has committed aggravated animal abuse, shall immediately report the suspected aggravated animal abuse in the manner prescribed in subsection (2) of this section.

(2) A report of suspected aggravated animal abuse required under subsection (1) of this section shall be made to a law enforcement agency, either orally or in writing, and shall include, if known:

(a) The name and description of each animal involved;

(b) The address and telephone number of the owner or other person responsible for the care of the animal;

(c) The nature and extent of the suspected aggravated animal abuse;

(d) Any evidence of previous aggravated animal abuse;

(e) Any explanation given for the suspected aggravated animal abuse; and

(f) Any other information that the person making the report believes may be helpful in establishing the cause of the suspected aggravated animal abuse or the identity of the person causing the aggravated animal abuse.

OR. REV. STAT. §686.460 (2012). Duty of law enforcement agency after receiving report of aggravated animal abuse.

(1) A law enforcement agency receiving a report of suspected aggravated animal abuse pursuant to ORS 609.654 or 686.455 shall investigate the nature and cause of the suspected aggravated animal abuse.

(2) If the law enforcement agency finds reasonable cause to believe that aggravated animal abuse has occurred, the law enforcement agency shall process the case in the same manner as any other criminal investigation.

OR. REV. STAT. §686.465 (2012). Veterinarian liability.

A veterinarian who acts in good faith and has reasonable grounds for making a report of suspected aggravated animal abuse under ORS 686.455 is not liable in any civil or criminal proceeding brought as a result of making the report.

OR. REV. STAT. § 686.990 (2012). Penalties.

(1) Violation of ORS 686.020 (1)(a) is a Class A misdemeanor.

(2) In addition to any other sanction imposed by law, the Oregon State Veterinary Medical Examining Board may impose a civil penalty not to exceed \$5,000 for each violation of ORS 686.020 (1).

(3) Failure to file a report of suspected aggravated animal abuse as required by ORS 686.455 is a Class A violation.

ANIMAL PROTECTION LAWS OF PENNSYLVANIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Pennsylvania's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Pennsylvania may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

PENNSYLVANIA

1. GENERAL PROHIBITIONS*

(1)

Willful, malicious killing, maiming,
poisoning of a domestic animal of another
18 PA. CONS. STAT. ANN. § 5511(a)(1)

(2)

Willful, malicious killing, maiming,
poisoning of a dog or cat
18 PA. CONS. STAT. ANN. § 5511(a)(2.1)

(3)

Wanton or cruel mistreatment, abuse, neglect
or abandonment of an animal
18 PA. CONS. STAT. ANN. § 5511(c)

(4)

Transporting animals in a cruel manner
18 PA. CONS. STAT. ANN. § 5511(e)

(5)

Transporting equine animals in a cruel
manner
18 PA. CONS. STAT. ANN. § 5511(e.1)

Animals Covered in Definition

“Domestic animal” means any dog, cat,
equine animal, bovine animal, sheep, goat or
porcine animal. “Domestic fowl” means any
avis raised for food, hobby or sport.
18 PA. CONS. STAT. ANN. § 5511(q)

PENNSYLVANIA*continued*

Classification of Crimes

(1)
2nd degree misdemeanor

(2)
[1st offense]:
1st degree misdemeanor

[Subsequent offenses]:
3rd degree felony

(3)
[1st offense]:
Summary offense

[Subsequent offenses when victim is a dog or
cat, and was “seriously injured, suffered
severe physical distress or was placed at
imminent risk of serious physical harm”]:
3rd degree misdemeanor

(4)
Summary offense

(5)
[1st offense]:
Summary offense

[Subsequent offenses]:
3rd degree misdemeanor

PENNSYLVANIA*continued*

2. MAXIMUM PENALTIES**

(1)
\$500 fine
18 PA. CONS. STAT. ANN. § 5511(a)(1)

(2)
[1st offense]:
2 years imprisonment
and/or
\$1,000 fine
18 PA. CONS. STAT. ANN. § 5511(2.1)(ii)

[Subsequent offenses]:
7 years imprisonment
18 PA. CONS. STAT. ANN. § 1103
and/or
\$15,000 fine
18 PA. CONS. STAT. ANN. § 1101

(3)
[1st offense]:
90 days imprisonment
and/or
\$750 fine
18 PA. CONS. STAT. ANN. § 5511(m.1)

[Subsequent offenses when victim is a dog or
cat, and was “seriously injured, suffered
severe physical distress or was placed at
imminent risk of serious physical harm”]:
1 year imprisonment
and
\$2,500 fine
18 PA. CONS. STAT. ANN. §§ 1101, 1104

PENNSYLVANIA*continued*

<p>2. MAXIMUM PENALTIES<i>continued</i>**</p>	<p>(4) 90 days imprisonment <i>and/or</i> \$750 fine 18 PA. CONS. STAT. ANN. § 5511(m.1)</p> <p>-----</p> <p>(5) [1st offense]: 90 days imprisonment <i>and/or</i> \$750 fine 18 PA. CONS. STAT. ANN. § 5511(m.1)</p> <p>[Subsequent offenses]: 1 year imprisonment <i>and</i> \$2,500 fine 18 PA. CONS. STAT. ANN. §§ 1101, 1104</p>
<p>3. EXEMPTIONS***</p>	<p>1 18 PA. CONS. STAT. ANN. § 5511(h)</p> <p>2 18 PA. CONS. STAT. ANN. § 5511(l)</p> <p>3, 6, 9 18 PA. CONS. STAT. ANN. § 5511(a)(3)</p> <p>3 18 PA. CONS. STAT. ANN. § 5511(p)</p> <p>4 18 PA. CONS. STAT. ANN. §§ 5511(c), (h.1)</p> <p>9 18 PA. CONS. STAT. ANN. §§ 5511(a)(2.1)(ii), (a)(2.1)(iii), (b), (d), (e), (f)</p>

PENNSYLVANIA*continued*

4. COUNSELING / EVALUATIONS^H	Court may order a presentence mental evaluation for willful, malicious killing, maiming, poisoning of a dog or cat. 18 PA. CONS. STAT. ANN. § 5511(a)(2.1)(ii)
5. PROTECTIVE ORDERS^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	A lien exists for necessary expenses incurred for the care of animals impounded pursuant to the offense of transporting animals in a cruel manner; expenses may also be recovered from owner in a civil action. 18 PA. CONS. STAT. ANN. § 5511(e) Costs of care of seized animals constitutes a lien upon the animals; court may require owner to pay the costs of care as part of sentence. 18 PA. CONS. STAT. ANN. § 5511(l)
7. SEIZURE / ON-SITE SUPERVISION	Animals being cruelly transported may be seized. 18 PA. CONS. STAT. ANN. § 5511(e) Police officers and humane agents may be issued search warrants and are authorized to seize animals. 18 PA. CONS. STAT. ANN. § 5511(l) The district attorney must approve search warrants for alleged cruelty to animals violations. 22 PA. CONS. STAT. ANN. § 3710

PENNSYLVANIA*continued*

<p>8. FORFEITURE / POSSESSION^H</p>	<p>The court may order the forfeiture of any abused, neglected, or deprived animal upon conviction. 18 PA. CONS. STAT. ANN. § 5511(m)</p> <p>Upon conviction, court may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed. 18 PA. CONS. STAT. ANN. § 5511(m.2)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>-----</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Humane agents have power and authority to initiate criminal proceedings, and to request enjoinder of any violation. 18 PA. CONS. STAT. ANN. § 5511(i) 22 PA. CONS. STAT. ANN. § 3708</p> <p>Limitation on possession of firearms by humane agents. 22 PA. CONS. STAT. ANN. § 3711</p>
<p>12. SEXUAL ASSAULT</p>	<p>A person who engages in any form of sexual intercourse with an animal commits a misdemeanor of the 2nd degree. 18 PA. CONS. STAT. ANN. § 3129</p>

PENNSYLVANIA*continued*

<p>13. FIGHTING</p>	<p>Various animal fighting activities (including spectatorship) are felonies of the 3rd degree. 18 PA. CONS. STAT. ANN.§ 5511(h.1)</p> <p>Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. Upon conviction, such animals are forfeited and the owner shall pay the costs of their care. 18 PA. CONS. STAT. ANN.§ 5511(j)</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>Killing, maiming, or poisoning a zoo animal in captivity is a 3rd degree felony. 18 PA. CONS. STAT. ANN.§ 5511(a)(2)</p>
<p>NOTES</p>	<p>It is lawful for a person to practice veterinary medicine on animals they own. 63 PA. CONS. STAT. ANN.§ 485.32(4)</p> <p>Prohibitions on certain procedures unless undertaken by a veterinarian. 18 PA. CONS. STAT. ANN. § 5511(h)</p> <p>No dog in a licensed kennel may be euthanized unless it is determined by a veterinarian that the euthanasia will prevent the dog from suffering caused by a medical condition; any such euthanasia must be by a veterinarian. 3 PA. CONS. STAT. ANN. § 459-207</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

- (1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;
- (2) receives compensation for the admission of another person to any place kept or used for animal fighting;
- (3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;
- (4) in any way knowingly encourages, aids or assists therein;
- (5) wagers on the outcome of an animal fight;
- (6) pays for admission to an animal fight or attends an animal fight as a spectator; or
- (7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) *Definitions.*—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.” Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.” The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.” A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

2. PENALTIES

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant’s ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney’s fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

18 PA. CONS. STAT. ANN. § 1101 (2012). Fines.

A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

- (1) \$50,000, when the conviction is of murder or attempted murder.
- (2) \$25,000, when the conviction is of a felony of the first or second degree.
- (3) \$15,000, when the conviction is of a felony of the third degree.
- (4) \$10,000, when the conviction is of a misdemeanor of the first degree.
- (5) \$5,000, when the conviction is of a misdemeanor of the second degree.
- (6) \$2,500, when the conviction is of a misdemeanor of the third degree.

(7) \$300, when the conviction is of a summary offense for which no higher fine is established.

(8) Any higher amount equal to double the pecuniary gain derived from the offense by the offender.

(9) Any higher or lower amount specifically authorized by statute.

18 PA. CONS. STAT. ANN. § 1103 (2012). Sentence of imprisonment for felony.

Except as provided in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent offenses), a person who has been convicted of a felony may be sentenced to imprisonment as follows:

(1) In the case of a felony of the first degree, for a term which shall be fixed by the court at not more than 20 years.

(2) In the case of a felony of the second degree, for a term which shall be fixed by the court at not more than ten years.

(3) *In the case of a felony of the third degree, for a term which shall be fixed by the court at not more than seven years.*

18 PA. CONS. STAT. ANN. § 1104 (2012). Sentence of imprisonment for misdemeanors.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment for a definite term which shall be fixed by the court and shall be not more than:

(1) *Five years in the case of a misdemeanor of the first degree.*

(2) *Two years in the case of a misdemeanor of the second degree.*

(3) *One year in the case of a misdemeanor of the third degree.*

3. EXEMPTIONS

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. *This paragraph shall apply to dogs and cats only.*

(iii) *The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.*

(3) *This subsection shall not apply to:*

(i) *the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;*

(ii) *the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or*

(iii) *such reasonable activity as may be undertaken in connection with vermin control or pest control.*

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. *This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.*

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, *except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.*

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. *No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.*

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

4. COUNSELING / EVALUATIONS

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. *The court may also order a presentence mental evaluation.* A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant’s ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney’s fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, *and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.*

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go unmilked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. *The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal.* No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant’s ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney’s fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

7. SEIZURE / ON-SITE SUPERVISION

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. *The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.*

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

22 PA. CONS. STAT. ANN. § 3710 (2012). Search warrants.

Notwithstanding contrary provisions of 18 Pa.C.S. § 5511(1) (relating to cruelty to animals) and in addition to the requirements of existing law, all search warrant applications filed in connection with alleged violations of cruelty to animals laws must have the approval of the district attorney in the county of the alleged offense prior to filing.

8. FORFEITURE / POSSESSION

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant’s ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney’s fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go unmilked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

22 PA. CONS. STAT. ANN. § 3702 (2012). Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agricultural animal.” Any bovine animal, equine animal, sheep, goat, pig, poultry, bird, fowl, wild or semiwild animal or fish or other aquatic animal that is being raised, kept, transported or utilized for the purpose of or pursuant to agricultural production.

“Agricultural production.” The production and preparation for market of agricultural animals and their products and of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities.

“Board.” The Humane Society Police Officer Advisory Board.

“Complainant.” Any person who has evidence that an individual appointed as a humane society police officer has performed in a manner that is contrary to the standards, requirements and qualifications prescribed in this chapter for appointment of individuals as humane society police officers. The term also includes a district attorney or a municipal solicitor.

“Convicted.” A finding or verdict of guilt, an admission of guilt or a plea of nolocontendere or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges.

“Cruelty to animals laws.”The provisions of 18 Pa.C.S.§ 5511 (relating to cruelty to animals).

“Department.”The Department of Agriculture of the Commonwealth.

“Humane society police officer.”Any person who holds a current appointment under this chapter to act as a humane society police officer for a society or association for the prevention of cruelty to animals. The term shall include an individual who is an agent of a society or association for the prevention of cruelty to animals as “agent” is used in 18 Pa.C.S. § 5511 (relating to cruelty to animals), provided that individual holds a current appointment under this chapter.

“Secretary.”The Secretary of Agriculture of the Commonwealth.

“Serious misdemeanor.”A criminal offense for which more than one year in prison can be imposed as a punishment.

“Society or association.” A nonprofit society or association duly incorporated pursuant to 15 Pa.C.S. Ch. 53 Subch.A (relating to incorporation generally) for the purpose of the prevention of cruelty to animals.

22 PA. CONS. STAT. ANN. § 3708 (2012).Powers and authority; jurisdiction.

(a) Authority limited to county of appointment.—An individual appointed as a humane society police officer in accordance with this chapter shall have power and authority to exercise the powers conferred under 18 Pa.C.S. § 5511 (relating to cruelty to animals) in enforcement of animal cruelty laws only within the particular county whose court of common pleas issued the appointment. The individual has no power or authority to exercise the powers conferred under 18 Pa.C.S. § 5511 in any other county whose court of common pleas has not issued an appointment.

(b) Notice to district attorney.—Prior to exercising the power and authority set forth by this chapter within a county, each appointed humane society police officer shall file notice, along with a copy of the appointment granted under this chapter, with the district attorney of the county.

(c) Shield.—Every individual appointed as a humane society police officer under this chapter shall possess a metallic shield with the words “humane society police officer” and the name of the society or association for which the individual is appointed displayed thereon.

(d) Photo identification.—Every individual appointed as a humane society police officer under this chapter shall have a photo identification card issued by the department that contains the following:

- (1) A photo of the individual taken within the previous 24 months.*
- (2) The name of the individual.*
- (3) The signature of the individual.*
- (4) The name of the society or association for which the individual is appointed as a humane society police officer.*
- (5) The address and telephone number of the society or association for which the individual is appointed as a humane society police officer.*
- (6) The date of issuance of the photo identification card.*

22 PA. CONS. STAT. ANN. § 3711 (2012).Limitation on possession of firearms.

No individual appointed as a humane society police officer shall carry, possess or use a firearm in the performance of that individual’s duties unless that individual holds a current and valid certification in the use and handling of firearms pursuant to at least one of the following:

- (1) 53 Pa.C.S. Ch. 21 Subch.D (relating to municipal police education and training).*
- (2) The act of October 10, 1974 (P.L. 705, No. 235), known as the Lethal Weapons Training Act.*
- (3) The act of February 9, 1984 (P.L. 3, No. 2), known as the Deputy Sheriffs’ Education and Training Act.*
- (4) Any other firearms program that has been determined by the Commissioner of the Pennsylvania State Police to be of sufficient scope and duration as to provide the participant with basic training in the use and handling of firearms.*

12. SEXUAL ASSAULT

18 PA. CONS. STAT. ANN. §3129 (2012). Sexual intercourse with animal.

A person who engages in any form of sexual intercourse with an animal commits a misdemeanor of the second degree.

13. FIGHTING

18 PA. CONS. STAT. ANN. § 5511 (2012).Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) *Definitions.*—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.” Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.” The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.” A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.” Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

14. REFERENCED STATUTES

18 PA. CONS. STAT. ANN. § 1101 (2012). Fines.

A person who has been convicted of an offense may be sentenced to pay a fine not exceeding:

- (1) \$50,000, when the conviction is of murder or attempted murder.
- (2) \$25,000, when the conviction is of a felony of the first or second degree.
- (3) \$15,000, when the conviction is of a felony of the third degree.
- (4) \$10,000, when the conviction is of a misdemeanor of the first degree.
- (5) \$5,000, when the conviction is of a misdemeanor of the second degree.
- (6) \$2,500, when the conviction is of a misdemeanor of the third degree.
- (7) \$300, when the conviction is of a summary offense for which no higher fine is established.
- (8) Any higher amount equal to double the pecuniary gain derived from the offense by the offender.
- (9) Any higher or lower amount specifically authorized by statute.

18 PA. CONS. STAT. ANN. § 1103 (2012). Sentence of imprisonment for felony.

Except as provided in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent offenses), a person who has been convicted of a felony may be sentenced to imprisonment as follows:

- (1) In the case of a felony of the first degree, for a term which shall be fixed by the court at not more than 20 years.
- (2) In the case of a felony of the second degree, for a term which shall be fixed by the court at not more than ten years.
- (3) In the case of a felony of the third degree, for a term which shall be fixed by the court at not more than seven years.

18 PA. CONS. STAT. ANN. § 1104 (2012). Sentence of imprisonment for misdemeanors.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment for a definite term which shall be fixed by the court and shall be not more than:

- (1) Five years in the case of a misdemeanor of the first degree.
- (2) Two years in the case of a misdemeanor of the second degree.
- (3) One year in the case of a misdemeanor of the third degree.

18 PA. CONS. STAT. ANN. § 3129 (2012). Sexual intercourse with animal.

A person who engages in any form of sexual intercourse with an animal commits a misdemeanor of the second degree.

18 PA. CONS. STAT. ANN. § 5511 (2012). Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1)

(i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L. 303, No. 83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L. 1225, No. 316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(2)

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal

and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) Transporting equine animals in cruel manner.—Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Specific violations; prima facie evidence of violation.—

(1)

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2)

(i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(3)

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(4)

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(5)

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) Animal fighting.—A person commits a felony of the third degree if he:

(1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;

(2) receives compensation for the admission of another person to any place kept or used for animal fighting;

(3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;

(4) in any way knowingly encourages, aids or assists therein;

(5) wagers on the outcome of an animal fight;

(6) pays for admission to an animal fight or attends an animal fight as a spectator; or

(7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) Power to initiate criminal proceedings.—An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) Seizure of animals kept or used for animal fighting.—Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the

animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) Fine for summary offense.—In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$50 nor more than \$750 or to imprisonment for not more than 90 days, or both.

(m.2) Prohibition of ownership.—Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(o.1) Construction of section.—The provisions of this section shall not supersede the act of December 7, 1982 (P.L. 784, No. 225), known as the Dog Law.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No. 316), known as The Game Law or Title 34 (relating to game).

(q) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Animal fighting.”Fighting or baiting any bull, bear, dog, cock or other creature.

“Audibly impaired.”The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

“Blind.” Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

“Conveyance.”A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

“Deaf.” Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

“Domestic animal.”Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

“Domestic fowl.” Any avian raised for food, hobby or sport.

“Equine animal.” Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

“Normal agricultural operation.” Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

“Physically limited.” Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

“Zoo animal.” Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

22 PA. CONS. STAT. ANN. § 3702 (2012). Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agricultural animal.” Any bovine animal, equine animal, sheep, goat, pig, poultry, bird, fowl, wild or semiwild animal or fish or other aquatic animal that is being raised, kept, transported or utilized for the purpose of or pursuant to agricultural production.

“Agricultural production.”The production and preparation for market of agricultural animals and their products and of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities.

“Board.” The Humane Society Police Officer Advisory Board.

“Complainant.” Any person who has evidence that an individual appointed as a humane society police officer has performed in a manner that is contrary to the standards, requirements and qualifications prescribed in this chapter for appointment of individuals as humane society police officers. The term also includes a district attorney or a municipal solicitor.

“Convicted.” A finding or verdict of guilt, an admission of guilt or a plea of nolocontendere or receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges.

“Cruelty to animals laws.”The provisions of 18 Pa.C.S. § 5511 (relating to cruelty to animals).

“Department.”The Department of Agriculture of the Commonwealth.

“Humane society police officer.”Any person who holds a current appointment under this chapter to act as a humane society police officer for a society or association for the prevention of cruelty to animals. The term shall include an individual who is an agent of a society or association for the prevention of cruelty to animals as “agent” is used in 18 Pa.C.S. § 5511 (relating to cruelty to animals), provided that individual holds a current appointment under this chapter.

“Secretary.”The Secretary of Agriculture of the Commonwealth.

“Serious misdemeanor.”A criminal offense for which more than one year in prison can be imposed as a punishment.

“Society or association.” A nonprofit society or association duly incorporated pursuant to 15 Pa.C.S. Ch. 53 Subch.A (relating to incorporation generally) for the purpose of the prevention of cruelty to animals.

22 PA. CONS. STAT. ANN. § 3708 (2012). Powers and authority; jurisdiction.

(a) Authority limited to county of appointment.—An individual appointed as a humane society police officer in accordance with this chapter shall have power and authority to exercise the powers conferred under 18 Pa.C.S. § 5511 (relating to cruelty to animals) in enforcement of animal cruelty laws only within the particular county whose court of common pleas issued the appointment. The individual has no power or authority to exercise the powers conferred under 18 Pa.C.S. § 5511 in any other county whose court of common pleas has not issued an appointment.

(b) Notice to district attorney.—Prior to exercising the power and authority set forth by this chapter within a county, each appointed humane society police officer shall file notice, along with a copy of the appointment granted under this chapter, with the district attorney of the county.

(c) Shield.—Every individual appointed as a humane society police officer under this chapter shall possess a metallic shield with the words “humane society police officer” and the name of the society or association for which the individual is appointed displayed thereon.

(d) Photo identification.—Every individual appointed as a humane society police officer under this chapter shall have a photo identification card issued by the department that contains the following:

- (1) A photo of the individual taken within the previous 24 months.
- (2) The name of the individual.
- (3) The signature of the individual.
- (4) The name of the society or association for which the individual is appointed as a humane society police officer.
- (5) The address and telephone number of the society or association for which the individual is appointed as a humane society police officer.
- (6) The date of issuance of the photo identification card.

22 PA. CONS. STAT. ANN. § 3710 (2012). Search warrants.

Notwithstanding contrary provisions of 18 Pa.C.S. § 5511(1) (relating to cruelty to animals) and in addition to the requirements of existing law, all search warrant applications filed in connection with alleged violations of cruelty to animals laws must have the approval of the district attorney in the county of the alleged offense prior to filing.

22 PA. CONS. STAT. ANN. § 3711 (2012).Limitation on possession of firearms.

No individual appointed as a humane society police officer shall carry, possess or use a firearm in the performance of that individual's duties unless that individual holds a current and valid certification in the use and handling of firearms pursuant to at least one of the following:

- (1) 53 Pa.C.S. Ch. 21 Subch.D (relating to municipal police education and training).
- (2) The act of October 10, 1974 (P.L. 705, No. 235), known as the Lethal Weapons Training Act.
- (3) The act of February 9, 1984 (P.L. 3, No. 2), known as the Deputy Sheriffs' Education and Training Act.
- (4) Any other firearms program that has been determined by the Commissioner of the Pennsylvania State Police to be of sufficient scope and duration as to provide the participant with basic training in the use and handling of firearms.

ANIMAL PROTECTION LAWS OF PRINCE EDWARD ISLAND

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains Prince Edward Island's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Prince Edward Island may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in Prince Edward Island. Because the law is continually evolving, always review an official source for the most current language of any statute.

PRINCE EDWARD ISLAND

1. GENERAL PROHIBITIONS*

(1)

Companion animal in distress
R.S.P.E.I. c. C-14.1, s.1(2)

(2)

Causing unnecessary pain, suffering or injury
in a companion animal
R.S.P.E.I. c. C-14.1, s.3(1)

(3)

Causing or permitting distress in a companion
animal
R.S.P.E.I. c. C-14.1, s. 3(2)

(4)

Animal in distress
R.S.P.E.I. c. A-11.1, s. 8(1)

(5)

Causing unnecessary pain, suffering or injury
R.S.P.E.I. c. A-11.1, s. 8.1(1)

(6)

Causing or permitting distress
R.S.P.E.I. c. A-11.1, s. 8.1(2)

(7)

Hazardous confinement of a companion
animal
P.E.I. Reg. EC249/02, s. 8

PRINCE EDWARD ISLAND*continued*

<p><i>Animals Covered in Definition</i></p>	<p>Under the “Companion Animal Protection Act”:</p> <p>“‘Animal’ means any non-human vertebrate”</p> <p>“‘Companion animal’ means an animal that is not an excluded animal” R.S.P.E.I. c. C-14.1, s.1(1)</p> <p>“‘Fish’ are excluded animals under Companion Animal Protection Act P.E.I. Reg. EC249/02, s. 9</p> <p>Under the “Animal Health and Protection Act”:</p> <p>“‘Animal’ means (i) any livestock, (ii) any other animal, including any wild animal, of a prescribed type or class, and includes, where the regulations so provide, the embryos, eggs and sperm of any animal referred to in subclause (i) and (ii)” S.P.E.I. ch. 11,s.1</p>
<p><i>Classification of Crimes</i></p>	<p>Summary conviction offence</p>
<p>2. MAXIMUM PENALTIES^{**}</p>	<p>(1)(2)(3)(7) \$5000 fine R.S.P.E.I. c. C-14.1, s.15</p> <p>(4)(5)(6) \$2000 fine R.S.P.E.I. c. A-11.1, s.19(1)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>2, 9 R.S.P.E.I. c. C-14.1, ss.1(3), 1(4), 3(3)</p> <p>4, 5, 9 R.S.P.E.I. c. A-11.1, ss. 8(2), 8.1(3)</p> <p>9 P.E.I. Reg. EC249/02, s. 9</p>

PRINCE EDWARD ISLAND <i>continued</i>	
4. COUNSELING / EVALUATIONS^H	-----
5. PROTECTIVE ORDERS^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>An owner or former owner of a companion animal is liable for the costs of care and maintenance, costs to relieve distress or the costs of euthanasia R.S.P.E.I. c. C-14.1, s.13(1)</p> <p>An owner of an animal is liable to pay the costs food, water, care, treatment to relieve the animal's distress or cost of destruction R.S.P.E.I. c. A-11.1, s.15(1.1)</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>Where an inspector or officer believes on reasonable and probable grounds that a companion animal is in distress, he or she may enter, without warrant, any premises, building or place other than a dwelling place R.S.P.E.I. c. C-14.1, s.6(1)</p> <p>A warrant is needed to enter a dwelling place without the owner's or person in charge's consent R.S.P.E.I. c. C-14.1, s.6(2) R.S.P.E.I. c. A-11.1, s.11(2)</p> <p>Warrant procedures R.S.P.E.I. c. C-14.1, ss.6(3)-6(8) R.S.P.E.I. c. A-11.1, ss.11(3)-11(5)</p> <p>Without a warrant or consent, an inspector or officer may inspect companion animal establishment during regular business hours R.S.P.E.I. c. C-14.1, s.6.1</p>

PRINCE EDWARD ISLAND <i>continued</i>	
<p>7. SEIZURE / ON-SITE SUPERVISION continued</p>	<p>Where an inspector or officer has reasonable and probable grounds to believe that an animal is in distress and the owner or custodian of the animal is present or may be found promptly, the inspector or agent may order the owner or custodian to undertake certain actions to relieve the distress; and may enter premises to ensure compliance with the order R.S.P.E.I. c. C-14.1, s.7 R.S.P.E.I. c. A-11.1, s.12</p> <p>Procedures for appeal of a compliance order or seizure R.S.P.E.I. c. C-14.1, s.8 R.S.P.E.I. c. A-11.1, s.13</p> <p>An inspector may take possession of an animal in distress under certain circumstances and provide care R.S.P.E.I. c. C-14.1, s.9 R.S.P.E.I. c. A-11.1, s.14</p> <p>An inspector, believing on reasonable grounds that an animal is in distress, may enter any premises or vehicle without a warrant to determine whether an animal is in distress R.S.P.E.I. c. A-11.1, s.11(1)</p> <p>Where an inspector has entered any building or place and finds an animal in distress, he or she may supply the animal with food, care or treatment R.S.P.E.I. c. A-11.1, s.11(6)</p>

PRINCE EDWARD ISLAND <i>continued</i>	
8. FORFEITURE / POSSESSION^H	<p>An owner, under certain circumstances, may recover an impounded animal by paying the expenses due R.S.P.E.I. c. C-14.1, s.9.1(1)</p> <p>An impounded animal is forfeited to the Society for adoption or euthanasia if the owner fails to pay the expenses due, or fails to appeal an order R.S.P.E.I. c. C-14.1, s.9.1</p> <p>Appeals process for an aggrieved owner R.S.P.E.I. c. C-14.1, ss.9.2, 9.3</p> <p>Upon conviction, a court may prohibit an offender from owning or having possession, care and control of a companion animal for any period of time; upon a subsequent conviction this period may be for the life of the offender R.S.P.E.I. c. C-14.1, s.16(1)</p> <p>An inspector may destroy animals that are incapable of being cured or healed as to live thereafter without suffering under certain conditions R.S.P.E.I. c. A-11.1, s.14(2)</p> <p>Where the owner refuses to pay an account for which he is liable within ten days after service of the statement of account or where the owner after reasonable inquiry, cannot be found, the inspector may sell the animal R.S.P.E.I. c. A-11.1, s.15(2)</p>
9. CROSS ENFORCEMENT / REPORTING	-----

PRINCE EDWARD ISLAND <i>continued</i>	
10. VETERINARIAN REPORTING/ IMMUNITY	<p>No action or other proceedings for damage shall be instituted against a veterinarian S.P.E.I., ch. 4, s.14</p> <p>A veterinarian or any person acting as the agent of a veterinarian are immune from liability for anything done in good faith under this Act R.S.P.E.I. c. A-11.1, s.17</p>
11. LAW ENFORCEMENT POLICIES	<p>The Minister may appoint inspectors and officers as are necessary for the administration of this Act and the regulations S.P.E.I., ch. 4, s. 5 R.S.P.E.I. c. A-11.1, s. 2(3)</p> <p>No person may obstruct an inspector or officer in the performance of the inspector's or officer's duties under this Act and the regulations S.P.E.I., ch. 4, s. 6(6) R.S.P.E.I. c. A-11.1, s.18</p> <p>No action or other proceedings for damage shall be instituted against an inspector or officer for good faith actions S.P.E.I., ch. 4, s.14</p> <p>Inspectors have powers of peace officers R.S.P.E.I. c. A-11.1, s.9</p> <p>Every peace officer shall assist an inspector in the enforcement of this or any other enactment relating to the prevention of cruelty to animals R.S.P.E.I. c. A-11.1, s.9(2)</p>

12. SEXUAL ASSAULT	-----
PRINCE EDWARD ISLAND <i>continued</i>	
13. FIGHTING	Animal fighting between a companion animal and any other animal prohibited P.E.I. Reg. EC249/02, s. 7

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, ss. 1-3(2012)

Part I -- Interpretation and Application

1(1)Definitions

In this Act

- (a) *"animal" means a non-human vertebrate;*
- (b) *"appeals officer" means the veterinarian appointed as the appeals officer by the Minister under subsection 9.2(1);*
- (c) *"at large" means not under control;*
- (d) *"companion animal" means an animal that is not an excluded animal;*
- (e) *"companion animal establishment" means an establishment, other than an excluded establishment, where companion animals are kept for boarding, training, sale or display on a regular basis and for fee or reward, and includes a circus, an establishment operated by the Society, a pet store, and a zoo;*
- (f) *"Director" means the Director of Licensing appointed under section 10;*
- (g) *"excluded animals" means*
 - (i) *livestock and poultry as defined in the Animal Health and Protection Act R.S.P.E.I. 1988, Cap. A-11.1,*
 - (ii) *animals that are wildlife as defined in the Wildlife Conservation Act R.S.P.E.I. 1988, Cap. W-4.1, and*
 - (iii) *animals of a species, type or category prescribed by the regulations;*
- (h) *"excluded establishment" means an establishment*
 - (i) *that operates solely as a kennel as defined in the Dog Act R.S.P.E.I. 1988, Cap. D-13,*
 - (ii) *that operates solely as a veterinary clinic licensed by the Prince Edward Island Veterinary Medical Association, or*

(iii) that is specifically, or that is of a type, excluded by the regulations;

(i) "Society" means the Prince Edward Island Humane Society;

(j) "inspector" means an inspector appointed under subsection 5(1) and includes a conservation officer appointed under the Wildlife Conservation Act R.S.P.E.I. 1988, Cap. W-4.1;

(k) "license" means a license to operate a companion animal establishment issued under subsection 10.2(4);

(l) "licensee" means a person who holds a license;

(m) "Minister" means the Minister of Agriculture and Forestry;

(n) "officer" means an officer appointed under subsection 5(1);

(o) "owner" means the owner of a companion animal, and includes

(i) a person who has, with the consent of the owner, possession or charge of the companion animal,

(ii) unless the contrary is indicated, a licensee or person in charge of a companion animal establishment at which the companion animal is kept or found, and

(iii) a parent of a person under the age of 18 years who

(A) owns a companion animal or who has possession or charge of a companion animal owned by the parent, and

(B) resides with the parent, but does not include a person under the age of 18 referred to in subclause (iii);

(p) "parent" means

(i) a birth or adoptive parent who has custody or guardianship rights to a child,

(ii) a person, who has stood in loco parentis to a child for a period of not less than one year and who has a continuing relationship with the child,

(iii) a legal guardian of a child, or

(iv) a person responsible for the care of a child and with whom the child resides;

(q) "private property" includes real or personal property;

(r) "veterinarian" means a person licensed to practise clinical veterinary medicine under the Veterinary Profession Act R.S.P.E.I. 1988, Cap. V-3.

1(2)Animal in distress

For the purposes of this Act, a companion animal is in distress if it

(a) is in need of food, water, care, shelter or treatment;

(b) is sick, in pain or suffering or has been injured; or

(c) is abused or subjected to cruelty or neglect.

1(3)Accepted activities

Subject to subsection (4), for the purposes of this Act, an accepted activity includes the following activities:

(a) research and teaching involving animals;

(b) euthanasia of animals;

(c) any other activity designated by the regulations as an accepted activity.

1(4)Standards for accepted activities

An activity is an accepted activity under subsection (3) only if it is carried out in a manner that is consistent with the regulations.

1(5)Application to municipalities

This Act and the regulations do not apply to any municipality where the municipality has enacted and is enforcing bylaws that substantially conform to or exceed the standards and procedures established by this Act or the

1(6)Conflict with Dog Act

Where there is a conflict between a provision of this Act and provision of the Dog Act, the Dog Act shall prevail to the extent of the conflict.

2 Object

The object of this Act is to protect companion animals from abuse and neglect and to license and regulate the activities of companion animal establishments.

3(1)Causing unnecessary pain, suffering or injury

No person shall willfully cause a companion animal unnecessary pain, suffering or injury.

3(2)Causing or permitting distress

No owner of a companion animal shall cause or permit the companion animal to be, or to continue to be, in distress.

3(3)Exception regarding accepted activities

Subsections (1) and (2) do not apply where the pain, suffering, injury or distress are the result of any treatment, process or condition that occurs in the course of an accepted activity.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, ss. 1, 8(2012)

Part I -- Interpretation and Administration

1Definitions

In this Act

(a) "animal" means

(i) any livestock,

(ii) any other animal, including any wild animal, of a prescribed type or class, and includes, where the regulations so provide, the embryos, eggs and sperm of any animal referred to in subclause (i) and (ii);

(a.1) "appeals officer" means the veterinarian appointed as the appeals officer by the Minister under subsection 13(1);

(b) "disease" means any condition that adversely affects the health of an animal;

(c) "inspector" means an inspector appointed under section 2;

(d) "livestock" means

(i) horses,

(ii) cattle,

(iii) sheep,

(iv) swine,

(v) goats,

(vi) poultry,

(vii) fox,

(viii) mink,

(ix) chinchilla,

(x) rabbits kept for agricultural purposes;

(e) "owner" includes a person having an animal in his possession or under his charge;

(f) "Minister" means the Minister of Agriculture;

(f.1) "named disease" means a disease designated as such by the regulations, or by the Minister pursuant to section 3.1;

(g) "poultry" means domestic fowl, ratites and pigeons, and includes any bird that is kept for agricultural purposes;

(g.1) "premises" means lands and buildings where animals are situated and includes any stable, yard and sales barn, but does not include a dwelling place;

(g.2) "provincial veterinarian" means the provincial veterinarian appointed under section 2;

(g.3) "restricted area" means an area of the province that is declared to be a restricted area under section 3.3;

(g.4) "sales barn" means a place of business for the purpose of selling animals;

(h) "veterinarian" means a person licensed to practise clinical veterinary medicine under the Veterinary Profession Act R.S.P.E.I. 1988, Cap. V-3 and includes veterinary clinics incorporated and operating in the province.

8(1)Animal in distress

For the purposes of this Part an animal is deemed to be in a state of distress if it

(a) is in need of food, water, care or treatment; or

(b) is sick, in pain or suffering or has been injured; or

(c) is abused or subjected to cruelty or neglect.

8(2)Animal not in distress

For the purposes of this Part an animal is deemed not to be in a state of distress if any deprivation, pain, suffering, injury, abuse, neglect or other distress the animal experiences result from an activity that

(a) is carried on in a manner consistent with generally accepted practices of animal management, husbandry or slaughter; or

(b) is exempted by the regulations from the application of this Part.

8.1(1)Causing unnecessary pain, suffering or injury

No person shall cause an animal unnecessary pain, suffering or injury.

8.1(2)Causing or permitting distress

No owner of an animal shall cause or permit the animal to be, or continue to be, in distress.

8.1(3)Idem

For the purposes of subsection (2), the owner of an animal does not permit the animal to be in distress where the owner, on becoming aware of the distress, immediately takes reasonable steps to relieve the distress of the animal.

General Regulations, P.E.I. Reg. EC249/02, ss. 8, 9 (2012)

Prohibited Practices

8

No person shall keep or confine a companion animal in any place, including a companion animal establishment, or in any vehicle, that contains an item or debris or is in a state of such disrepair that the item or debris or state of disrepair constitutes a hazard likely to injure, or endanger the health of, the companion animal.

9

Fish of all species, types and categories are prescribed to be excluded animals.

2. PENALTIES

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, s.15(2012)

15 Offences and penalties

Every person who fails to comply with this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$200 and not more than \$5,000.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, s. 19(2012)

19(1) Offence

Every person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$100 and not more than \$2,000.

19(2) Continuing offence

Where a contravention of a provision of this Act or the regulations continues for more than one day, the person committing the contravention is guilty of a separate offence for each day that the contravention continues.

3. EXEMPTIONS

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, ss. 1, 3(2012)

1(1)Definitions

In this Act

- (a) "animal" means a non-human vertebrate;
- (b) "appeals officer" means the veterinarian appointed as the appeals officer by the Minister under subsection 9.2(1);
- (c) "at large" means not under control;
- (d) "companion animal" means an animal that is not an excluded animal;
- (e) "companion animal establishment" means an establishment, other than an excluded establishment, where companion animals are kept for boarding, training, sale or display on a regular basis and for fee or reward, and includes a circus, an establishment operated by the Society, a pet store, and a zoo;
- (f) "Director" means the Director of Licensing appointed under section 10;
- (g) "excluded animals" means
 - (i) livestock and poultry as defined in the Animal Health and Protection Act R.S.P.E.I. 1988, Cap. A-11.1,
 - (ii) animals that are wildlife as defined in the Wildlife Conservation Act R.S.P.E.I. 1988, Cap. W-4.1, and
 - (iii) animals of a species, type or category prescribed by the regulations;
- (h) "excluded establishment" means an establishment
 - (i) that operates solely as a kennel as defined in the Dog Act R.S.P.E.I. 1988, Cap. D-13,
 - (ii) that operates solely as a veterinary clinic licensed by the Prince Edward Island Veterinary Medical Association, or
 - (iii) that is specifically, or that is of a type, excluded by the regulations;

- (i) "Society" means the Prince Edward Island Humane Society;
- (j) "inspector" means an inspector appointed under subsection 5(1) and includes a conservation officer appointed under the Wildlife Conservation Act R.S.P.E.I. 1988, Cap. W-4.1;
- (k) "license" means a license to operate a companion animal establishment issued under subsection 10.2(4);
- (l) "licensee" means a person who holds a license;
- (m) "Minister" means the Minister of Agriculture and Forestry;
- (n) "officer" means an officer appointed under subsection 5(1);
- (o) "owner" means the owner of a companion animal, and includes
 - (i) a person who has, with the consent of the owner, possession or charge of the companion animal,
 - (ii) unless the contrary is indicated, a licensee or person in charge of a companion animal establishment at which the companion animal is kept or found, and
 - (iii) a parent of a person under the age of 18 years who
 - (A) owns a companion animal or who has possession or charge of a companion animal owned by the parent, and
 - (B) resides with the parent, but does not include a person under the age of 18 referred to in subclause (iii);
- (p) "parent" means
 - (i) a birth or adoptive parent who has custody or guardianship rights to a child,
 - (ii) a person, who has stood in loco parentis to a child for a period of not less than one year and who has a continuing relationship with the child,
 - (iii) a legal guardian of a child, or
 - (iv) a person responsible for the care of a child and with whom the child resides;
- (q) "private property" includes real or personal property;

(r) "veterinarian" means a person licensed to practise clinical veterinary medicine under the Veterinary Profession Act R.S.P.E.I. 1988, Cap. V-3.

1(2)Animal in distress

For the purposes of this Act, a companion animal is in distress if it

- (a) is in need of food, water, care, shelter or treatment;
- (b) is sick, in pain or suffering or has been injured; or
- (c) is abused or subjected to cruelty or neglect.

1(3)Accepted activities

Subject to subsection (4), for the purposes of this Act, an accepted activity includes the following activities:

- (a) research and teaching involving animals;*
- (b) euthanasia of animals;*
- (c) any other activity designated by the regulations as an accepted activity.*

1(4)Standards for accepted activities

An activity is an accepted activity under subsection (3) only if it is carried out in a manner that is consistent with the regulations.

1(5)Application to municipalities

This Act and the regulations do not apply to any municipality where the municipality has enacted and is enforcing bylaws that substantially conform to or exceed the standards and procedures established by this Act or the

1(6)Conflict with Dog Act

Where there is a conflict between a provision of this Act and provision of the Dog Act, the Dog Act shall prevail to the extent of the conflict.

2 Object

The object of this Act is to protect companion animals from abuse and neglect and to license and regulate the activities of companion animal establishments.

3(1)Causing unnecessary pain, suffering or injury

No person shall willfully cause a companion animal unnecessary pain, suffering or injury.

3(2)Causing or permitting distress

No owner of a companion animal shall cause or permit the companion animal to be, or to continue to be, in distress.

3(3)Exception regarding accepted activities

Subsections (1) and (2) do not apply where the pain, suffering, injury or distress are the result of any treatment, process or condition that occurs in the course of an accepted activity.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, ss. 8, 8.1 (2012)

8(1)Animal in distress

For the purposes of this Part an animal is deemed to be in a state of distress if it

- (a) is in need of food, water, care or treatment; or
- (b) is sick, in pain or suffering or has been injured; or
- (c) is abused or subjected to cruelty or neglect.

8(2)Animal not in distress

For the purposes of this Part an animal is deemed not to be in a state of distress if any deprivation, pain, suffering, injury, abuse, neglect or other distress the animal experiences result from an activity that

- (a) is carried on in a manner consistent with generally accepted practices of animal management, husbandry or slaughter; or*
- (b) is exempted by the regulations from the application of this Part.*

8.1(1)Causing unnecessary pain, suffering or injury

No person shall cause an animal unnecessary pain, suffering or injury.

8.1(2)Causing or permitting distress

No owner of an animal shall cause or permit the animal to be, or continue to be, in distress.

8.1(3)Idem

For the purposes of subsection (2), the owner of an animal does not permit the animal to be in distress where the owner, on becoming aware of the distress, immediately takes reasonable steps to relieve the distress of the animal.

General Regulations, P.E.I. Reg. EC249/02, s. 9 (2012)

Excluded Animals

9

Fish of all species, types and categories are prescribed to be excluded animals.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, ss.9.1, 13(2012)

9.1(1) Recovering possession of companion animal

The owner of a companion animal placed in the possession and charge of the Society under subsections 4(4) or 9(3.1) may, within the prescribed time period, recover possession and charge of the companion animal on paying to the Society the fees and costs for which the owner is liable under subsection 13(1).

13(1) Owner liable for fees and costs

The owner or former owner of a companion animal is liable to pay to the Society, on demand, an amount equal to

(a) the sum of

(i) the prescribed fees respecting the care and maintenance of the companion animal, and

(ii) any costs incurred by the Society that is considered appropriate to relieve the distress of the companion animal, where the companion animal has been placed in the possession and charge of the Society under subsections 4(4) or 9(3.1);

(b) the costs of the relief supplied to the companion animal by an inspector or officer under subsection 6(8); and

(c) the costs associated with giving the companion animal euthanasia under subsection 9(3) or 9.1(2). For greater certainty, the costs for which an owner or former owner is liable under subsection (1) include any costs incurred to seize, transport, or provide medical attention to a companion animal.

13(3) Recovery as debt due to Society

Any amount for which an owner or former owner of a companion animal is liable under this section is a debt due by that person to the Society.

13(4)Statement of account

The Society may at any time, and shall on the request of the owner or former owner of the companion animal, provide to the owner a statement of account of the fees and costs for which the owner is liable under this section.

13(5)Reimbursement

The Minister shall, in accordance with the regulations, reimburse the Society for any fees or costs outstanding under this section for more than 24 months.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, s. 15(2012)

15(1)Statement of account

Where

(a) an inspector or veterinarian has, under subsection 11(6), provided an animal with food, water, care or treatment to relieve its distress; or

(b) an inspector has, under section 14, removed and taken possession of an animal, or destroyed it, an inspector may serve on the owner of the animal a statement of account respecting the costs incurred for such relief, removal or destruction by mailing the statement by registered mail to the owner at his or her latest known address.

15(1.1)Owner liable

The owner of an animal is liable to pay the costs set out in a statement of account after the service of the statement.

15(1.2)Deemed service

A statement of account is deemed to be served 5 business days after the day on which it was served in accordance with subsection (1).

15(2)Sale

Where the owner refuses to pay an account for which he is liable under subsection (1.1) within ten days after service of the statement of account or where the owner after reasonable inquiry, cannot be found, the inspector may sell the animal and be reimbursed out of the proceeds, holding the balance in trust for the owner or other person entitled thereto or otherwise dispose of the animal.

15(3)Unclaimed balance

Any balance remaining unclaimed after sixty days from the date of sale of the animal shall revert to the province.

7. SEIZURE / ON-SITE SUPERVISION

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, ss.6-9(2012)

6(1)Entry and inspection without warrant

Subject to subsections (2) and (3), where an inspector or officer believes on reasonable and probable grounds that a companion animal is in distress in any place, including a companion animal establishment, or in any vehicle, the inspector or officer may, without a warrant,

(a) enter the place or vehicle either alone or accompanied by a veterinarian; and

(b) inspect the place or vehicle and any companion animal found therein to determine whether the animal is in distress.

6(2)Warrant to enter dwelling place

An inspector or officer may not enter any place that is a dwelling place without the consent of the owner or person in charge except under the authority of a warrant issued under subsection (4).

6(3)Consent to entry

Before entering any place or vehicle under this section, an inspector or officer shall take reasonable steps to find the owner or person in charge and reasonably attempt to obtain his or her consent to the entry.

6(4)Authority to issue warrant

A justice who is satisfied by information on oath

(a) that there are reasonable and probable grounds to believe that there is a companion animal in distress in a dwelling place; and

(b) that either

(i) a reasonable but unsuccessful attempt to obtain consent to enter the dwelling place has been made, or

(ii) there are reasonable and probable grounds for believing that consent to entry will not or can not be given, may issue a warrant authorizing the inspector or officer named therein, together with a veterinarian and such peace officers as are required to assist, to enter and inspect that dwelling place and any companion animal found therein, subject to such conditions as may be specified in the warrant.

6(5)Use of force

An inspector or officer shall use no more force than is reasonably required to enter or inspect private property.

6(6)Obstruction

No person shall in any manner hinder or obstruct an inspector or officer in the performance of the inspector's or officer's duties under this Act and the regulations.

6(7)Inspection by veterinarian

A veterinarian who has, under this section, entered any place or vehicle with an inspector or officer, may inspect any companion animal found there for the purposes of determining whether the companion animal is in distress.

6(8)Relief of distress

Where an inspector or officer has entered any place or vehicle and finds an animal in distress, the inspector or officer may, in addition to any other action he or she is authorized to take under this Act and the regulations, supply the animal with food, water or any immediate or emergency care that may be necessary for alleviating the distress.

6.1(1)Entry and inspection of companion animal establishments

During the regular business hours of a companion animal establishment, an inspector or officer may, without a warrant or the consent of the licensee, routinely enter the companion animal establishment and inspect it and any companion animal found therein to determine whether that companion animal establishment is operating in compliance with this Act and the regulations.

6.1(2) Report of matter by officer

Where, after making an entry and inspection under subsection (1), an officer believes that the companion animal establishment is not operating in compliance with this Act or the regulations, the officer shall report the matter to an inspector.

7(1) Application of section

This section does not apply in respect of the owner of any companion animal kept in a companion animal establishment.

7(2) Order to owner to relieve distress

Where an inspector or officer has reasonable and probable grounds to believe that a companion animal is in distress and the owner of the companion animal is present or may be found promptly, the inspector or officer may order the owner to take such action as may, in the opinion of the inspector or officer, be necessary to relieve the distress of the companion animal or improve the conditions that are causing the distress.

7(3) Content of orders

An order issued under subsection (2) shall be in writing and shall, subject to subsection (4), contain a standard of care as prescribed by the regulations.

7(4) Consultation with veterinarian

Where a standard of care for a companion animal is not prescribed by the regulations, an inspector or officer, as the case may be, shall consult a veterinarian for the purpose of determining what actions are necessary to relieve the companion animal's distress or to improve the conditions that are causing the distress, and the order issued under subsection (2) shall be consistent with the veterinarian's instructions.

7(5) Time for compliance and right of appeal

Where an inspector or officer makes an order under subsection (2), the inspector or officer shall specify in the order

(a) the time within which any action required by the order shall be performed; and

(b) the owner's entitlement to appeal the order in accordance with section 9.3.

7(6)Service

Every order made under subsection (2) shall be served on the owner personally or by posting the order on the place where the companion animal was found, and service in any such manner shall be deemed to take effect immediately.

7(7)Compliance required

An owner who is served with an order under subsection (6) shall comply with the order in accordance with its terms.

7(8)Inspection to ensure compliance

Subject to subsection (9), where an order made under subsection (2) remains in force, an inspector or officer may, for the purpose of determining whether the order has been complied with, enter the place or vehicle where the companion animal is located and inspect the companion animal or the place or vehicle.

7(9)Re-entry, dwelling place

Where re-entry to a dwelling place is required for the purpose of the determining whether the order has been complied with, re-entry without a new warrant is only permitted under subsection (8) where it is a condition of the original warrant for entry into the dwelling place.

8(1)Order to licensee to relieve distress

Where, after

(a) entering and making an inspection of a companion animal establishment under section 6 and subsection 6.1(1); or

(b) receiving the report of an officer under subsection 6.1(2), an inspector has reasonable and probable grounds to believe that a companion animal in the companion animal establishment is in distress, the inspector may order the licensee to take such action as may, in the opinion of the inspector, be necessary to relieve the distress of the companion animal or improve the conditions in the companion animal establishment that are causing the distress.

8(2)Application of provisions re orders and appeal

Subsections 7(3) to (7) apply, with such changes as are required, in respect of any order made under subsection (1) or (3) or any decision made under subsection (5).

8(3)Officer has powers of inspectors

An officer shall have the powers of an inspector to issue an order under subsection (1) where

(a) the officer observes or hears a companion animal in what he believes to be, based on reasonable and probable grounds, circumstances of immediate life-threatening distress; and

(b) the officer is unable to contact or make a report to an inspector about the matter within a reasonable time.

8(4)Interim order

Every order issued under subsection (3) shall be deemed to be an interim order and, within two working days, after making the order, the officer shall forward a copy of the order to an inspector.

8(5)Inspector to confirm, vary or rescind

On receipt of a copy of an interim order, an inspector shall, as soon as is practicable, confirm, vary or rescind the order, as the inspector considers appropriate.

9(1)Removal of companion animal

An inspector or officer may remove a companion animal from the place, including a companion animal establishment, or vehicle in which it is found, and take possession and charge of the companion animal for the purposes of providing it with food, water or care to relieve its distress where a veterinarian has inspected the animal and has advised that the health and well-being of the companion animal necessitates its removal.

9(2)Additional circumstances for removal

An inspector may also remove a companion animal from the place, including a companion animal establishment, or vehicle in which it is found, and take possession and charge of it for the purposes referred to in subsection (1) where

(a) the inspector has inspected the companion animal and has reasonable grounds for believing that it is in distress and its owner is not present and cannot be found promptly;

(b) an order respecting the companion animal, or the companion animal establishment in which it is found, has not been complied with; or

(c) the inspector has reasonable grounds to believe that making an order will not eliminate or relieve the companion animal of its distress within a reasonable period of time.

9(3)Euthanasia

An inspector or officer may cause a companion animal to be given euthanasia

(a) with the consent of the owner; or

(b) where a veterinarian has examined the companion animal and determined that the companion animal is ill or injured and, in the opinion of the veterinarian, is incapable of being so cured or healed as to live without suffering.

9(3.1)Transfer to Society

On removing a companion animal under subsection (1) or (2), an inspector or officer shall, as soon as is practicable, transfer possession and charge of the companion animal to the Society.

9(4)Notice

An inspector or officer who removes a companion animal under subsection (1) or (2) or causes it to be given euthanasia under subsection (3) shall take reasonable steps to locate the owner of the companion animal as soon as is reasonably practicable and to advise the owner

(a) that the companion animal was found to be in distress;

(b) of any action taken by the inspector or officer in respect of the companion animal;

(c) if the companion animal has been placed in the possession and charge of the Society for care and shelter, that

(i) the companion animal may be recovered, placed for adoption or given euthanasia in accordance with section 9.1, and

(ii) the owner may appeal the decision to remove the companion animal to the appeals officer under section 9.3; and

(d) if the companion animal has been given euthanasia, of the owner's liability, under subsection 13(1), for all of the costs associated with that action.

9(5)Provision of shelter and care

On receiving possession and charge of a companion animal under subsection (3.1), the Society shall, as soon as possible, arrange for the companion animal to be

(a) sheltered at its premises, or at a veterinary clinic or companion animal establishment that accepts animals on behalf of the Society; and

(b) given such care as the Society considers reasonable in the circumstances.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, ss. 11-14(2012)

11(1)Entry and inspection

Subject to subsections (2) and (3), where an inspector believes on reasonable grounds that an animal is in distress in any premises or vehicle, the inspector may, without a warrant and to determine whether an animal therein is in distress,

(a) enter the premises or vehicle at any time either alone or accompanied by a veterinarian; and

(b) inspect the place or vehicle and any animal found therein.

11(2)Dwelling places

An inspector may not enter any premises that is a dwelling place without the consent of the owner of the dwelling place, or a person in charge of it, except under the authority of a warrant issued under subsection (3).

11(3)Warrant

A justice who is satisfied by information on oath that there are reasonable and probable grounds to believe that there is an animal in distress in a dwelling place may issue a warrant authorizing the inspector named therein, together with a veterinarian and such peace officers as are required to assist, to enter and inspect that dwelling place and inspect any animal found therein, subject to such conditions as may be specified in the warrant.

11(4)Use of force

An inspector shall use no more force that is reasonably required to enter and inspect a place or vehicle under this section.

11(5)Inspection by veterinarian

A veterinarian who has, under this section, entered any place or vehicle with an inspector, may inspect any animal found therein for the purposes of determining whether the animal is in distress.

11(6)Relief of distress

Where an inspector has entered any place or vehicle and finds that an animal is in distress, the inspector may, in addition to any other action he or she is authorized to take under this Act and the regulations, supply the animal with food, water or any immediate or emergency care that may be necessary to alleviate the distress.

12(1)Order to owner

Where an inspector has reasonable grounds to believe that an animal is in distress and the owner of the animal is present or may be found promptly, the inspector may order the owner to

(a) take such action as may, in the opinion of the inspector, be necessary to relieve the animal of its distress; or

(b) have the animal examined and, if necessary in the opinion of the inspector, treated by a veterinarian at the expense of the owner.

12(2)Writing

Every order under subsection (1) shall be in writing.

12(3)Service

Every order under subsection (1) shall be served upon the owner personally or by registered mail addressed to the owner at his latest known address.

12(4)Time for compliance

Where an inspector makes an order under subsection (1), he shall specify in the order the time within which any action required by the order shall be performed.

12(5)Compliance

Every person who is served with an order under subsection (3) shall comply with the order in accordance with its terms.

12(6)Inspection to ensure compliance

Where an order made under subsection (1) remains in force, an inspector may, for the purpose of determining whether the order has been complied with, enter without a warrant any premises or vehicle where the animal is located and inspect the animal and that premises or vehicle where the animal is kept.

12(7)

[Repealed 2004, c. 1, s. 10(2).]

13(1)Appeals officer

The Minister shall appoint a veterinarian to serve as the appeals officer.

13(2)Duties

The appeals officer shall hear and determine appeals made under section 13.1.

13(3)

[Repealed 2004, c. 1, s. 11.]

13.1(1)When owner may appeal

An owner of a animal who is aggrieved by an order made under section 12 may appeal the order to the appeals officer within seven days after the service on the owner of the order.

13.1(2)Appeal in writing

The appeal shall be

(a) made in writing and in a form approved by the appeals officer;

(b) filed with the provincial veterinarian within the time period specified in subsection (1); and

(c) forwarded to the appeals officer after filing with the provincial veterinarian.

13.1(3)Review

The appeals officer shall review the order that is the subject of an appeal within five days of the receipt of the appeal by the provincial veterinarian.

13.1(4)Order continues in force

An order that is the subject of an appeal remains in force pending the determination of the appeal, unless the appeals officer determines otherwise.

13.1(5)Decision

The appeals officer, on reviewing an appeal, may confirm, vary or rescind the order appealed.

13.1(6)Notice

The appeals officer shall provide notice of his or her decision to

(a) the owner who made the appeal; and

(b) the inspector who made the order that is the subject of the appeal.

14(1)Removal of animal

An inspector may remove an animal from the premises or vehicle where it is and take possession thereof for the purpose of providing it with food, water, care or treatment of its distress where

(a) a veterinarian has examined the animal and has advised the inspector that the health and well-being of the animal necessitates its removal;

(b) the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner of the animal is not present and cannot be found promptly; or

(c) an order respecting the animal has been made under section 12 and the order has not been complied with.

14(2) Destruction of animal

An inspector may destroy an animal

- (a) with the consent of the owner;
- (b) where a veterinarian has examined the animal and has advised the inspector that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering; or
- (c) notwithstanding clauses (a) and (b), where
 - (i) the owner cannot be promptly found, or a veterinarian is not able to provide his opinion within a reasonable time, and
 - (ii) the animal's injury or illness is of such seriousness as to cause severe distress.

14(3) Notice

Where an inspector has removed or destroyed an animal under subsection (1) or (2), he shall forthwith notify the owner of the animal, if known, of his action by notice in writing served upon the owner in the manner prescribed for service of an order under subsection 12(3).

8. FORFEITURE / POSSESSION

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, ss.9.1-9.3, 16, 17(2012)

9.1(1) Recovering possession of companion animal

The owner of a companion animal placed in the possession and charge of the Society under subsections 4(4) or 9(3.1) may, within the prescribed time period, recover possession and charge of the companion animal on paying to the Society the fees and costs for which the owner is liable under subsection 13(1).

9.1(2) Adoption or euthanasia

Where the owner of a companion animal that has been placed in the possession and charge of the Society under subsections 4(4) or 9(3.1)

*(a) fails to take possession of the companion animal in accordance with subsection (1);
or*

(b) fails to obtain a decision, under subsection 9.3, on appeal to the appeals officer, requiring the return of the companion animal, the Society is deemed to be the owner of the animal and may place the animal for adoption, with a person approved by the Society and for a prescribed fee, or cause it to be given euthanasia.

9.1(3) Transfer of ownership

Where a companion animal is placed for adoption under subsection (2), the companion animal becomes the property of the person with whom it is placed.

Appeals

9.2(1) Appeals officer

The Minister shall appoint a veterinarian to serve as the appeals officer.

9.2(2)Duties

The appeals officer shall hear and determine appeals made under subsection 9.3(1).

9.3(1)When owner may appeal

An owner of a companion animal who is aggrieved by

(a) an order made under section 7 or 8; or

*(b) a decision made under subsection 8(5), 9(1) or (2),
may appeal the order or decision to the appeals officer within seven days after the
service on the owner of the order or notice of the decision, as the case may be.*

9.3(2)Appeal in writing

The appeal shall be

(a) made in writing and in a form approved by the appeals officer; and

(b) filed with the appeals officer within the time period specified in subsection (1).

9.3(3)Review

The appeals officer shall review the order or decision appealed from within five days of the receipt of the appeal.

9.3(4)Decision

The appeals officer, on reviewing an appeal, may confirm, vary or rescind the order or decision appealed.

9.3(5)Notice

The appeals officer shall provide notice of his or her decision to

(a) the owner;

*(b) the inspector or officer who made the order or decision that is the subject of the
appeal; and*

(c) the Society, if it has possession of the companion animal.

16(1)Additional penalties

In addition to imposing the penalties prescribed by section 15, a judge, on conviction, may

(a) make an order prohibiting the defendant from owning, having the custody or control of, or residing in the same place as a companion animal during any period that the court considers appropriate, but in the case of second or subsequent offence, for the lifetime of the defendant; or

(b) make an order vesting in the Society

(i) the ownership of all companion animals owned by the defendant, and

(ii) the ownership of the companion animal in respect of which the prosecution has been commenced.

16(2)Non-compliance on offence

No person shall disobey an order made under subsection (1).

17Continuing offence

Where a summary offence ticket is issued for non-compliance with an order made under section 7 or 8, the owner or licensee, as the case may be, is guilty of a separate offence for each day that the order is not complied with.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, ss. 14, 15(2012)

14(1)Removal of animal

An inspector may remove an animal from the premises or vehicle where it is and take possession thereof for the purpose of providing it with food, water, care or treatment of its distress where

(a) a veterinarian has examined the animal and has advised the inspector that the health and well-being of the animal necessitates its removal;

(b) the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner of the animal is not present and cannot be found promptly; or

(c) an order respecting the animal has been made under section 12 and the order has not been complied with.

14(2)Destruction of animal

An inspector may destroy an animal

(a) with the consent of the owner;

(b) where a veterinarian has examined the animal and has advised the inspector that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering; or

(c) notwithstanding clauses (a) and (b), where

(i) the owner cannot be promptly found, or a veterinarian is not able to provide his opinion within a reasonable time, and

(ii) the animal's injury or illness is of such seriousness as to cause severe distress.

14(3)Notice

Where an inspector has removed or destroyed an animal under subsection (1) or (2), he shall forthwith notify the owner of the animal, if known, of his action by notice in writing served upon the owner in the manner prescribed for service of an order under subsection 12(3).

15(1)Statement of account

Where

(a) an inspector or veterinarian has, under subsection 11(6), provided an animal with food, water, care or treatment to relieve its distress; or

(b) an inspector has, under section 14, removed and taken possession of an animal, or destroyed it, an inspector may serve on the owner of the animal a statement of account respecting the costs incurred for such relief, removal or destruction by mailing the statement by registered mail to the owner at his or her latest known address.

15(1.1)Owner liable

The owner of an animal is liable to pay the costs set out in a statement of account after the service of the statement.

15(1.2)Deemed service

A statement of account is deemed to be served 5 business days after the day on which it was served in accordance with subsection (1).

15(2)Sale

Where the owner refuses to pay an account for which he is liable under subsection (1.1) within ten days after service of the statement of account or where the owner after reasonable inquiry, cannot be found, the inspector may sell the animal and be reimbursed out of the proceeds, holding the balance in trust for the owner or other person entitled thereto or otherwise dispose of the animal.

15(3)Unclaimed balance

Any balance remaining unclaimed after sixty days from the date of sale of the animal shall revert to the province.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, s.14(2012)

14Liability

No action or other proceedings for damage shall be instituted against

- (a) the Minister;
- (b) an inspector, officer, *veterinarian*;
- (c) the appeals officer or Director; or

(d) any person acting as the agent of any person referred to in clauses (a), (b) or (c) for anything done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for the neglect or default in the performance or exercise in good faith of any such duty or power.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, s. 17(2012)

17Liability

No action lies against an inspector or veterinarian or any person acting as the agent of an inspector or veterinarian for anything done in good faith and purporting to be done under this Act or regulations.

11. LAW ENFORCEMENT POLICIES

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, ss.5, 6, 14(2012)

5(1)Inspectors and officers

The Minister may appoint such inspectors and officers as are necessary for the administration of this Act and the regulations.

5(2)Persons eligible to be officers

Any member or employee of the Society who is nominated by the Society, or a veterinarian, is eligible to be appointed as an officer under subsection (1).

6(6)Obstruction

No person shall in any manner hinder or obstruct an inspector or officer in the performance of the inspector's or officer's duties under this Act and the regulations.

14Liability

No action or other proceedings for damage shall be instituted against

(a) the Minister;

(b) *an inspector, officer, veterinarian;*

(c) the appeals officer or Director; or

(d) any person acting as the agent of any person referred to in clauses (a), (b) or (c) for anything done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for the neglect or default in the performance or exercise in good faith of any such duty or power.

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, ss. 2, 9, 18(2012)

2(1)Provincial veterinarian

The Minister shall appoint a person who is a member in good standing with the Veterinary Medical Association to be the provincial veterinarian.

2(2)Functions

The duties of the provincial veterinarian include the administration, under the control of the Minister, of this Act and the regulations.

2(3)Inspectors and staff

The Minister may appoint such inspectors and other officers as are necessary for the administration of this Act or any Part of it.

2(4)Professional expertise

The Minister may engage upon such terms and conditions as he thinks fit the services of such professional or technical persons and experts to advise him on such matters as he thinks necessary for the efficient administration of this Act and the regulations.

9(1)Inspectors have powers of peace officers

For the purposes of enforcement of this or any other enactment pertaining to the welfare of or the prevention of cruelty to animals, every inspector may exercise any powers of a peace officer;

9(2)Assistance by peace officers

Subject to the terms of any agreement respecting the policing of the province, every peace officer shall assist an inspector in the enforcement of this or any other enactment relating to the prevention of cruelty to animals.

18Obstructing inspector

No person shall

(a) obstruct or interfere with, or

(b) give false information to, an inspector or the provincial veterinarian in the performance of his or her duties or the exercise of his or her powers under this Act or the regulations.

12. SEXUAL ASSAULT

13. FIGHTING

General Regulations, P.E.I. Reg. EC249/02, s. 7 (2012)

Prohibited Practices

7

No person who owns or has custody or control of a companion animal shall permit or cause it to engage in a contest involving fighting by the companion animal and any other animal.

14. REFERENCED STATUTES & REGULATIONS

Companion Animal Protection Act, R.S.P.E.I. 1988, c. C-14.1, s. 1-20(2012)

Part I -- Interpretation and Application

1(1)Definitions

In this Act

- (a) "animal" means a non-human vertebrate;
- (b) "appeals officer" means the veterinarian appointed as the appeals officer by the Minister under subsection 9.2(1);
- (c) "at large" means not under control;
- (d) "companion animal" means an animal that is not an excluded animal;
- (e) "companion animal establishment" means an establishment, other than an excluded establishment, where companion animals are kept for boarding, training, sale or display on a regular basis and for fee or reward, and includes a circus, an establishment operated by the Society, a pet store, and a zoo;
- (f) "Director" means the Director of Licensing appointed under section 10;
- (g) "excluded animals" means
 - (i) livestock and poultry as defined in the Animal Health and Protection Act R.S.P.E.I. 1988, Cap. A-11.1,
 - (ii) animals that are wildlife as defined in the Wildlife Conservation Act R.S.P.E.I. 1988, Cap. W-4.1, and
 - (iii) animals of a species, type or category prescribed by the regulations;
- (h) "excluded establishment" means an establishment
 - (i) that operates solely as a kennel as defined in the Dog Act R.S.P.E.I. 1988, Cap. D-13,
 - (ii) that operates solely as a veterinary clinic licensed by the Prince Edward Island Veterinary Medical Association, or

(iii) that is specifically, or that is of a type, excluded by the regulations;

(i) "Society" means the Prince Edward Island Humane Society;

(j) "inspector" means an inspector appointed under subsection 5(1) and includes a conservation officer appointed under the Wildlife Conservation Act R.S.P.E.I. 1988, Cap. W-4.1;

(k) "license" means a license to operate a companion animal establishment issued under subsection 10.2(4);

(l) "licensee" means a person who holds a license;

(m) "Minister" means the Minister of Agriculture and Forestry;

(n) "officer" means an officer appointed under subsection 5(1);

(o) "owner" means the owner of a companion animal, and includes

(i) a person who has, with the consent of the owner, possession or charge of the companion animal,

(ii) unless the contrary is indicated, a licensee or person in charge of a companion animal establishment at which the companion animal is kept or found, and

(iii) a parent of a person under the age of 18 years who

(A) owns a companion animal or who has possession or charge of a companion animal owned by the parent, and

(B) resides with the parent, but does not include a person under the age of 18 referred to in subclause (iii);

(p) "parent" means

(i) a birth or adoptive parent who has custody or guardianship rights to a child,

(ii) a person, who has stood in loco parentis to a child for a period of not less than one year and who has a continuing relationship with the child,

(iii) a legal guardian of a child, or

(iv) a person responsible for the care of a child and with whom the child resides;

(q) "private property" includes real or personal property;

(r) "veterinarian" means a person licensed to practise clinical veterinary medicine under the Veterinary Profession Act R.S.P.E.I. 1988, Cap. V-3.

1(2)Animal in distress

For the purposes of this Act, a companion animal is in distress if it

- (a) is in need of food, water, care, shelter or treatment;
- (b) is sick, in pain or suffering or has been injured; or
- (c) is abused or subjected to cruelty or neglect.

1(3)Accepted activities

Subject to subsection (4), for the purposes of this Act, an accepted activity includes the following activities:

- (a) research and teaching involving animals;
- (b) euthanasia of animals;
- (c) any other activity designated by the regulations as an accepted activity.

1(4)Standards for accepted activities

An activity is an accepted activity under subsection (3) only if it is carried out in a manner that is consistent with the regulations.

1(5)Application to municipalities

This Act and the regulations do not apply to any municipality where the municipality has enacted and is enforcing bylaws that substantially conform to or exceed the standards and procedures established by this Act or the

1(6)Conflict with Dog Act

Where there is a conflict between a provision of this Act and provision of the Dog Act, the Dog Act shall prevail to the extent of the conflict.

2 Object

The object of this Act is to protect companion animals from abuse and neglect and to license and regulate the activities of companion animal establishments.

Part II -- Protection of Companion Animals

Restrictions Respecting Injury and Distress

3(1)Causing unnecessary pain, suffering or injury

No person shall willfully cause a companion animal unnecessary pain, suffering or injury.

3(2)Causing or permitting distress

No owner of a companion animal shall cause or permit the companion animal to be, or to continue to be, in distress.

3(3)Exception regarding accepted activities

Subsections (1) and (2) do not apply where the pain, suffering, injury or distress are the result of any treatment, process or condition that occurs in the course of an accepted activity.

* * * * *

Intervention by Inspectors and Officers

5(1)Inspectors and officers

The Minister may appoint such inspectors and officers as are necessary for the administration of this Act and the regulations.

5(2)Persons eligible to be officers

Any member or employee of the Society who is nominated by the Society, or a veterinarian, is eligible to be appointed as an officer under subsection (1).

* * * * *

5.1 Powers of Inspectors

An inspector may issue tickets under the Summary Proceedings Act R.S.P.E.I. 1988, Cap. S-9 in respect of a contravention of this Act or the regulations.

6(1) Entry and inspection without warrant

Subject to subsections (2) and (3), where an inspector or officer believes on reasonable and probable grounds that a companion animal is in distress in any place, including a companion animal establishment, or in any vehicle, the inspector or officer may, without a warrant,

- (a) enter the place or vehicle either alone or accompanied by a veterinarian; and
- (b) inspect the place or vehicle and any companion animal found therein to determine whether the animal is in distress.

6(2) Warrant to enter dwelling place

An inspector or officer may not enter any place that is a dwelling place without the consent of the owner or person in charge except under the authority of a warrant issued under subsection (4).

6(3) Consent to entry

Before entering any place or vehicle under this section, an inspector or officer shall take reasonable steps to find the owner or person in charge and reasonably attempt to obtain his or her consent to the entry.

6(4) Authority to issue warrant

A justice who is satisfied by information on oath

- (a) that there are reasonable and probable grounds to believe that there is a companion animal in distress in a dwelling place; and
- (b) that either
 - (i) a reasonable but unsuccessful attempt to obtain consent to enter the dwelling place has been made, or
 - (ii) there are reasonable and probable grounds for believing that consent to entry will not or can not be given, may issue a warrant authorizing the inspector or officer named therein, together with a veterinarian and such peace officers as are required to assist, to enter and inspect that dwelling place and any companion animal found therein, subject to such conditions as may be specified in the warrant.

6(5)Use of force

An inspector or officer shall use no more force than is reasonably required to enter or inspect private property.

6(6)Obstruction

No person shall in any manner hinder or obstruct an inspector or officer in the performance of the inspector's or officer's duties under this Act and the regulations.

6(7)Inspection by veterinarian

A veterinarian who has, under this section, entered any place or vehicle with an inspector or officer, may inspect any companion animal found there for the purposes of determining whether the companion animal is in distress.

6(8)Relief of distress

Where an inspector or officer has entered any place or vehicle and finds an animal in distress, the inspector or officer may, in addition to any other action he or she is authorized to take under this Act and the regulations, supply the animal with food, water or any immediate or emergency care that may be necessary for alleviating the distress.

6.1(1)Entry and inspection of companion animal establishments

During the regular business hours of a companion animal establishment, an inspector or officer may, without a warrant or the consent of the licensee, routinely enter the companion animal establishment and inspect it and any companion animal found therein to determine whether that companion animal establishment is operating in compliance with this Act and the regulations.

6.1(2) Report of matter by officer

Where, after making an entry and inspection under subsection (1), an officer believes that the companion animal establishment is not operating in compliance with this Act or the regulations, the officer shall report the matter to an inspector.

7(1) Application of section

This section does not apply in respect of the owner of any companion animal kept in a companion animal establishment.

7(2) Order to owner to relieve distress

Where an inspector or officer has reasonable and probable grounds to believe that a companion animal is in distress and the owner of the companion animal is present or may be found promptly, the inspector or officer may order the owner to take such action as may, in the opinion of the inspector or officer, be necessary to relieve the distress of the companion animal or improve the conditions that are causing the distress.

7(3) Content of orders

An order issued under subsection (2) shall be in writing and shall, subject to subsection (4), contain a standard of care as prescribed by the regulations.

7(4) Consultation with veterinarian

Where a standard of care for a companion animal is not prescribed by the regulations, an inspector or officer, as the case may be, shall consult a veterinarian for the purpose of determining what actions are necessary to relieve the companion animal's distress or to improve the conditions that are causing the distress, and the order issued under subsection (2) shall be consistent with the veterinarian's instructions.

7(5) Time for compliance and right of appeal

Where an inspector or officer makes an order under subsection (2), the inspector or officer shall specify in the order

- (a) the time within which any action required by the order shall be performed; and
- (b) the owner's entitlement to appeal the order in accordance with section 9.3.

7(6)Service

Every order made under subsection (2) shall be served on the owner personally or by posting the order on the place where the companion animal was found, and service in any such manner shall be deemed to take effect immediately.

7(7)Compliance required

An owner who is served with an order under subsection (6) shall comply with the order in accordance with its terms.

7(8)Inspection to ensure compliance

Subject to subsection (9), where an order made under subsection (2) remains in force, an inspector or officer may, for the purpose of determining whether the order has been complied with, enter the place or vehicle where the companion animal is located and inspect the companion animal or the place or vehicle.

7(9)Re-entry, dwelling place

Where re-entry to a dwelling place is required for the purpose of the determining whether the order has been complied with, re-entry without a new warrant is only permitted under subsection (8) where it is a condition of the original warrant for entry into the dwelling place.

8(1)Order to licensee to relieve distress

Where, after

(a) entering and making an inspection of a companion animal establishment under section 6 and subsection 6.1(1); or

(b) receiving the report of an officer under subsection 6.1(2), an inspector has reasonable and probable grounds to believe that a companion animal in the companion animal establishment is in distress, the inspector may order the licensee to take such action as may, in the opinion of the inspector, be necessary to relieve the distress of the companion animal or improve the conditions in the companion animal establishment that are causing the distress.

8(2)Application of provisions re orders and appeal

Subsections 7(3) to (7) apply, with such changes as are required, in respect of any order made under subsection (1) or (3) or any decision made under subsection (5).

8(3)Officer has powers of inspectors

An officer shall have the powers of an inspector to issue an order under subsection (1) where

- (a) the officer observes or hears a companion animal in what he believes to be, based on reasonable and probable grounds, circumstances of immediate life-threatening distress; and
- (b) the officer is unable to contact or make a report to an inspector about the matter within a reasonable time.

8(4)Interim order

Every order issued under subsection (3) shall be deemed to be an interim order and, within two working days, after making the order, the officer shall forward a copy of the order to an inspector.

8(5)Inspector to confirm, vary or rescind

On receipt of a copy of an interim order, an inspector shall, as soon as is practicable, confirm, vary or rescind the order, as the inspector considers appropriate.

9(1)Removal of companion animal

An inspector or officer may remove a companion animal from the place, including a companion animal establishment, or vehicle in which it is found, and take possession and charge of the companion animal for the purposes of providing it with food, water or care to relieve its distress where a veterinarian has inspected the animal and has advised that the health and well-being of the companion animal necessitates its removal.

9(2)Additional circumstances for removal

An inspector may also remove a companion animal from the place, including a companion animal establishment, or vehicle in which it is found, and take possession and charge of it for the purposes referred to in subsection (1) where

- (a) the inspector has inspected the companion animal and has reasonable grounds for believing that it is in distress and its owner is not present and cannot be found promptly;

(b) an order respecting the companion animal, or the companion animal establishment in which it is found, has not been complied with; or

(c) the inspector has reasonable grounds to believe that making an order will not eliminate or relieve the companion animal of its distress within a reasonable period of time.

9(3)Euthanasia

An inspector or officer may cause a companion animal to be given euthanasia

(a) with the consent of the owner; or

(b) where a veterinarian has examined the companion animal and determined that the companion animal is ill or injured and, in the opinion of the veterinarian, is incapable of being so cured or healed as to live without suffering.

9(3.1)Transfer to Society

On removing a companion animal under subsection (1) or (2), an inspector or officer shall, as soon as is practicable, transfer possession and charge of the companion animal to the Society.

9(4)Notice

An inspector or officer who removes a companion animal under subsection (1) or (2) or causes it to be given euthanasia under subsection (3) shall take reasonable steps to locate the owner of the companion animal as soon as is reasonably practicable and to advise the owner

(a) that the companion animal was found to be in distress;

(b) of any action taken by the inspector or officer in respect of the companion animal;

(c) if the companion animal has been placed in the possession and charge of the Society for care and shelter, that

(i) the companion animal may be recovered, placed for adoption or given euthanasia in accordance with section 9.1, and

(ii) the owner may appeal the decision to remove the companion animal to the appeals officer under section 9.3; and

(d) if the companion animal has been given euthanasia, of the owner's liability, under subsection 13(1), for all of the costs associated with that action.

9(5) Provision of shelter and care

On receiving possession and charge of a companion animal under subsection (3.1), the Society shall, as soon as possible, arrange for the companion animal to be

- (a) sheltered at its premises, or at a veterinary clinic or companion animal establishment that accepts animals on behalf of the Society; and
- (b) given such care as the Society considers reasonable in the circumstances.

Recovery, Adoption, Euthanasia

9.1(1) Recovering possession of companion animal

The owner of a companion animal placed in the possession and charge of the Society under subsections 4(4) or 9(3.1) may, within the prescribed time period, recover possession and charge of the companion animal on paying to the Society the fees and costs for which the owner is liable under subsection 13(1).

9.1(2) Adoption or euthanasia

Where the owner of a companion animal that has been placed in the possession and charge of the Society under subsections 4(4) or 9(3.1)

- (a) fails to take possession of the companion animal in accordance with subsection (1); or
- (b) fails to obtain a decision, under subsection 9.3, on appeal to the appeals officer, requiring the return of the companion animal, the Society is deemed to be the owner of the animal and may place the animal for adoption, with a person approved by the Society and for a prescribed fee, or cause it to be given euthanasia.

9.1(3) Transfer of ownership

Where a companion animal is placed for adoption under subsection (2), the companion animal becomes the property of the person with whom it is placed.

Appeals

9.2(1) Appeals officer

The Minister shall appoint a veterinarian to serve as the appeals officer.

9.2(2) Duties

The appeals officer shall hear and determine appeals made under subsection 9.3(1).

9.3(1) When owner may appeal

An owner of a companion animal who is aggrieved by

- (a) an order made under section 7 or 8; or
- (b) a decision made under subsection 8(5), 9(1) or (2),
may appeal the order or decision to the appeals officer within seven days after the service on the owner of the order or notice of the decision, as the case may be.

9.3(2) Appeal in writing

The appeal shall be

- (a) made in writing and in a form approved by the appeals officer; and
- (b) filed with the appeals officer within the time period specified in subsection (1).

9.3(3) Review

The appeals officer shall review the order or decision appealed from within five days of the receipt of the appeal.

9.3(4) Decision

The appeals officer, on reviewing an appeal, may confirm, vary or rescind the order or decision appealed.

9.3(5) Notice

The appeals officer shall provide notice of his or her decision to

- (a) the owner;
- (b) the inspector or officer who made the order or decision that is the subject of the appeal; and
- (c) the Society, if it has possession of the companion animal.

* * * * *

Part IV -- General

Fees and Costs

13(1) Owner liable for fees and costs

The owner or former owner of a companion animal is liable to pay to the Society, on demand, an amount equal to

- (a) the sum of
 - (i) the prescribed fees respecting the care and maintenance of the companion animal, and
 - (ii) any costs incurred by the Society that is considered appropriate to relieve the distress of the companion animal, where the companion animal has been placed in the possession and charge of the Society under subsections 4(4) or 9(3.1);
- (b) the costs of the relief supplied to the companion animal by an inspector or officer under subsection 6(8); and
- (c) the costs associated with giving the companion animal euthanasia under subsection 9(3) or 9.1(2). For greater certainty, the costs for which an owner or former owner is liable under subsection (1) include any costs incurred to seize, transport, or provide medical attention to a companion animal.

13(3) Recovery as debt due to Society

Any amount for which an owner or former owner of a companion animal is liable under this section is a debt due by that person to the Society.

13(4) Statement of account

The Society may at any time, and shall on the request of the owner or former owner of the companion animal, provide to the owner a statement of account of the fees and costs for which the owner is liable under this section.

13(5) Reimbursement

The Minister shall, in accordance with the regulations, reimburse the Society for any fees or costs outstanding under this section for more than 24 months.

14 Liability

No action or other proceedings for damage shall be instituted against

- (a) the Minister;
- (b) an inspector, officer, veterinarian;
- (c) the appeals officer or Director; or
- (d) any person acting as the agent of any person referred to in clauses (a), (b) or (c) for anything done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, or for the neglect or default in the performance or exercise in good faith of any such duty or power.

Offences and Penalties

15 Offences and penalties

Every person who fails to comply with this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$200 and not more than \$5,000.

16(1)Additional penalties

In addition to imposing the penalties prescribed by section 15, a judge, on conviction, may

(a) make an order prohibiting the defendant from owning, having the custody or control of, or residing in the same place as a companion animal during any period that the court considers appropriate, but in the case of second or subsequent offence, for the lifetime of the defendant; or

(b) make an order vesting in the Society

(i) the ownership of all companion animals owned by the defendant, and

(ii) the ownership of the companion animal in respect of which the prosecution has been commenced.

16(2)Non-compliance on offence

No person shall disobey an order made under subsection (1).

17Continuing offence

Where a summary offence ticket is issued for non-compliance with an order made under section 7 or 8, the owner or licensee, as the case may be, is guilty of a separate offence for each day that the order is not complied with.

* * * * *

Animal Health and Protection Act, R.S.P.E.I. 1988, c. A-11.1, s. 1-20 (2012).

Part I -- Interpretation and Administration

1Definitions

In this Act

(a) "animal" means

(i) any livestock,

(ii) any other animal, including any wild animal, of a prescribed type or class, and includes, where the regulations so provide, the embryos, eggs and sperm of any animal referred to in subclause (i) and (ii);

(a.1) "appeals officer" means the veterinarian appointed as the appeals officer by the Minister under subsection 13(1);

(b) "disease" means any condition that adversely affects the health of an animal;

(c) "inspector" means an inspector appointed under section 2;

(d) "livestock" means

(i) horses,

(ii) cattle,

(iii) sheep,

(iv) swine,

(v) goats,

(vi) poultry,

(vii) fox,

(viii) mink,

(ix) chinchilla,

(x) rabbits kept for agricultural purposes;

(e) "owner" includes a person having an animal in his possession or under his charge;

(f) "Minister" means the Minister of Agriculture and Forestry;

(f.1) "named disease" means a disease designated as such by the regulations, or by the Minister pursuant to section 3.1;

(g) "poultry" means domestic fowl, ratites and pigeons, and includes any bird that is kept for agricultural purposes;

(g.1) "premises" means lands and buildings where animals are situated and includes any stable, yard and sales barn, but does not include a dwelling place;

(g.2) "provincial veterinarian" means the provincial veterinarian appointed under section 2;

(g.3) "restricted area" means an area of the province that is declared to be a restricted area under section 3.3;

(g.4) "sales barn" means a place of business for the purpose of selling animals;

(h) "veterinarian" means a person licensed to practise clinical veterinary medicine under the Veterinary Profession Act R.S.P.E.I. 1988, Cap. V-3 and includes veterinary clinics incorporated and operating in the province.

2(1)Provincial veterinarian

The Minister shall appoint a person who is a member in good standing with the Veterinary Medical Association to be the provincial veterinarian.

2(2)Functions

The duties of the provincial veterinarian include the administration, under the control of the Minister, of this Act and the regulations.

2(3)Inspectors and staff

The Minister may appoint such inspectors and other officers as are necessary for the administration of this Act or any Part of it.

2(4)Professional expertise

The Minister may engage upon such terms and conditions as he thinks fit the services of such professional or technical persons and experts to advise him on such matters as he thinks necessary for the efficient administration of this Act and the regulations.

* * * * *

Part IV -- Animal Protection

8(1)Animal in distress

For the purposes of this Part an animal is deemed to be in a state of distress if it

- (a) is in need of food, water, care or treatment; or
- (b) is sick, in pain or suffering or has been injured; or
- (c) is abused or subjected to cruelty or neglect.

8(2)Animal not in distress

For the purposes of this Part an animal is deemed not to be in a state of distress if any deprivation, pain, suffering, injury, abuse, neglect or other distress the animal experiences result from an activity that

- (a) is carried on in a manner consistent with generally accepted practices of animal management, husbandry or slaughter; or
- (b) is exempted by the regulations from the application of this Part.

8.1(1)Causing unnecessary pain, suffering or injury

No person shall cause an animal unnecessary pain, suffering or injury.

8.1(2)Causing or permitting distress

No owner of an animal shall cause or permit the animal to be, or continue to be, in distress.

8.1(3)Idem

For the purposes of subsection (2), the owner of an animal does not permit the animal to be in distress where the owner, on becoming aware of the distress, immediately takes reasonable steps to relieve the distress of the animal.

9(1) Inspectors have powers of peace officers

For the purposes of enforcement of this or any other enactment pertaining to the welfare of or the prevention of cruelty to animals, every inspector may exercise any powers of a peace officer;

9(2) Assistance by peace officers

Subject to the terms of any agreement respecting the policing of the province, every peace officer shall assist an inspector in the enforcement of this or any other enactment relating to the prevention of cruelty to animals.

10

[Repealed 2004, c. 1, s. 8.]

11(1) Entry and inspection

Subject to subsections (2) and (3), where an inspector believes on reasonable grounds that an animal is in distress in any premises or vehicle, the inspector may, without a warrant and to determine whether an animal therein is in distress,

- (a) enter the premises or vehicle at any time either alone or accompanied by a veterinarian; and
- (b) inspect the place or vehicle and any animal found therein.

11(2) Dwelling places

An inspector may not enter any premises that is a dwelling place without the consent of the owner of the dwelling place, or a person in charge of it, except under the authority of a warrant issued under subsection (3).

11(3) Warrant

A justice who is satisfied by information on oath that there are reasonable and probable grounds to believe that there is an animal in distress in a dwelling place may issue a warrant authorizing the inspector named therein, together with a veterinarian and such peace officers as are required to assist, to enter and inspect that dwelling place and inspect any animal found therein, subject to such conditions as may be specified in the warrant.

11(4)Use of force

An inspector shall use no more force that is reasonably required to enter and inspect a place or vehicle under this section.

11(5)Inspection by veterinarian

A veterinarian who has, under this section, entered any place or vehicle with an inspector, may inspect any animal found therein for the purposes of determining whether the animal is in distress.

11(6)Relief of distress

Where an inspector has entered any place or vehicle and finds that an animal is in distress, the inspector may, in addition to any other action he or she is authorized to take under this Act and the regulations, supply the animal with food, water or any immediate or emergency care that may be necessary to alleviate the distress.

12(1)Order to owner

Where an inspector has reasonable grounds to believe that an animal is in distress and the owner of the animal is present or may be found promptly, the inspector may order the owner to

- (a) take such action as may, in the opinion of the inspector, be necessary to relieve the animal of its distress; or
- (b) have the animal examined and, if necessary in the opinion of the inspector, treated by a veterinarian at the expense of the owner.

12(2)Writing

Every order under subsection (1) shall be in writing.

12(3)Service

Every order under subsection (1) shall be served upon the owner personally or by registered mail addressed to the owner at his latest known address.

12(4)Time for compliance

Where an inspector makes an order under subsection (1), he shall specify in the order the time within which any action required by the order shall be performed.

12(5)Compliance

Every person who is served with an order under subsection (3) shall comply with the order in accordance with its terms.

12(6)Inspection to ensure compliance

Where an order made under subsection (1) remains in force, an inspector may, for the purpose of determining whether the order has been complied with, enter without a warrant any premises or vehicle where the animal is located and inspect the animal and that premises or vehicle where the animal is kept.

12(7)

[Repealed 2004, c. 1, s. 10(2).]

13(1)Appeals officer

The Minister shall appoint a veterinarian to serve as the appeals officer.

13(2)Duties

The appeals officer shall hear and determine appeals made under section 13.1.

13(3)

[Repealed 2004, c. 1, s. 11.]

13.1(1)When owner may appeal

An owner of a animal who is aggrieved by an order made under section 12 may appeal the order to the appeals officer within seven days after the service on the owner of the order.

13.1(2)Appeal in writing

The appeal shall be

- (a) made in writing and in a form approved by the appeals officer;
- (b) filed with the provincial veterinarian within the time period specified in subsection (1); and
- (c) forwarded to the appeals officer after filing with the provincial veterinarian.

13.1(3)Review

The appeals officer shall review the order that is the subject of an appeal within five days of the receipt of the appeal by the provincial veterinarian.

13.1(4)Order continues in force

An order that is the subject of an appeal remains in force pending the determination of the appeal, unless the appeals officer determines otherwise.

13.1(5)Decision

The appeals officer, on reviewing an appeal, may confirm, vary or rescind the order appealed.

13.1(6)Notice

The appeals officer shall provide notice of his or her decision to

- (a) the owner who made the appeal; and
- (b) the inspector who made the order that is the subject of the appeal.

14(1)Removal of animal

An inspector may remove an animal from the premises or vehicle where it is and take possession thereof for the purpose of providing it with food, water, care or treatment of its distress where

- (a) a veterinarian has examined the animal and has advised the inspector that the health and well-being of the animal necessitates its removal;
- (b) the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner of the animal is not present and cannot be found promptly; or

(c) an order respecting the animal has been made under section 12 and the order has not been complied with.

14(2) Destruction of animal

An inspector may destroy an animal

(a) with the consent of the owner;

(b) where a veterinarian has examined the animal and has advised the inspector that the animal is ill or injured and, in his opinion, is incapable of being so cured or healed as to live thereafter without suffering; or

(c) notwithstanding clauses (a) and (b), where

(i) the owner cannot be promptly found, or a veterinarian is not able to provide his opinion within a reasonable time, and

(ii) the animal's injury or illness is of such seriousness as to cause severe distress.

14(3) Notice

Where an inspector has removed or destroyed an animal under subsection (1) or (2), he shall forthwith notify the owner of the animal, if known, of his action by notice in writing served upon the owner in the manner prescribed for service of an order under subsection 12(3).

15(1) Statement of account

Where

(a) an inspector or veterinarian has, under subsection 11(6), provided an animal with food, water, care or treatment to relieve its distress; or

(b) an inspector has, under section 14, removed and taken possession of an animal, or destroyed it, an inspector may serve on the owner of the animal a statement of account respecting the costs incurred for such relief, removal or destruction by mailing the statement by registered mail to the owner at his or her latest known address.

15(1.1)Owner liable

The owner of an animal is liable to pay the costs set out in a statement of account after the service of the statement.

15(1.2)Deemed service

A statement of account is deemed to be served 5 business days after the day on which it was served in accordance with subsection (1).

15(2)Sale

Where the owner refuses to pay an account for which he is liable under subsection (1.1) within ten days after service of the statement of account or where the owner after reasonable inquiry, cannot be found, the inspector may sell the animal and be reimbursed out of the proceeds, holding the balance in trust for the owner or other person entitled thereto or otherwise dispose of the animal.

15(3)Unclaimed balance

Any balance remaining unclaimed after sixty days from the date of sale of the animal shall revert to the province.

* * * * *

Part V -- General

17Liability

No action lies against an inspector or veterinarian or any person acting as the agent of an inspector or veterinarian for anything done in good faith and purporting to be done under this Act or regulations.

18Obstructing inspector

No person shall

- (a) obstruct or interfere with, or
- (b) give false information to,
an inspector or the provincial veterinarian in the performance of his or her duties or the exercise of his or her powers under this Act or the regulations.

19(1)Offence

Every person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$100 and not more than \$2,000.

19(2)Continuing offence

Where a contravention of a provision of this Act or the regulations continues for more than one day, the person committing the contravention is guilty of a separate offence for each day that the contravention continues.

* * * * *

General Regulations, P.E.I. Reg. EC249/02, ss. 7-9 (2012)

Prohibited Practices

7

No person who owns or has custody or control of a companion animal shall permit or cause it to engage in a contest involving fighting by the companion animal and any other animal.

8

No person shall keep or confine a companion animal in any place, including a companion animal establishment, or in any vehicle, that contains an item or debris or is in a state of such disrepair that the item or debris or state of disrepair constitutes a hazard likely to injure, or endanger the health of, the companion animal.

Excluded Animals

9

Fish of all species, types and categories are prescribed to be excluded animals.

ANIMAL PROTECTION LAWS OF PUERTO RICO

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Puerto Rico's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Puerto Rico may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

PUERTO RICO

1. GENERAL PROHIBITIONS*

- (1)
Abandonment
5 L.P.R.A. § 1664

- (2)
Confinement
5 L.P.R.A. § 1665

- (3)
Neglect
5 L.P.R.A. § 1666

- (4)
Motorist's Duty to Injured Animal
5 L.P.R.A. § 1666(d)

- (5)
Aggravated Neglect
5 L.P.R.A. § 1667

- (6)
Abuse
5 L.P.R.A. § 1668

- (7)
Third-Degree Abuse
5 L.P.R.A. § 1669

- (8)
Aggravated Abuse
5 L.P.R.A. § 1670

- (9)
Poisoning
5 L.P.R.A. § 1674

PUERTO RICO <i>continued</i>	
<i>Animals Covered in Definition</i>	<p>“[A]ny mammal, bird, reptile, amphibian, fish, cetacean, and any other superior phyla animal in captivity or under the control of any person, or any animal protected by Federal or Commonwealth laws or by municipal ordinances.” 5 L.P.R.A. § 1660</p>
<i>Classification of Crimes</i>	<p>(1) Fourth-degree felony</p> <p>[Severe bodily injury or death]: Third-degree felony</p> <p>(2) Misdemeanor</p> <p>(3) Misdemeanor</p> <p>(4) Misdemeanor</p> <p>(5) Fourth-degree felony</p> <p>(6) Fourth-degree felony</p> <p>[Repeat offenders (any animal protection offense, domestic violence, child or elder abuse offense) or committing the offense in the presence of a minor]: Third-degree felony</p>

PUERTO RICO <i>continued</i>	
<i>Classification of Crimes</i> <i>continued</i>	<p>(7) Third-degree felony</p> <p>[Repeat offenders (any animal protection offense, domestic violence, child or elder abuse offense) or committing the offense in the presence of a minor]: Second-degree felony</p> <p>(8) Second-degree felony</p> <p>[Repeat offenders (any animal protection offense, domestic violence, child or elder abuse offense) or committing the offense in the presence of a minor]: Second-degree felony with no rights to alternative sentencing</p> <p>(9) [Use of poison without precautions]: Misdemeanor</p> <p>[Use of poison without precautions, 2nd offense]: Misdemeanor</p> <p>[Use of poison without precautions, subsequent offenses]: Fourth-degree felony</p> <p>[Use of poison without precautions resulting in severe bodily injury]: Fourth-degree felony</p> <p>[Willful administration of poison resulting in death or severe bodily injury]: Third-degree felony</p>

PUERTO RICO <i>continued</i>	
2. MAXIMUM PENALTIES ^{**}	<p>(1) 3 years imprisonment <i>and/or</i> \$5,000 fine 5 L.P.R.A. § 1664(b)</p> <p>[Severe bodily injury or death]: 8 years imprisonment <i>and/or</i> \$8,000 fine 5 L.P.R.A. § 1664(c)</p> <p>(2) [1st offense]: 90 days fine <i>and/or</i> 90 days community service <i>and/or</i> 90 days house arrest <i>and/or</i> \$2,000 fine 5 L.P.R.A. § 1665(b),(d)</p> <p>[2nd offense]: 6 months imprisonment <i>and/or</i> \$4,000 fine 5 L.P.R.A. § 1665(c),(d)</p> <p>(3) 6 months imprisonment <i>and/or</i> \$5,000 fine <i>or</i> Probation or another alternative to imprisonment <i>and</i></p>

	<p>\$2,000 fine 5 L.P.R.A. § 1666(b),(c)</p>
<p>PUERTO RICO<i>continued</i></p>	
<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(4) 90 days fine <i>and/or</i> 90 days community service <i>and/or</i> 90 days house arrest <i>and/or</i> 5 L.P.R.A. § 1666(d)</p> <p>(5) 3 years imprisonment <i>and/or</i> Probation or another alternative to imprisonment <i>and</i> \$3,000 fine 5 L.P.R.A. § 1667</p> <p>(6) 3 years imprisonment <i>and/or</i> Probation or another alternative to imprisonment <i>and</i> \$3,000 fine 5 L.P.R.A. § 1668(b)</p> <p>[Repeat offenders (any animal protection offense, domestic violence, child or elder abuse offense) or committing the offense in the presence of a minor]: 8 years imprisonment <i>and/or</i> Probation or another alternative to imprisonment <i>and</i></p>

	<p>\$10,000 fine 5 L.P.R.A. § 1668(c)</p>
<p>PUERTO RICO<i>continued</i></p>	
<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(7) 8 years imprisonment <i>and/or</i> Probation or another alternative to imprisonment <i>and</i> \$10,000 fine 5 L.P.R.A. § 1669(b)</p> <p>[Repeat offenders (any animal protection offense, domestic violence, child or elder abuse offense) or committing the offense in the presence of a minor]: 15 years imprisonment <i>and/or</i> Probation or another alternative to imprisonment <i>and</i> \$15,000 fine 5 L.P.R.A. § 1669(c)</p> <p>(8) 15 years imprisonment <i>and/or</i> Probation or another alternative to imprisonment <i>and</i> \$20,000 fine 5 L.P.R.A. § 1670(b)</p> <p>[Repeat offenders (any animal protection offense, domestic violence, child or elder abuse offense) or committing the offense in the presence of a minor]: 15 years imprisonment</p>

	5 L.P.R.A. § 1670(c)
PUERTO RICO <i>continued</i>	
2. MAXIMUM PENALTIES ^{**} <i>continued</i>	<p>(9) [Use of poison without precautions]: 90 days fine <i>and/or</i> 90 days community service <i>and/or</i> 90 days house arrest <i>and/or</i> 5 L.P.R.A. § 1674(a)</p> <p>[Use of poison without precautions, 2nd offense]: 6 months imprisonment <i>and/or</i> \$5,000 fine 5 L.P.R.A. § 1674(a)</p> <p>[Use of poison without precautions, subsequent offenses]: 3 years imprisonment 33 L.P.R.A. § 4644</p> <p>[Use of poison without precautions resulting in severe bodily injury]; 3 years imprisonment 33 L.P.R.A. § 4644 <i>or</i> Probation or another alternative to imprisonment <i>and</i> \$5,000 fine 5 L.P.R.A. § 1674(b)</p>

PUERTO RICO <i>continued</i>	
2. MAXIMUM PENALTIES ^{**} <i>continued</i>	(9) <i>continued</i> [Willful administration of poison resulting in death or severe bodily injury]: Third-degree felony 8 years imprisonment 33 L.P.R.A. § 4644(C) <i>or</i> Probation or another alternative to imprisonment <i>and</i> \$10,000 fine 5 L.P.R.A. § 1674(c)(i)(a)
3. EXEMPTIONS ^{***}	-----
4. COUNSELING / EVALUATIONS [†]	-----
5. PROTECTIVE ORDERS [†]	5 L.P.R.A. §§ 1678, 1679(a)
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS [†]	Expenses for the care of a seized animal is a lien upon the animal; all costs shall be paid before animal may be returned if no conviction or charges are dropped. 5 L.P.R.A. § 1681 A civil action to collect costs of care may be brought by agency or person who cared for the seized animal. 5 L.P.R.A. § 1681 All funds generated from fines shall be distributed among shelters to provide direct animal care services.

	<p>5 L.P.R.A. § 1684</p> <p>In addition to the penalty imposed on the convict for the crime committed, the court may impose the penalty of restitution. 33L.P.R.A.§4689</p>
<p>PUERTO RICO<i>continued</i></p>	
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Upon being accused of abuse, the court or law enforcement may seize the animal from the accused while the case is pending. The court may take other measures to protect and aid in the welfare of the animal. 5 L.P.R.A. § 1679</p>
<p>8. FORFEITURE / POSSESSION[†]</p>	<p>The owner of a corporation of other legal entity found guilty of animal abuse may not engage in “animal affairs.” 5 L.P.R.A. § 1673</p> <p>Failure to pay a lien for costs of care for a seized animal within 30 days following the resolution of the criminal case results in forfeiture of the animal. 5 L.P.R.A. § 1681</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING / IMMUNITY</p>	<p>-----</p>

PUERTO RICO <i>continued</i>	
11. LAW ENFORCEMENT POLICIES	<p>Municipalities shall assign “top priority” to cases involving abuse and negligence of stray animals; regional administrators shall coordinate efforts to identify, prevent and treat persons involved in violence against animals. 5 L.P.R.A. § 1661</p> <p>When an animal is in an emergency situation, municipalities shall provide necessary and adequate assistance to law enforcement and other government and private agencies. 5 L.P.R.A. § 1662</p> <p>The government shall coordinate and cooperate with NGOs to help against violence toward animals. 5 L.P.R.A. § 1663</p>
12. SEXUAL ASSAULT	<p>Bestiality is a fourth degree felony. 33 L.P.R.A. § 4773</p>
13. FIGHTING	<p>Various animal fighting offenses, including spectatorship, are second-degree felonies; increased penalties for repeat offenders (fighting, other animal abuse, domestic violence, child or elder abuse), committing the offense in the presence of a minor, or if the animal dies as a result of the fight. 5 L.P.R.A. § 1671</p>

	<p>EDITOR'S NOTE: Cockfighting remains legal in Puerto Rico under 15 L.P.R.A. § 301.</p>
<p>PUERTO RICO<i>continued</i></p>	
<p><i>Other Felony Provisions Affecting Animals</i>[†]</p>	<p>Certain types of trapping 5 L.P.R.A. § 1675</p> <p>Selling animals on streets, roads or public places 5 L.P.R.A. § 1680</p> <p>Breeding animals without a license 5 L.P.R.A. § 1680</p> <p>Inhumane transportation of animals 5 L.P.R.A. § 1672</p>

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states and territories may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡ This list is not exhaustive; states and territories may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

5 L.P.R.A. § 1660 (2012). Definitions.

For the purposes of this chapter, the following terms shall have the meaning stated below:

a. “Abandonment”.—Means the voluntary dereliction or remissness, whether temporary or permanent, of the responsibilities of the animal’s custodian.

b. “Animal”.—Means any mammal, bird, reptile, amphibian, fish, cetacean, and any other superior phyla animal in captivity or under the control of any person, or any animal protected by Federal or Commonwealth laws or by municipal ordinances.

c. “Stray Animal”.—An animal with no known custodian.

d. “Safety Collar”.—Means a collar that applies pressure to the neck of the animal when the animal pulls in a direction against the will of the custodian, or when the custodian pulls to temporarily restrain the animal’s movement.

e. “Continuous Care”.—Means the preventive care that a prudent person would minister on an animal to prevent injuries, diseases or permanent severe or deadly conditions.

f. “Minimal Care”.—Means sufficient care to preserve the health and welfare of an animal, except for emergencies or circumstances beyond the reasonable control of the custodian. This includes but is not limited to the requirements stated below:

i. Quantity and quality of enough food to allow for the growth or maintenance of the normal body weight of the animal.

ii. Open and proper access to drinking water, at a temperature that is fit for drinking and in sufficient amount to satisfy the needs of the animal.

iii. Access to a stable, house or any other structure able to protect the animal from bad weather conditions, as well as an appropriate place to sleep that protects the animal from excessive cold, heat and humidity.

iv. Being provided with the veterinary care that a prudent person would deem necessary to protect the animal from suffering; this includes vaccination and preventive care.

v. *Continuous access to an area. Continuous access to an area is:*

a) *For the animal to have an adequate space to exercise as necessary for its health. Inadequate spaces lead to weakness, stress or abnormal patterns of behavior.*

b) *A temperature agreeable with the animal's health, in attention of its natural habitat.*

c) *Proper ventilation.*

d) *Regular daylight cycles, whether by means of natural or artificial lighting.*

e) *A clean environment, free from excessive waste or other pollutants that might affect the animal's health.*

g. *“Commercial Animal Breeder”.—A natural or juridical person engaged in breeding animals for sale.*

h. *“Provisional Custody”.—Means the custody granted by a judge in a custody or possession deprivation action, or when a protection order is issued against the animal's custodian, for a defined term, subject to review until the conclusion of the proceedings.*

i. *“Emergency”.—Means any situation the animal may be experiencing which poses an imminent risk to its safety, health or bodily integrity.*

j. *“Euthanasia”.—Means a humane method which inflicts a quick and painless death.*

k. *“Custodian”.—Means the natural or juridical person who has the control, custody, possession or ownership over an animal.*

l. *“Bodily Injury”.—Means physical trauma, or a loss of or decrease in functions or pain not consistent with reasonable training and management techniques.*

m. *“Severe Bodily Injury”.—Means a bodily injury that poses the risk of death or which causes disfigurement, a prolonged health condition, or a prolonged loss and/or disability in terms of the functions of an extremity or a bodily organ.*

n. *“Abuse”.—Means all acts or omissions of a person, whether or not the custodian, which cause or places the animal at risk of sustaining harm to its health and to its bodily and/or emotional integrity. The necessary efforts contemplated in Act No. 241 of 1999, known as the New Puerto Rico Wildlife Act, and in Regulation No. 6765 of March 12, 2004, as amended, of the Department of Natural and Environmental Resources, are hereby excluded from this definition.*

o. “Negligence”.—Means a kind of abuse consisting in the dereliction of the duties or the remissness in exercising the powers of adequately providing minimal and continuous care to an animal; to be remiss in the duties of providing care and supervision.

p. “Police Officer” or “Animal Control Officer”.—Includes any member of a force established under any law to discharge police functions, duties or powers under the Commonwealth of Puerto Rico. This includes, without the listing being construed as a limitation, the members of the Puerto Rico Police, municipal police officers, the members of the Rangers Corps of the Department of Natural and Environmental Resources, the inspectors of the Department of Consumer Affairs, and the inspectors of the Department of Health and the Commonwealth Animal Control Office (OECA, Spanish acronym).

q. “Protection Order”.—Means any mandate issued in writing under the seal of a Court, whereby measures are pronounced against an animal abuser so that he/she abstains from engaging in or carrying out certain acts or conducts that constitute abuse and/or neglect.

r. “Person”.—Means an individual, corporation, trust, association, society or any other legal entity, whether natural or juridical.

s. “Possession”.—Means to have the physical custody or to exercise dominion or control over an animal.

t. “Imminent Risk”.—Means any situation that endangers the health, safety, or physical or emotional welfare of an animal.

u. “Unnecessary Suffering”.—Means to cause a suffering that is not necessary to ensure the safety, health, or welfare of the animal or other beings within its environment.

v. “Torture”.—Means an action taken with the prime purpose of inflicting or prolonging pain.

w. “Physical Trauma”.—Means fractures, cuts, burns, bruises or other bodily injuries and/or wounds in the animal’s body.

x. “Veterinarian”.—Means a person that holds a degree as Doctor in Veterinary Medicine, licensed by the Veterinarian Examining Board, and a member in good standing of the Veterinarians’ College.

5 L.P.R.A. § 1664 (2012). Abandonment of an Animal.

a. If a person willfully, knowingly, carelessly or with criminal negligence, leaves an animal in a location with the intention of dereliction, said person is committing the crime of abandoning an animal.

b. Abandonment of an animal is a fourth-degree felony that entails the punishment of imprisonment ranging from six (6) months and one (1) day to three (3) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to five thousand (5,000) dollars.

c. If, as a consequence of the abandonment of an animal, the animal sustains severe bodily injury or dies, the crime shall be deemed to be a third-degree felony that entails the punishment of imprisonment ranging from three (3) years and one (1) day to eight (8) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to eight thousand (8,000) dollars.

5 L.P.R.A. § 1665 (2012). Confinement of Animals.

a. Any person with the control over an animal shall provide the animal with an adequate space within the property of the custodian that allows for free movement.

b. Any person who confines, binds or otherwise limits the movement of an animal, and in so doing, causes unnecessary suffering, shall be guilty of a misdemeanor that entails the imposition of an individual fine, not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days or home confinement or house arrest in calendar days up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days. Provided, further, that to walk the animal, a collar and leash is mandatory in order to control the animal, in pertinent cases, without causing harm or suffering, except for animals weighing over 60 pounds, which require a “safety collar.”

c. Instances of recidivism in this crime shall be punished by imprisonment for up to six (6) months.

d. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from five hundred (500) to two thousand (2,000) dollars. Thereafter, for each instance of recidivism, the sum of the last fine imposed by the Court shall double.

5 L.P.R.A. § 1666 (2012). Abuse by Negligence.

a. A person shall be deemed to be negligent if said person knowingly, carelessly or negligently fails to provide minimal care to an animal in the possession of said person.

b. Neglecting animals constitutes a misdemeanor that entails a fine of up to five thousand (5,000) dollars or imprisonment for up to six (6) months, or both penalties, in the discretion of the Court.

c. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from five hundred (500) to two thousand (2,000) dollars.

d. A person is negligent if he/she runs with his/her car over a dog, cat, horse and/or head of cattle and does not take the necessary measures for the animal to be tended to or, in case of having inflicted death, the necessary measures to have the animal removed, provided he/she is not placing his/her safety at risk. Among the steps to be followed are the following: calling an animal round-up center in the municipality, and if such information should not be available, calling the Police. Any person who fails to comply with this subsection shall be guilty of a misdemeanor that entails the imposition of an individual fine not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days or home confinement or house arrest in calendar days for up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days.

5 L.P.R.A. § 1667 (2012). Aggravated Negligence against Animals.

a. A person shall be guilty of aggravated negligence when willfully, knowingly, carelessly or with criminal negligence:

i. Fails to provide minimal care to an animal in the possession of said person and failure to provide such care results in severe bodily injury or death of the animal. This crime is typified as a fourth-degree felony that entails the imposition of a punishment by imprisonment ranging from six (6) months and one (1) day to three (3) years.

a) If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the penalty shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

5 L.P.R.A. § 1668 (2012). Animal Abuse.

a. A person is guilty of the crime of animal abuse if the person willfully, knowingly, carelessly or with criminal negligence inflicts any bodily injury or suffering on the animal.

b. Animal abuse is considered to be a fourth-degree felony that entails the imposition of punishment by imprisonment ranging from six (6) months and one (1) day to three (3) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

c. Notwithstanding the provisions of subsection (b) of this Section, animal abuse constitutes a third-degree felony that entails the imposition of punishment by imprisonment ranging from three (3) years and one (1) day to eight (8) years if:

i. The person who is committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from any other jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For the purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

1. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

5 L.P.R.A. § 1669 (2012). Third-Degree Animal Abuse.

a. A person shall be guilty of the crime of animal abuse in its third-degree felony modality if a person willfully, knowingly, carelessly or with criminal negligence:

i. Inflicts a severe bodily injury; or

ii. Inflicts death on an animal.

b. This crime entails punishment by imprisonment ranging from three (3) years and one (1) day to eight (8) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

c. Notwithstanding the provisions of subsection (a) of this Section, animal abuse shall be typified as a second-degree felony that entails the imposition of punishment by imprisonment ranging from eight (8) years and one (1) day to fifteen (15) years if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from another jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

1. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to fifteen thousand (15,000) dollars.

5 L.P.R.A. § 1670 (2012).Aggravated Animal Abuse.

a. A person shall be guilty of the crime of aggravated animal abuse if the person willfully or knowingly:

i. Tortures an animal; or

ii. Kills an animal under circumstances that show there was malice aforethought or a gross disregard for life.

b. Aggravated animal abuse is typified as a second-degree felony that entails punishment by imprisonment for a term of not less than eight (8) years and one (1) day and not more than fifteen (15) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to twenty thousand (20,000) dollars.

c. Notwithstanding the provisions of subsection (b) of this Section, aggravated animal abuse shall be typified as a second-degree felony without the right to alternate benefits other than jail imprisonment if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations of another jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For purposes of this subclause, a minor shall be in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

5 L.P.R.A. § 1674 (2012). Poisoning.

a. If any person should use any kind of poison, even if he/she hires a third party for such a purpose, without making the necessary provisions to prevent bodily injuries to animals other than pests, he/she shall be accused of a misdemeanor that entails the imposition of an individual fine not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days, or home confinement or house arrest in calendar days for up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days. The fact that the animal has entered his/her premises shall not constitute a defense. Instances of recidivism shall be typified as misdemeanors that entail a fine of up to five thousand (5,000) dollars and/or punishment by imprisonment for up to six (6) months. A subsequent instance of recidivism shall be typified as a fourth-degree felony.

b. Poisoning an animal constitutes a fourth-degree felony if:

i. An animal ingests the poison laid out without proper precautions and this results in a severe bodily injury of the animal.

a) If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to five thousand (5,000) dollars.

c. Poisoning an animal is typified as a third-degree felony if:

i. There is a willful administration to any animal of any poison or poisonous substance that causes a severe bodily injury or death.

a) If upon conviction under subsection (c), the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

2. PENALTIES

5 L.P.R.A. § 1664 (2012). Abandonment of an Animal.

a. If a person willfully, knowingly, carelessly or with criminal negligence, leaves an animal in a location with the intention of dereliction, said person is committing the crime of abandoning an animal.

b. Abandonment of an animal is a fourth-degree felony that entails the punishment of imprisonment ranging from six (6) months and one (1) day to three (3) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to five thousand (5,000) dollars.

c. If, as a consequence of the abandonment of an animal, the animal sustains severe bodily injury or dies, the crime shall be deemed to be a third-degree felony that entails the punishment of imprisonment ranging from three (3) years and one (1) day to eight (8) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to eight thousand (8,000) dollars.

5 L.P.R.A. § 1665 (2012). Confinement of Animals.

a. Any person with the control over an animal shall provide the animal with an adequate space within the property of the custodian that allows for free movement.

b. Any person who confines, binds or otherwise limits the movement of an animal, and in so doing, causes unnecessary suffering, shall be guilty of a misdemeanor that entails the imposition of an individual fine, not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days or home confinement or house arrest in calendar days up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days. Provided, further, that to walk the animal, a collar and leash is mandatory in order to control the animal, in pertinent cases, without causing harm or suffering, except for animals weighing over 60 pounds, which require a "safety collar."

c. Instances of recidivism in this crime shall be punished by imprisonment for up to six (6) months.

d. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from five hundred (500) to two thousand (2,000) dollars. Thereafter, for each instance of recidivism, the sum of the last fine imposed by the Court shall double.

5 L.P.R.A. § 1666 (2012). Abuse by Negligence.

a. A person shall be deemed to be negligent if said person knowingly, carelessly or negligently fails to provide minimal care to an animal in the possession of said person.

b. Neglecting animals constitutes a misdemeanor that entails a fine of up to five thousand (5,000) dollars or imprisonment for up to six (6) months, or both penalties, in the discretion of the Court.

c. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from five hundred (500) to two thousand (2,000) dollars.

d. A person is negligent if he/she runs with his/her car over a dog, cat, horse and/or head of cattle and does not take the necessary measures for the animal to be tended to or, in case of having inflicted death, the necessary measures to have the animal removed, provided he/she is not placing his/her safety at risk. Among the steps to be followed are the following: calling an animal round-up center in the municipality, and if such information should not be available, calling the Police. Any person who fails to comply with this subsection shall be guilty of a misdemeanor that entails the imposition of an individual fine not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days or home confinement or house arrest in calendar days for up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days.

5 L.P.R.A. § 1667 (2012). Aggravated Negligence against Animals.

a. A person shall be guilty of aggravated negligence when willfully, knowingly, carelessly or with criminal negligence:

i. Fails to provide minimal care to an animal in the possession of said person and failure to provide such care results in severe bodily injury or death of the animal. *This crime is typified as a fourth-degree felony that entails the imposition of a punishment by imprisonment ranging from six (6) months and one (1) day to three (3) years.*

a) If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the penalty shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

5 L.P.R.A. § 1668 (2012). Animal Abuse.

a. A person is guilty of the crime of animal abuse if the person willfully, knowingly, carelessly or with criminal negligence inflicts any bodily injury or suffering on the animal.

b. Animal abuse is considered to be a fourth-degree felony that entails the imposition of punishment by imprisonment ranging from six (6) months and one (1) day to three (3) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

c. Notwithstanding the provisions of subsection (b) of this Section, animal abuse constitutes a third-degree felony that entails the imposition of punishment by imprisonment ranging from three (3) years and one (1) day to eight (8) years if:

i. The person who is committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from any other jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For the purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

1. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

5 L.P.R.A. § 1669 (2012). Third-Degree Animal Abuse.

a. A person shall be guilty of the crime of animal abuse in its third-degree felony modality if a person willfully, knowingly, carelessly or with criminal negligence:

- i. Inflicts a severe bodily injury; or
- ii. Inflicts death on an animal.

b. This crime entails punishment by imprisonment ranging from three (3) years and one (1) day to eight (8) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

c. Notwithstanding the provisions of subsection (a) of this Section, animal abuse shall be typified as a second-degree felony that entails the imposition of punishment by imprisonment ranging from eight (8) years and one (1) day to fifteen (15) years if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from another jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

1. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to fifteen thousand (15,000) dollars.

5 L.P.R.A. § 1670 (2012).Aggravated Animal Abuse.

a. A person shall be guilty of the crime of aggravated animal abuse if the person willfully or knowingly:

i. Tortures an animal; or

ii. Kills an animal under circumstances that show there was malice aforethought or a gross disregard for life.

b. Aggravated animal abuse is typified as a second-degree felony that entails punishment by imprisonment for a term of not less than eight (8) years and one (1) day and not more than fifteen (15) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to twenty thousand (20,000) dollars.

c. Notwithstanding the provisions of subsection (b) of this Section, aggravated animal abuse shall be typified as a second-degree felony without the right to alternate benefits other than jail imprisonment if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations of another jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For purposes of this subclause, a minor shall be in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

5 L.P.R.A. § 1673 (2012). Animal Abuse by Juridical Entities.

a. Any entity, whether engaged or not in animal affairs, that abuses an animal, shall be sanctioned with the same punishments, according to the type of crime as established in this Act.

i. Should the entity be found guilty, in addition to the punishments that apply pursuant to this Act, the person who owns the entity thus found guilty may not engage in any animal affairs.

5 L.P.R.A. § 1674 (2012). Poisoning.

a. If any person should use any kind of poison, even if he/she hires a third party for such a purpose, without making the necessary provisions to prevent bodily injuries to animals other than pests, he/she shall be accused of a misdemeanor that entails the imposition of an individual fine not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days, or home confinement or house arrest in calendar days for up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days. The fact that the animal has entered his/her premises shall not constitute a defense. Instances of recidivism shall be typified as misdemeanors that entail a fine of up to five thousand (5,000) dollars and/or punishment by imprisonment for up to six (6) months. A subsequent instance of recidivism shall be typified as a fourth-degree felony.

b. Poisoning an animal constitutes a fourth-degree felony if:

i. An animal ingests the poison laid out without proper precautions and this results in a severe bodily injury of the animal.

a) If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to five thousand (5,000) dollars.

c. Poisoning an animal is typified as a third-degree felony if:

i. There is a willful administration to any animal of any poison or poisonous substance that causes a severe bodily injury or death.

a) If upon conviction under subsection (c), the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

33 L.P.R.A. § 4644 (2012). Classification.

Crimes are classified as misdemeanors and felonies.

A misdemeanor entails an individual fine of up to five thousand dollars (\$5,000) or imprisonment for up to ninety (90) days. A felony, in all its classifications which are specified below, comprises all other crimes.

A felony entails imprisonment for more than six (6) months and, according to the corresponding penalty, is classified in four (4) degrees, as follows:

(a) First degree felony.—The penalty for which is imprisonment for a term of ninety-nine (99) years.

(b) Second degree felony.—The penalty for which is imprisonment for a term fluctuating between eight (8) years and one (1) day and fifteen (15) years. Second degree murder, sexual assault, aggravated kidnapping, child kidnapping and aggravated robbery, when damage is inflicted against the victim or if it takes place in the domicile of the victim, shall be severe second degree felonies with a penalty of imprisonment of between fifteen (15) years and one day and twenty-five (25) years.

(c) Third degree felony.—The penalty for which is imprisonment fluctuating between three (3) years and one (1) day and eight (8) years.

(d) Fourth degree felony.—The penalty for which is imprisonment fluctuating between six (6) months and one day and three (3) years.

However, other types of penalty besides imprisonment may be imposed for felonies and misdemeanors.

The felonies typified in special laws maintain the classification of felony and the corresponding penalty if they entail a penalty of imprisonment for more than six (6) months or a fine of more than five thousand dollars (\$5,000), unless otherwise provided by law.

Misdemeanors typified in special laws maintain the classification of misdemeanor and the corresponding penalty if they entail a penalty that does not exceed six (6) months or a fine that does not exceed five thousand dollars (\$5,000), or both penalties.

33 L.P.R.A. § 4689 (2012). Restitution.

The penalty of restitution consists of the court imposed obligation to compensate the victim for the damages and losses caused to his/her person or property as a consequence of the crime. The penalty of restitution does not include suffering and mental anguish.

The court may order that the penalty of restitution be compensated in money, through the rendering of services, the delivery of the illegally appropriated property or the equivalent, if the property is not available.

If the penalty of restitution is compensated in money, the sum thereof shall be established by the court taking into consideration the following: the total amount of damages to be restored, the allocated participation of the convicted person if there were several perpetrators of the criminal act, the convicted person's ability to pay and all other elements that allow an adequate adjustment to the circumstances of the case and the condition of the convicted person.

The penalty of restitution shall be paid immediately. Nevertheless, at the request of the sentenced person and at the discretion of the court, taking into consideration the financial situation of the convict, it may be paid in full or in installments within a reasonable term after the date on which the sentence becomes effective.

L.P.R.A. § 1683(2012).Payments of Fines.

It is hereby established that, if the person convicted should be unable to pay any fine imposed by the Court, the person shall have to serve time in jail, to be computed on the basis of fifty dollars (\$50.00) per day.

3. EXEMPTIONS

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

5 L.P.R.A. § 1678 (2012). Protection Orders.

a. In all cases in which a person is accused of domestic violence or child abuse, the Court shall, by petition of party, issue a protection order for the petitioner so that he/she be the sole custodian of the animal. The Court shall order the accused to keep far away from the animal and prohibit contact of any kind.

b. A violation of the protection order shall be considered to be a fourth-degree felony.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

5 L.P.R.A. § 1679 (2012).Pre-Conviction Provisions.

a. When a person has been accused of acts that constitute animal abuse, the Court or the law enforcement officers may, as a precautionary and preventive measure in benefit of the animal, remove or order the provisional removal of the animal while the case is heard. *Likewise, the Court may take or order the precautionary measures it deems convenient and necessary for the protection and welfare of the animal, including the issue of a protection order.* The animal shall be handed over to the shelter of the municipality of residence of the custodian or to the private organization that intervened in the animal abuse situation, if the organization so requests.

b. If after a trial on its merits or a hearing, the existence of abuse against the animal is not proven, the animal shall be returned to its custodian.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

5 L.P.R.A. § 1681 (2012). Liens.

a. Any expense incurred to provide minimal care to a seized animal shall constitute a lien on the animal and the costs of such care shall be paid in full by the custodian before the animal is returned to him/her after having been found not guilty or after criminal charges have been dismissed. If the costs are not paid in full within thirty (30) days after the criminal case has been resolved, the legal custody of the seized animal by the custodian shall be immediately transferred to the agency or person who has custody, which shall take steps for its possible adoption. The costs of providing care to the animal shall continue to be the responsibility of the custodian against whom the agency or person with custody may bring a civil action for collection of money owed.

5 L.P.R.A. § 1684(2012). Compensation Fund.

The moneys originating from the fines shall be deposited into a special fund that shall be administered by the OECA, to be distributed among municipal shelters to provide direct animal care services.

33 L.P.R.A. § 4689 (2012). Restitution.

The penalty of restitution consists of the court imposed obligation to compensate the victim for the damages and losses caused to his/her person or property as a consequence of the crime. The penalty of restitution does not include suffering and mental anguish.

The court may order that the penalty of restitution be compensated in money, through the rendering of services, the delivery of the illegally appropriated property or the equivalent, if the property is not available.

If the penalty of restitution is compensated in money, the sum thereof shall be established by the court taking into consideration the following: the total amount of damages to be restored, the allocated participation of the convicted person if there were several perpetrators of the criminal act, the convicted person's ability to pay and all other elements that allow an adequate adjustment to the circumstances of the case and the condition of the convicted person.

The penalty of restitution shall be paid immediately. Nevertheless, at the request of the sentenced person and at the discretion of the court, taking into consideration the financial situation of the convict, it may be paid in full or in installments within a reasonable term after the date on which the sentence becomes effective.

7. SEIZURE / ON-SITE SUPERVISION

5 L.P.R.A. § 1679 (2012).Pre-Conviction Provisions.

a. When a person has been accused of acts that constitute animal abuse, the Court or the law enforcement officers may, as a precautionary and preventive measure in benefit of the animal, remove or order the provisional removal of the animal while the case is heard. Likewise, the Court may take or order the precautionary measures it deems convenient and necessary for the protection and welfare of the animal, including the issue of a protection order. The animal shall be handed over to the shelter of the municipality of residence of the custodian or to the private organization that intervened in the animal abuse situation, if the organization so requests.

b. If after a trial on its merits or a hearing, the existence of abuse against the animal is not proven, the animal shall be returned to its custodian.

8. FORFEITURE / POSSESSION

5 L.P.R.A. § 1673 (2012). Animal Abuse by Juridical Entities.

a. Any entity, whether engaged or not in animal affairs, that abuses an animal, shall be sanctioned with the same punishments, according to the type of crime as established in this chapter.

i. Should the entity be found guilty, in addition to the punishments that apply pursuant to this Act, the person who owns the entity thus found guilty may not engage in any animal affairs.

5 L.P.R.A. § 1681 (2012). Liens.

a. Any expense incurred to provide minimal care to a seized animal shall constitute a lien on the animal and the costs of such care shall be paid in full by the custodian before the animal is returned to him/her after having been found not guilty or after criminal charges have been dismissed. If the costs are not paid in full within thirty (30) days after the criminal case has been resolved, the legal custody of the seized animal by the custodian shall be immediately transferred to the agency or person who has custody, which shall take steps for its possible adoption. The costs of providing care to the animal shall continue to be the responsibility of the custodian against whom the agency or person with custody may bring a civil action for collection of money owed.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

5 L.P.R.A. § 1661 (2012). Responsibilities and Coordination with Other Agencies.

In order to guarantee the fullest compliance with this chapter, the municipalities of the Commonwealth of Puerto Rico must comply with the provisions of the Autonomous Municipalities Act, §§ 4001 et seq. of Title 21, and these shall assign top priority to handling situations that come to their attention and which involve abuse and/or negligence of stray animals. The municipalities, in coordination with the Central Municipal Affairs Office (OCAM, Spanish acronym), shall be under the obligation to assign top priority to handling situations that involve the abuse of stray animals, as well as round-ups and care. OCAM shall coordinate efforts with other government and private agencies when services are required in relation to the identification, prevention or treatment of persons involved in acts of violence against animals. Such coordination shall include joint planning, public education and information services, use of one another's facilities, training sessions and joint activities for the betterment of the personnel and of case evaluation and management.

5 L.P.R.A. § 1662 (2012). Emergency Management.

When an animal is in an emergency situation, it shall be the responsibility of the municipality where the animal is located, to provide the necessary and adequate assistance to the Police and to the personnel of the government and/or private agency intervening in the emergency. All municipalities are under the obligation to develop a plan covering animal emergency management, round-ups and protection, under penalty of not being provided with funds from the Commonwealth Animal Control Office, or of having such funds cancelled. Such a management plan shall be drafted within one (1) year from the date of effectiveness of this chapter.

5 L.P.R.A. § 1663 (2012). Coordination and Cooperation with Non-Government Organizations.

The Government of Puerto Rico, its public corporations, departments, agencies and instrumentalities and officials shall take the initiative to:

a. Facilitate and maintain continuous efforts to incorporate the views of [non-governmental] and community entities into the various aspects of their services;

b. Foster the participation of representatives from these entities, as well as persons whom these organizations have served, in the planning, development, offering and evaluation of services pertaining to persons involved in animal abuse;

c. Establish collaboration agreements with the [non-governmental] organizations that provide projects to render services to animals and/or families involved in violence against or negligence of animals, as well as to abusive youths and adults. These agreements may be established but are not to be limited to the following areas: design and establishment of procedures conducive to promoting and guaranteeing animal welfare; protection and safety plans; support services for the prevention and management of family violence for persons, families, communities, and the Island;

d. Offer all the support these entities need in order to guarantee their participation and make multi-sector collaboration possible in all compliance items of this chapter, while respecting the autonomy of said organizations.

12. SEXUAL ASSAULT

33 L.P.R.A. § 4773 (2012). Bestiality.

Any person who performs, or incites, coerces or assists another person to perform any type of sexual penetration with an animal shall incur a fourth degree felony.

13. FIGHTING

5 L.P.R.A. § 1671 (2012). Animal Fights.

a. No person shall cause, sponsor, organize, conduct or promote events in which any animal fights, threatens or injures another animal for sport, entertainment, financial gain or any other purpose, except for cockfights, practice which is regulated by §§ 301 et seq. of Title 15.

b. For purposes of this Section, a person promotes an event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others, if the person:

i. Is knowingly present or bets in such an event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others;

ii. The custodian trains, transports, possesses, breeds or fits an animal with the intention of involving said animal in an event in which the animal is to fight, threaten or injure another animal for sport, entertainment, financial gain, among others;

iii. Allows knowingly for any kind of event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others, to take place in any location that is owned or controlled by the person, among others;

iv. Allows knowingly for an animal used for such an event in which an animal fights, threatens or injures another animal for sport, entertainment, or financial gain, among others, to be maintained, lodged, trained or transported in any place or vehicle owned or controlled by the person;

v. Uses knowingly any means of communication with the purpose of promoting such an event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others; or

vi. Possesses knowingly an animal used to fight, threaten or injure another animal for sport, entertainment, financial gain, among others, or any mechanism intended to reinforce the animal's ability to fight, threaten or injure for sport, entertainment, financial gain, among others.

c. Any person who engages in any of the efforts described in this Section shall be accused of inciting or participating in animal fights, which is typified as a second-degree felony.

i. If upon conviction under any of its modalities, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to twenty-five thousand (25,000) dollars. If the owner of the location is a recidivist, the property shall be seized to the benefit of the Commonwealth of Puerto Rico.

d. Notwithstanding the provisions of subsection (c) of this Section, the crime shall be typified as a second-degree felony without the right to alternate benefits other than jail imprisonment if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from another jurisdiction;

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly carries out any of the activities mentioned in this subsection concerning animal fights in the immediate presence of a minor. For purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor; or

d) If as a consequence of such a fight, the animal dies.

e. The Puerto Rico Police shall seize all animals, equipment, material and/or money present at the location where the animal fights are held, without distinction as to who is the owner of the materials or the money or who are the animals' custodians. For this action, the procedure established in §§ 1723 et seq. of Title 34, known as the Uniform Seizure Act of 1998, shall be followed.

f. The animals thus seized shall be evaluated by the Department of Health, which shall make an assessment as to the dangerousness of the animals, and should the Department determine that said animals are dangerous, the Department shall dispose of the same by euthanasia practiced by a veterinarian. Otherwise, the Department shall hand them over to a shelter, which shall have full discretion as to whether to accept or reject the animals, with the purpose, if possible, of putting them up for adoption.

14. REFERENCED STATUTES

5 L.P.R.A. § 1660 (2012). Definitions.

For the purposes of this chapter, the following terms shall have the meaning stated below:

- a. “Abandonment”.—Means the voluntary dereliction or remissness, whether temporary or permanent, of the responsibilities of the animal’s custodian.
- b. “Animal”.—Means any mammal, bird, reptile, amphibian, fish, cetacean, and any other superior phyla animal in captivity or under the control of any person, or any animal protected by Federal or Commonwealth laws or by municipal ordinances.
- c. “Stray Animal”.—An animal with no known custodian.
- d. “Safety Collar”.—Means a collar that applies pressure to the neck of the animal when the animal pulls in a direction against the will of the custodian, or when the custodian pulls to temporarily restrain the animal’s movement.
- e. “Continuous Care”.—Means the preventive care that a prudent person would minister on an animal to prevent injuries, diseases or permanent severe or deadly conditions.
- f. “Minimal Care”.—Means sufficient care to preserve the health and welfare of an animal, except for emergencies or circumstances beyond the reasonable control of the custodian. This includes but is not limited to the requirements stated below:
 - i. Quantity and quality of enough food to allow for the growth or maintenance of the normal body weight of the animal.
 - ii. Open and proper access to drinking water, at a temperature that is fit for drinking and in sufficient amount to satisfy the needs of the animal.
 - iii. Access to a stable, house or any other structure able to protect the animal from bad weather conditions, as well as an appropriate place to sleep that protects the animal from excessive cold, heat and humidity.
 - iv. Being provided with the veterinary care that a prudent person would deem necessary to protect the animal from suffering; this includes vaccination and preventive care.
 - v. Continuous access to an area. Continuous access to an area is:

- a) For the animal to have an adequate space to exercise as necessary for its health. Inadequate spaces lead to weakness, stress or abnormal patterns of behavior.
 - b) A temperature agreeable with the animal's health, in attention of its natural habitat.
 - c) Proper ventilation.
 - d) Regular daylight cycles, whether by means of natural or artificial lighting.
 - e) A clean environment, free from excessive waste or other pollutants that might affect the animal's health.
- g. "Commercial Animal Breeder".—A natural or juridical person engaged in breeding animals for sale.
- h. "Provisional Custody".—Means the custody granted by a judge in a custody or possession deprivation action, or when a protection order is issued against the animal's custodian, for a defined term, subject to review until the conclusion of the proceedings.
- i. "Emergency".—Means any situation the animal may be experiencing which poses an imminent risk to its safety, health or bodily integrity.
- j. "Euthanasia".—Means a humane method which inflicts a quick and painless death.
- k. "Custodian".—Means the natural or juridical person who has the control, custody, possession or ownership over an animal.
- l. "Bodily Injury".—Means physical trauma, or a loss of or decrease in functions or pain not consistent with reasonable training and management techniques.
- m. "Severe Bodily Injury".—Means a bodily injury that poses the risk of death or which causes disfigurement, a prolonged health condition, or a prolonged loss and/or disability in terms of the functions of an extremity or a bodily organ.
- n. "Abuse".—Means all acts or omissions of a person, whether or not the custodian, which cause or places the animal at risk of sustaining harm to its health and to its bodily and/or emotional integrity. The necessary efforts contemplated in Act No. 241 of 1999, known as the New Puerto Rico Wildlife Act, and in Regulation No. 6765 of March 12, 2004, as amended, of the Department of Natural and Environmental Resources, are hereby excluded from this definition.

- o. “Negligence”.—Means a kind of abuse consisting in the dereliction of the duties or the remissness in exercising the powers of adequately providing minimal and continuous care to an animal; to be remiss in the duties of providing care and supervision.
- p. “Police Officer” or “Animal Control Officer”.—Includes any member of a force established under any law to discharge police functions, duties or powers under the Commonwealth of Puerto Rico. This includes, without the listing being construed as a limitation, the members of the Puerto Rico Police, municipal police officers, the members of the Rangers Corps of the Department of Natural and Environmental Resources, the inspectors of the Department of Consumer Affairs, and the inspectors of the Department of Health and the Commonwealth Animal Control Office (OECA, Spanish acronym).
- q. “Protection Order”.—Means any mandate issued in writing under the seal of a Court, whereby measures are pronounced against an animal abuser so that he/she abstains from engaging in or carrying out certain acts or conducts that constitute abuse and/or neglect.
- r. “Person”.—Means an individual, corporation, trust, association, society or any other legal entity, whether natural or juridical.
- s. “Possession”.—Means to have the physical custody or to exercise dominion or control over an animal.
- t. “Imminent Risk”.—Means any situation that endangers the health, safety, or physical or emotional welfare of an animal.
- u. “Unnecessary Suffering”.—Means to cause a suffering that is not necessary to ensure the safety, health, or welfare of the animal or other beings within its environment.
- v. “Torture”.—Means an action taken with the prime purpose of inflicting or prolonging pain.
- w. “Physical Trauma”.—Means fractures, cuts, burns, bruises or other bodily injuries and/or wounds in the animal’s body.
- x. “Veterinarian”.—Means a person that holds a degree as Doctor in Veterinary Medicine, licensed by the Veterinarian Examining Board, and a member in good standing of the Veterinarians’ College.

5 L.P.R.A. § 1661 (2012).Responsibilities and Coordination with Other Agencies.

In order to guarantee the fullest compliance with this chapter, the municipalities of the Commonwealth of Puerto Rico must comply with the provisions of the Autonomous Municipalities Act, §§ 4001 et seq. of Title 21, and these shall assign top priority to handling situations that come to their attention and which involve abuse and/or negligence of stray animals. The municipalities, in coordination with the Central Municipal Affairs Office (OCAM, Spanish acronym), shall be under the obligation to assign top priority to handling situations that involve the abuse of stray animals, as well as round-ups and care. OCAM shall coordinate efforts with other government and private agencies when services are required in relation to the identification, prevention or treatment of persons involved in acts of violence against animals. Such coordination shall include joint planning, public education and information services, use of one another's facilities, training sessions and joint activities for the betterment of the personnel and of case evaluation and management.

5 L.P.R.A. § 1662 (2012). Emergency Management.

When an animal is in an emergency situation, it shall be the responsibility of the municipality where the animal is located, to provide the necessary and adequate assistance to the Police and to the personnel of the government and/or private agency intervening in the emergency. All municipalities are under the obligation to develop a plan covering animal emergency management, round-ups and protection, under penalty of not being provided with funds from the Commonwealth Animal Control Office, or of having such funds cancelled. Such a management plan shall be drafted within one (1) year from the date of effectiveness of this chapter.

5 L.P.R.A. § 1663 (2012).Coordination and Cooperation with Non-Government Organizations.

The Government of Puerto Rico, its public corporations, departments, agencies and instrumentalities and officials shall take the initiative to:

- a. Facilitate and maintain continuous efforts to incorporate the views of [non-governmental] and community entities into the various aspects of their services;
- b. Foster the participation of representatives from these entities, as well as persons whom these organizations have served, in the planning, development, offering and evaluation of services pertaining to persons involved in animal abuse;

c. Establish collaboration agreements with the [non-governmental] organizations that provide projects to render services to animals and/or families involved in violence against or negligence of animals, as well as to abusive youths and adults. These agreements may be established but are not to be limited to the following areas: design and establishment of procedures conducive to promoting and guaranteeing animal welfare; protection and safety plans; support services for the prevention and management of family violence for persons, families, communities, and the Island;

d. Offer all the support these entities need in order to guarantee their participation and make multi-sector collaboration possible in all compliance items of this chapter, while respecting the autonomy of said organizations.

5 L.P.R.A. § 1664 (2012). Abandonment of an Animal.

a. If a person willfully, knowingly, carelessly or with criminal negligence, leaves an animal in a location with the intention of dereliction, said person is committing the crime of abandoning an animal.

b. Abandonment of an animal is a fourth-degree felony that entails the punishment of imprisonment ranging from six (6) months and one (1) day to three (3) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to five thousand (5,000) dollars.

c. If, as a consequence of the abandonment of an animal, the animal sustains severe bodily injury or dies, the crime shall be deemed to be a third-degree felony that entails the punishment of imprisonment ranging from three (3) years and one (1) day to eight (8) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to eight thousand (8,000) dollars.

5 L.P.R.A. § 1665 (2012). Confinement of Animals.

- a. Any person with the control over an animal shall provide the animal with an adequate space within the property of the custodian that allows for free movement.
- b. Any person who confines, binds or otherwise limits the movement of an animal, and in so doing, causes unnecessary suffering, shall be guilty of a misdemeanor that entails the imposition of an individual fine, not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days or home confinement or house arrest in calendar days up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days. Provided, further, that to walk the animal, a collar and leash is mandatory in order to control the animal, in pertinent cases, without causing harm or suffering, except for animals weighing over 60 pounds, which require a “safety collar.”
- c. Instances of recidivism in this crime shall be punished by imprisonment for up to six (6) months.
- d. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from five hundred (500) to two thousand (2,000) dollars. Thereafter, for each instance of recidivism, the sum of the last fine imposed by the Court shall double.

5 L.P.R.A. § 1666 (2012). Abuse by Negligence.

- a. A person shall be deemed to be negligent if said person knowingly, carelessly or negligently fails to provide minimal care to an animal in the possession of said person.
- b. Neglecting animals constitutes a misdemeanor that entails a fine of up to five thousand (5,000) dollars or imprisonment for up to six (6) months, or both penalties, in the discretion of the Court.
- c. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from five hundred (500) to two thousand (2,000) dollars.
- d. A person is negligent if he/she runs with his/her car over a dog, cat, horse and/or head of cattle and does not take the necessary measures for the animal to be tended to or, in case of having inflicted death, the necessary measures to have the animal removed, provided he/she is not placing his/her safety at risk. Among the steps to be followed are the following: calling an animal round-up center in the municipality, and if such information should not be available, calling the Police. Any person who fails to comply with this subsection shall be guilty of a misdemeanor that entails the imposition of an individual fine not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days or home confinement or house arrest in calendar days for up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days.

5 L.P.R.A. § 1667 (2012). Aggravated Negligence against Animals.

a. A person shall be guilty of aggravated negligence when willfully, knowingly, carelessly or with criminal negligence:

i. Fails to provide minimal care to an animal in the possession of said person and failure to provide such care results in severe bodily injury or death of the animal. This crime is typified as a fourth-degree felony that entails the imposition of a punishment by imprisonment ranging from six (6) months and one (1) day to three (3) years.

a) If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the penalty shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

5 L.P.R.A. § 1668 (2012). Animal Abuse.

a. A person is guilty of the crime of animal abuse if the person willfully, knowingly, carelessly or with criminal negligence inflicts any bodily injury or suffering on the animal.

b. Animal abuse is considered to be a fourth-degree felony that entails the imposition of punishment by imprisonment ranging from six (6) months and one (1) day to three (3) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

c. Notwithstanding the provisions of subsection (b) of this Section, animal abuse constitutes a third-degree felony that entails the imposition of punishment by imprisonment ranging from three (3) years and one (1) day to eight (8) years if:

i. The person who is committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from any other jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For the purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

1. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

5 L.P.R.A. § 1669 (2012). Third-Degree Animal Abuse.

a. A person shall be guilty of the crime of animal abuse in its third-degree felony modality if a person willfully, knowingly, carelessly or with criminal negligence:

- i. Inflicts a severe bodily injury; or
- ii. Inflicts death on an animal.

b. This crime entails punishment by imprisonment ranging from three (3) years and one (1) day to eight (8) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

c. Notwithstanding the provisions of subsection (a) of this Section, animal abuse shall be typified as a second-degree felony that entails the imposition of punishment by imprisonment ranging from eight (8) years and one (1) day to fifteen (15) years if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from another jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

1. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to fifteen thousand (15,000) dollars.

5 L.P.R.A. § 1670 (2012). Aggravated Animal Abuse.

a. A person shall be guilty of the crime of aggravated animal abuse if the person willfully or knowingly:

i. Tortures an animal; or

ii. Kills an animal under circumstances that show there was malice aforethought or a gross disregard for life.

b. Aggravated animal abuse is typified as a second-degree felony that entails punishment by imprisonment for a term of not less than eight (8) years and one (1) day and not more than fifteen (15) years.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to twenty thousand (20,000) dollars.

c. Notwithstanding the provisions of subsection (b) of this Section, aggravated animal abuse shall be typified as a second-degree felony without the right to alternate benefits other than jail imprisonment if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations of another jurisdiction; or

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly abuses an animal in the immediate presence of a minor. For purposes of this subclause, a minor shall be in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor.

5 L.P.R.A. § 1671 (2012). Animal Fights.

a. No person shall cause, sponsor, organize, conduct or promote events in which any animal fights, threatens or injures another animal for sport, entertainment, financial gain or any other purpose, except for cockfights, practice which is regulated by §§ 301 et seq. of Title 15.

b. For purposes of this Section, a person promotes an event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others, if the person:

i. Is knowingly present or bets in such an event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others;

ii. The custodian trains, transports, possesses, breeds or fits an animal with the intention of involving said animal in an event in which the animal is to fight, threaten or injure another animal for sport, entertainment, financial gain, among others;

iii. Allows knowingly for any kind of event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others, to take place in any location that is owned or controlled by the person, among others;

iv. Allows knowingly for an animal used for such an event in which an animal fights, threatens or injures another animal for sport, entertainment, or financial gain, among others, to be maintained, lodged, trained or transported in any place or vehicle owned or controlled by the person;

v. Uses knowingly any means of communication with the purpose of promoting such an event in which an animal fights, threatens or injures another animal for sport, entertainment, financial gain, among others; or

vi. Possesses knowingly an animal used to fight, threaten or injure another animal for sport, entertainment, financial gain, among others, or any mechanism intended to reinforce the animal's ability to fight, threaten or injure for sport, entertainment, financial gain, among others.

c. Any person who engages in any of the efforts described in this Section shall be accused of inciting or participating in animal fights, which is typified as a second-degree felony.

i. If upon conviction under any of its modalities, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from ten thousand (10,000) to twenty-five thousand (25,000) dollars. If the owner of the location is a recidivist, the property shall be seized to the benefit of the Commonwealth of Puerto Rico.

d. Notwithstanding the provisions of subsection (c) of this Section, the crime shall be typified as a second-degree felony without the right to alternate benefits other than jail imprisonment if:

i. The person committing the crime of animal abuse has been previously convicted of one or more offenses relative to:

a) Any law concerning animal protection in Puerto Rico or equivalent laws or regulations from another jurisdiction;

b) Any statute of Puerto Rico concerning domestic violence, child abuse or elderly abuse, or equivalent laws from another jurisdiction; or

c) The person knowingly carries out any of the activities mentioned in this subsection concerning animal fights in the immediate presence of a minor. For purposes of this subclause, a minor is in the immediate presence of an instance of animal abuse if such an instance is seen or directly perceived in any manner by the minor; or

d) If as a consequence of such a fight, the animal dies.

e. The Puerto Rico Police shall seize all animals, equipment, material and/or money present at the location where the animal fights are held, without distinction as to who is the owner of the materials or the money or who are the animals' custodians. For this action, the procedure established in §§ 1723 et seq. of Title 34, known as the Uniform Seizure Act of 1998, shall be followed.

f. The animals thus seized shall be evaluated by the Department of Health, which shall make an assessment as to the dangerousness of the animals, and should the Department determine that said animals are dangerous, the Department shall dispose of the same by euthanasia practiced by a veterinarian. Otherwise, the Department shall hand them over to a shelter, which shall have full discretion as to whether to accept or reject the animals, with the purpose, if possible, of putting them up for adoption.

5 L.P.R.A. § 1673 (2012).Animal Abuse by Juridical Entities.

a. Any entity, whether engaged or not in animal affairs, that abuses an animal, shall be sanctioned with the same punishments, according to the type of crime as established in this chapter.

i. Should the entity be found guilty, in addition to the punishments that apply pursuant to this chapter, the person who owns the entity thus found guilty may not engage in any animal affairs.

5 L.P.R.A. § 1674 (2012). Poisoning.

a. If any person should use any kind of poison, even if he/she hires a third party for such a purpose, without making the necessary provisions to prevent bodily injuries to animals other than pests, he/she shall be accused of a misdemeanor that entails the imposition of an individual fine not to exceed ninety (90) days, a fine or a daily punishment by community service not to exceed ninety (90) days, or home confinement or house arrest in calendar days for up to ninety (90) days, or a combination of these punishments, which shall sum up to not more than ninety (90) days. The fact that the animal has entered his/her premises shall not constitute a defense. Instances of recidivism shall be typified as misdemeanors that entail a fine of up to five thousand (5,000) dollars and/or punishment by imprisonment for up to six (6) months. A subsequent instance of recidivism shall be typified as a fourth-degree felony.

b. Poisoning an animal constitutes a fourth-degree felony if:

i. An animal ingests the poison laid out without proper precautions and this results in a severe bodily injury of the animal.

a) If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to five thousand (5,000) dollars.

c. Poisoning an animal is typified as a third-degree felony if:

i. There is a willful administration to any animal of any poison or poisonous substance that causes a severe bodily injury or death.

a) If upon conviction under subsection (c), the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from three thousand (3,000) to ten thousand (10,000) dollars.

5 L.P.R.A. § 1678 (2012). Protection Orders.

a. In all cases in which a person is accused of domestic violence or child abuse, the Court shall, by petition of party, issue a protection order for the petitioner so that he/she be the sole custodian of the animal. The Court shall order the accused to keep far away from the animal and prohibit contact of any kind.

b. A violation of the protection order shall be considered to be a fourth-degree felony.

i. If upon conviction, the accused qualifies and avails him/herself of serving time on probation or of any alternative method other than jail imprisonment, the punishment shall entail a mandatory fine ranging from one thousand (1,000) to three thousand (3,000) dollars.

5 L.P.R.A. § 1679 (2012).Pre-Conviction Provisions.

a. When a person has been accused of acts that constitute animal abuse, the Court or the law enforcement officers may, as a precautionary and preventive measure in benefit of the animal, remove or order the provisional removal of the animal while the case is heard. Likewise, the Court may take or order the precautionary measures it deems convenient and necessary for the protection and welfare of the animal, including the issue of a protection order. The animal shall be handed over to the shelter of the municipality of residence of the custodian or to the private organization that intervened in the animal abuse situation, if the organization so requests.

b. If after a trial on its merits or a hearing, the existence of abuse against the animal is not proven, the animal shall be returned to its custodian.

5 L.P.R.A. § 1681 (2012). Liens.

a. Any expense incurred to provide minimal care to a seized animal shall constitute a lien on the animal and the costs of such care shall be paid in full by the custodian before the animal is returned to him/her after having been found not guilty or after criminal charges have been dismissed. If the costs are not paid in full within thirty (30) days after the criminal case has been resolved, the legal custody of the seized animal by the custodian shall be immediately transferred to the agency or person who has custody, which shall take steps for its possible adoption. The costs of providing care to the animal shall continue to be the responsibility of the custodian against whom the agency or person with custody may bring a civil action for collection of money owed.

L.P.R.A. § 1683(2012).Payments of Fines.

It is hereby established that, if the person convicted should be unable to pay any fine imposed by the Court, the person shall have to serve time in jail, to be computed on the basis of fifty dollars (\$50.00) per day.

5 L.P.R.A. § 1684(2012).Compensation Fund.

The moneys originating from the fines shall be deposited into a special fund that shall be administered by the OECA, to be distributed among municipal shelters to provide direct animal care services.

33 L.P.R.A. § 4644 (2012). Classification.

Crimes are classified as misdemeanors and felonies.

A misdemeanor entails an individual fine of up to five thousand dollars (\$5,000) or imprisonment for up to ninety (90) days. A felony, in all its classifications which are specified below, comprises all other crimes.

A felony entails imprisonment for more than six (6) months and, according to the corresponding penalty, is classified in four (4) degrees, as follows:

(a) *First degree felony*.—The penalty for which is imprisonment for a term of ninety-nine (99) years.

(b) *Second degree felony*.—The penalty for which is imprisonment for a term fluctuating between eight (8) years and one (1) day and fifteen (15) years. Second degree murder, sexual assault, aggravated kidnapping, child kidnapping and aggravated robbery, when damage is inflicted against the victim or if it takes place in the domicile of the victim, shall be severe second degree felonies with a penalty of imprisonment of between fifteen (15) years and one day and twenty-five (25) years.

(c) *Third degree felony*.—The penalty for which is imprisonment fluctuating between three (3) years and one (1) day and eight (8) years.

(d) *Fourth degree felony*.—The penalty for which is imprisonment fluctuating between six (6) months and one day and three (3) years.

However, other types of penalty besides imprisonment may be imposed for felonies and misdemeanors.

The felonies typified in special laws maintain the classification of felony and the corresponding penalty if they entail a penalty of imprisonment for more than six (6) months or a fine of more than five thousand dollars (\$5,000), unless otherwise provided by law.

Misdemeanors typified in special laws maintain the classification of misdemeanor and the corresponding penalty if they entail a penalty that does not exceed six (6) months or a fine that does not exceed five thousand dollars (\$5,000), or both penalties.

33 L.P.R.A. § 4689 (2012). Restitution.

The penalty of restitution consists of the court imposed obligation to compensate the victim for the damages and losses caused to his/her person or property as a consequence of the crime. The penalty of restitution does not include suffering and mental anguish.

The court may order that the penalty of restitution be compensated in money, through the rendering of services, the delivery of the illegally appropriated property or the equivalent, if the property is not available.

If the penalty of restitution is compensated in money, the sum thereof shall be established by the court taking into consideration the following: the total amount of damages to be restored, the allocated participation of the convicted person if there were several perpetrators of the criminal act, the convicted person's ability to pay and all other elements that allow an adequate adjustment to the circumstances of the case and the condition of the convicted person.

The penalty of restitution shall be paid immediately. Nevertheless, at the request of the sentenced person and at the discretion of the court, taking into consideration the financial situation of the convict, it may be paid in full or in installments within a reasonable term after the date on which the sentence becomes effective.

33 L.P.R.A. § 4773 (2012). Bestiality.

Any person who performs, or incites, coerces or assists another person to perform any type of sexual penetration with an animal shall incur a fourth degree felony.

ANIMAL PROTECTION LAWS OF QUEBEC

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
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9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Quebec's animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Quebec may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Canada's federal animal protection laws also apply in Quebec. Because the law is continually evolving, always review an official source for the most current language of any statute.

<p>1. GENERAL PROHIBITIONS*</p>	<p>Animal safety and welfare standards R.S.Q. c. P-42, s. 55.9.2</p> <p>The Government may, by regulation, set standards to ensure the safety or welfare of animals R.S.Q. c. P-42, s. 55.9.14.1</p> <p>Additional regulatory powers R.S.Q. c. P-42, s. 55.9.14.2</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[A]ll domestic animals, including horses (Equuscaballus), and animals kept in captivity, other than those governed by the Act respecting the conservation and development of wildlife” R.R.Q., c. P-42, r. 6, s. 1</p>
<p><i>Classification of Crimes</i></p>	<p>Offence</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>[Neglect, 1st offense]: \$12,000</p> <p>[Neglect, subsequent offenses]: \$36,000</p> <p>[Abuse, 1st offense]: \$25,000</p> <p>[Abuse, subsequent offenses]: \$75,000 R.S.Q. c. P-42, s. 55.43.1</p>

QUEBEC*continued*

<p>3. EXEMPTIONS***</p>	<p>2, 4 R.S.Q. c. P-42, s. 55.9.15</p> <p>Ritual practices involving animals prescribed by the laws of a religion R.S.Q. c. P-42, s. 55.9.15</p> <p>The Government may, by regulation, exempt from the application of all or part of this division or the regulations, according to the conditions it sets, any person, animal race or species, type of activity, establishment or geographical region that it determines R.S.Q. c. P-42, s. 55.9.14.3</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>If a court orders a seized animal returned, payment for the animal's keep must first occur. If the court orders that the animal be sold, expenses shall be deducted from the proceeds. If the court orders the animal held until a final judgment is made, the owner, in addition to previous expenses incurred for the animal's keep, must post an advance on future expenses R.S.Q. c. P-42, s. 55.9.11</p> <p>The owner of an animal seized while in the custody of another person may request recovery of the animal, however expenses for the animal must be paid if the request is granted, and are refundable if no proceedings are instituted</p>

	R.S.Q. c. P-42, s. 55.9.12
QUEBEC <i>continued</i>	
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H <i>continued</i>	Expenses incurred as a result of a seizure, and for the animal's keep, slaughter or disposal shall be paid by the owner or custodian of the animal, except where no proceedings are instituted. R.S.Q. c. P-42, s.55.9.14
7. SEIZURE / ON-SITE SUPERVISION	<p>Where an animal is in a dwelling-house, an inspector may enter without the authorization of the occupant only if a search warrant is obtained R.S.Q. c. P-42, s.55.9.5</p> <p>Where there is immediate danger to the safety or welfare of an animal, the Minister may, for a period not exceeding 60 days, order the owner or custodian the animal to cease his custody or related activities, or subject the custody or exercise of activities to certain conditions R.S.Q. c. P-42, s.55.9.6</p> <p>If the Minister issues a second order within three years of the first, the court may issue an order prohibiting the owner or custodian from owning or having the custody of animals or limiting the number of animals they may own or have custody of, for a period the court deems appropriate R.S.Q. c. P-42, s.55.9.6</p> <p>The seized animal may be kept at the place of seizure R.S.Q. c. P-42, s.55.9.8</p> <p>In the case of an emergency, the seizer may, before obtaining authorization from a judge, establish interim custody measures to ensure</p>

	<p>the safety and welfare of the animal R.S.Q. c. P-42, s.55.9.8</p>
<p>QUEBEC<i>continued</i></p>	
<p>7. SEIZURE / ON-SITE SUPERVISION <i>continued</i></p>	<p>A seized animal must be returned if no proceedings have been instituted within 90 days. The court may extend this period an additional 90 days R.S.Q. c. P-42, s.55.9.10</p> <p>The owner of an animal seized while in the custody of another person may request recovery of the animal R.S.Q. c. P-42, s. 55.9.12</p> <p>Designated or authorized persons who have reasonable grounds to believe that there is an animal, to which this Act applies, in a vehicle or in premises where an animal is kept or sold may enter and inspect such premises or vehicle R.S.Q. c. P-42, s.55.10</p> <p>A veterinary surgeon, an inspector or an analyst may seize any animal to which this Act applies, if he believes, on reasonable grounds, that an offence has been committed, or where the owner or custodian of an animal has failed to comply with an order. R.S.Q. c. P-42, s.55.14</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>Where there is immediate danger to the safety or welfare of an animal, the Minister may, for a period not exceeding 60 days, order the owner or custodian the animal to cease his custody or related activities, or subject the custody or exercise of activities to certain conditions R.S.Q. c. P-42, s.55.9.6</p>

<p>QUEBEC<i>continued</i></p>	
<p>8. FORFEITURE / POSSESSION^H <i>continued</i></p>	<p>If the Minister issues a second order within three years of the first, the court may issue an order prohibiting the owner or custodian from owning or having the custody of animals or limiting the number of animals they may own or have custody of, for a period the court deems appropriate R.S.Q. c. P-42, s. 55.9.6</p> <p>An inspector who has reasonable grounds to believe that an animal is suffering significantly may, in the performance of his duties, whether or not seizure has taken place, confiscate the animal so that it may be destroyed R.S.Q. c. P-42, s. 55.9.7</p> <p>If the owner or custodian of a seized animal is unknown or cannot be found, the seized animal shall be forfeited to the seizer 7 days after seizure R.S.Q. c. P-42, s. 55.9.10</p> <p>Following initiation of proceedings, the seizer may apply to a judge for permission to dispose of the animal before final judgment R.S.Q. c. P-42, s. 55.9.11</p> <p>Upon conviction, the court may prohibit the offender from keeping animals, or limiting the number of animals he may keep for a period up to two years. The court shall confiscate any animals currently held and determine their disposition R.S.Q. c. P-42, s.55.9.13</p> <p>Upon conviction, a court may order any seized animals of the offender to be</p>

	confiscated R.S.Q. c. P-42, s.55.24
QUEBEC <i>continued</i>	
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	The Minister, a veterinary surgeon, an inspector, an analyst, or a caretaker may not be prosecuted for acts done in good faith in the performance of his duties R.S.Q. c. P-42, s. 55.13
11. LAW ENFORCEMENT POLICIES	<p>The Minister shall designate inspectors responsible for enforcement R.S.Q. c. P-42, s.55.9.4</p> <p>The provisions of this division and those of any regulation made under section 55.9.14.1 have precedence over incompatible provisions of the Cities and Towns Act, the Municipal Code of Québec and municipal charters, and over the provisions of their regulatory instruments R.S.Q. c. P-42, s.55.9.16</p> <p>The Government is authorized to enter into an agreement with a first nation on any subject covered by this division or the regulations. The provisions of such an agreement take precedence over the provisions of this division and the regulations R.S.Q. c. P-42, s.55.9.16.1</p> <p>The owner or the person in charge of a vehicle or of premises being inspected is required to assist a veterinary surgeon, inspector or analyst in the performance of his duties R.S.Q. c. P-42, s.55.11</p> <p>No person may hinder the action of or</p>

	mislead a veterinary surgeon, inspector or analyst in the performance of his duties R.S.Q. c. P-42, s.55.12
QUEBEC <i>continued</i>	
12. SEXUAL ASSAULT	-----
13. FIGHTING	-----
NOTES	Detailed standards of care for cats and dogs Regulation respecting the safety and welfare of cats and dogs, R.R.Q., c. P-42, r. 10.1

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction=s animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Animal Health Protection Act, R.S.Q. c. P-42,ss. 55.9.1, 55.9.2, 55.9.14.1, 55.9.14.2 (2012)

55.9.1

The provisions of this division apply to domestic animals and animals kept in captivity, other than those governed by the Act respecting the conservation and development of wildlife (chapter C-61.1) and that belong to a species or category designated by regulation of the Government.

55.9.2

The owner or custodian of an animal shall ensure that the safety and welfare of the animal are not jeopardized. The safety or welfare of an animal is jeopardized where

(1) the animal does not have access to drinking water or food in quantities and of a quality in keeping with its biological requirements;

(2) the animal is not kept in premises that are suitable, salubrious, clean and adapted to the animal's biological requirements and where the installations are not likely to affect the animal's safety or welfare or is not properly transported in an appropriate vehicle;

(3) the animal does not receive the health care required by its condition while it is wounded, sick or suffering;

(4) the animal is subject to abuse or ill-treatment that may affect its health;

(5) (paragraph repealed).

55.9.14.1

The Government may, by regulation, set standards to ensure the safety or welfare of animals.

55.9.14.2

The Government may, by regulation,

(1) determine the conditions in which the owner or custodian of a cat or dog may carry on an activity involving the animal, restrict the activity or forbid certain classes of persons it determines to carry out the activity;

- (2) determine the classes of permits referred to in section 55.9.4.1 or 55.9.4.2 and the conditions and restrictions attached to each;*
- (3) establish the conditions for the issue and renewal of the permits referred to in sections 55.9.4.1 and 55.9.4.2, the fees payable and the costs for opening a permit application file;*
- (4) determine the skills or qualifications required of the holder of a permit referred to in section 55.9.4.1 or 55.9.4.2 and those required of an employee assigned to the activities for which a permit is required;*
- (5) establish the standards applicable to the organization, to the maintenance and operation of any premises where an activity involving a cat or dog is carried on, or for which a permit referred to in section 55.9.4.1 or 55.9.4.2 is required;*
- (6) determine the maximum number of cats or dogs that can be kept on the premises, in particular, according to their species or race, the type of activity carried on by the owner or custodian of a cat or dog or the type of premises in which they are kept, including pounds, animal houses and premises kept by persons or organizations dedicated to the protection of animals;*
- (7) determine the maximum number of cats or dogs that can be kept by a single natural person;*
- (8) determine the protocols and registers that the owner or custodian of a cat or dog must observe or keep, what each must contain, where they must be kept, the reports the owner or custodian must file with the Minister, the information that must be reported and the frequency of the reporting;*
- (9) determine preventive measures for cats or dogs, in particular, vaccination, sterilization, isolation or quarantine, and foresee methods, procedures and conditions applicable to those measures;*
- (10) determine the standards for euthanizing cats and dogs and regulate or prohibit certain methods, procedures and conditions;*
- (11) foresee any other measure intended to ensure the safety or welfare of cats or dogs, in addition to those provided for by a regulation made under section 55.9.14.1; the measures may vary according to species or race, the type of activity carried on by the owner or custodian or the type of premises on which the animals are kept.*

1

The provisions of Division IV.1.1 of the Animal Health Protection Act (R.S.Q., c. P-42) apply to all domestic animals, including horses (Equuscaballus), and animals kept in captivity, other than those governed by the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1).

2. PENALTIES

Animal Health Protection Act, R.S.Q. c. P-42, s. 55.43.1, 55.43.1.1, 55.43.1.2, 55.43.1.3, 55.43.1.4, 55.46, 55.47(2012)

55.43.1.

The owner or custodian of an animal who compromises the animal's safety or welfare in a manner described in paragraph 1, 2 or 3 of section 55.9.2 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

The owner or custodian of an animal who compromises the animal's safety or welfare in a manner described in paragraph 4 of section 55.9.2 is liable to a fine of \$2,000 to \$25,000 and, in the case of a subsequent conviction, to a fine of \$6,000 to \$75,000.

55.43.1.1.

Every person who contravenes section 55.9.4.1, 55.9.4.2 or 55.9.4.3 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

55.43.1.2.

The owner or custodian of an animal who contravenes an order made under section 55.9.6 is liable to a fine of \$2,000 to \$25,000 and, in the case of a subsequent conviction, to a fine of \$6,000 to \$75,000.

55.43.1.3.

Every person who contravenes a regulation made under section 55.9.14.1, 55.9.14.2 or 55.9.14.3 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

55.43.1.4.

For the purposes of sections 55.43.1 to 55.43.1.3, the court takes the following factors in particular into account in determining the amount of the fine:

(1) the condition of the animal;

(2) the state of the premises or the vehicle in which the animal was kept or transported;

(3) the benefits or income the contravener received as a result of carrying on activities involving the animal; and

(4) the number of animals involved.

55.46

Every person who, by his consent, encouragement, advice or order, induces another person to commit an offence is guilty of the offence as if he had committed it himself, and of every other offence committed by the other person as a result of the consent, encouragement, advice or order, if he knew or should have known that its probable consequence would be the commission of the offences.

55.47

Every person who, by his act or omission, aids another person to commit an offence is guilty of the offence as if he had committed it himself, if he knew or should have known that the probable consequence of his act or omission would be to aid in the commission of the offence.

3. EXEMPTIONS

Animal Health Protection Act, R.S.Q. c. P-42, ss.55.9.14.3, 55.9.15 (2012)

55.9.14.3

The Government may, by regulation, exempt from the application of all or part of this division or the regulations, according to the conditions it sets, any person, animal race or species, type of activity, establishment or geographical region that it determines.

55.9.15

Notwithstanding the provisions of this division, the following activities and practices continue to be permitted:

1) agricultural, teaching or scientific research activities involving animals, provided they are practised in accordance with generally recognized rules;

2) ritual practices involving animals prescribed by the laws of a religion.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Animal Health Protection Act, R.S.Q. c. P-42, ss. 55.9.11, 55.9.12, 55.9.14 (2012)

55.9.11

Upon the service of a statement of offence, the seizer shall, except where an agreement has been made with the owner or custodian of the animal, apply to a judge for permission to dispose of the animal.

Prior notice of the application, of at least three clear days, shall be served on the person from whom the animal was seized, and he may contest the application.

The judge shall rule on the application taking into consideration the safety and welfare of the animal and, where applicable, the expenses caused by the continuation of seizure. He may order that the animal be returned to the person from whom it was seized, that it be kept under seizure until a final judgment, or that it be donated, sold or slaughtered. *If he orders that it be returned, the return may take place only upon payment of the expenses incurred as a result of the seizure, including expenses for treatment, medication, transportation and veterinary services. If he orders that it be sold, the product of the sale is remitted to the person from whom the animal was seized, after deduction of the expenses incurred for its keep. If he orders that the animal be kept under seizure until a final judgment is made, he shall order the person from whom the animal was seized to pay to the seizer, in addition to previous expenses incurred as a result of the seizure, including expenses for treatment, medication, transportation and veterinary services, an advance on future expenses for the animal's keep in accordance with the terms and conditions fixed by him.*

The judge may order that the animal be confiscated if the applicant fails to comply with the terms and conditions of payment of the advance, and he shall return the animal to the seizer for disposal.

55.9.12

The owner of an animal seized while in the custody of another person may, by application to a judge, request that the animal be returned to him.

Prior notice of the application of at least three clear days shall be served on the seizer.

The judge shall grant the application if of the opinion that the safety and welfare of the animal will not be jeopardized, and on payment of the expenses resulting from the seizure, including expenses for treatment, medication, transportation and veterinary services. However, if no

proceedings are instituted, the expenses incurred as a result of the seizure are reimbursed to the owner.

55.9.14

Expenses incurred for an animal's keep under this division as a result of a seizure, including expenses for treatment, medication, transportation and veterinary services, as well as expenses incurred for, slaughter or disposal shall be paid by the owner or custodian of the animal, except where no proceedings are instituted. They shall bear interest at the rate fixed by regulation under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002).

7. SEIZURE / ON-SITE SUPERVISION

Animal Health Protection Act, R.S.Q. c. P-42, ss. 55.9.5, 55.9.6, 55.9.8, 55.9.10, 55.9.12, 55.10, 55.11, 55.14, 55.15, 55.19(2012)

55.9.5

Sections 55.10 to 55.15, 55.19 and 55.24 apply to this division, with the necessary modifications.

Where an animal is in a dwelling-house, the inspector may enter without the authorization of the occupant only if he obtains a search warrant in accordance with the Code of Penal Procedure (chapter C-25.1).

A judge, on the strength of a sworn statement by the inspector to the effect that he has reasonable grounds to believe that an animal is in the dwelling-house and that the safety or welfare of an animal is in jeopardy, may issue a warrant on the conditions he indicates, authorizing the inspector to enter the dwelling-house and seize the animal in accordance with section 55.14 and to dispose of it in accordance with the provisions of this division.

55.9.6

Where in the Minister's opinion there is an immediate danger to the safety or welfare of an animal, the Minister may order, for a period not exceeding 60 days, the owner or custodian of the animal:

(1) to cease the owner's or the custodian's custody or certain related activities;

(2) to exercise custody or carry on certain related activities according to the conditions the Minister determines.

The order shall be notified to the owner or custodian. It shall contain reasons, and shall mention any minutes, any analysis or research reports or any other technical reports considered by the Minister. It shall have effect on its date of notification.

If the Minister issues a second order within three years of the first, whether or not it is based on the same facts, the Court of Québec may, at the request of the Minister, issue an order prohibiting the owner or custodian from owning or having the custody of animals or limiting the number of animals they may own or have custody of, for a period the Court deems appropriate.

55.9.8

The seizer shall have custody of the seized animal. He may keep the animal or entrust it to a person other than the person from whom it was seized.

The seized animal may be kept at the place of seizure if the owner or occupant of the premises agrees to it in writing, according to the terms agreed to by the parties. If the owner or occupant of the premises does not agree to such custody or fails to respect the terms attached to it, the seizer may apply to a judge for authorization to keep the seized animal on site, according to the terms and conditions that the judge deems appropriate.

In the case of an emergency, the seizer may, before obtaining authorization from a judge, establish interim custody measures to ensure the safety and welfare of the animal.

55.9.10

The seized animal must be returned to the person from whom it was seized if no proceedings have been instituted within 90 days after the date of seizure. In addition, if it is decided before the expiry of that period that no proceedings will be instituted, the animal must be returned as soon as possible to the person from whom it was seized.

A justice of the peace may, however, order the period of seizure extended by not more than 90 days.

55.9.12

The owner of an animal seized while in the custody of another person may, by application to a judge, request that the animal be returned to him.

Prior notice of the application of at least three clear days shall be served on the seizer.

The judge shall grant the application if of the opinion that the safety and welfare of the animal will not be jeopardized, and on payment of the expenses resulting from the seizure, including expenses for treatment, medication, transportation and veterinary services. However, if no proceedings are instituted, the expenses incurred as a result of the seizure are reimbursed to the owner.

55.10

Every veterinary surgeon designated by the Minister for the purpose of the carrying out of Division I or person authorized by the Minister to act as an inspector or analyst under this Act, who believes, on reasonable grounds, that there is an animal, a product or equipment to which this Act applies in a vehicle or in premises where an animal is kept or sold or in premises where the activities referred to in section 24 or 55.2 are carried on may, in the performance of his duties,

- 1) enter and inspect such premises at any reasonable time;*
- 2) inspect any vehicle in which a product, an animal or equipment to which this Act applies is transported or stop any such vehicle to inspect it;*
- 3) examine any animal, product or equipment, open any receptacle found in the premises or vehicle and take samples or specimens therefrom free of charge;*
- 4) record or take photographs of the vehicle, premises, animal, product or equipment;*
- 5) require the communication, for purposes of examination, reproduction or for making extracts, of any book account, register, record or document if he believes on reasonable grounds that they contain information relating to the application of this Act or the regulations.*

55.11

The owner or the person in charge of a vehicle or of premises being inspected and any person in such vehicle or premises are required to assist a veterinary surgeon, inspector or analyst in the performance of his duties.

A veterinary surgeon, inspector or analyst shall, upon request, identify himself and show a certificate signed by the Minister and attesting his quality.

55.14

A veterinary surgeon, an inspector or an analyst may, in the performance of his duties, seize any animal, product or equipment to which this Act applies if he believes, on reasonable grounds, that an offence against this Act or the regulations has been committed in relation to or by means of such animal, product or equipment or where the owner or custodian of an animal has failed to comply with an order.

55.15

The Government may, by regulation, prescribe the terms and conditions of inspection, sample and specimen taking and analysis, seizure and confiscation, at the time of an inspection, and establish a model for any certificate, report or minutes drawn up by a veterinary surgeon, an inspector or an analyst.

55.19

No person may use or remove what has been seized or allow it to be used or removed without the authorization of the veterinary surgeon, inspector or analyst.

8. FORFEITURE / POSSESSION

Animal Health Protection Act, R.S.Q. c. P-42, ss. 55.9.6, 55.9.7, 55.9.10, 55.9.11, 55.9.13, 55.24 (2012)

55.9.6

Where in the Minister's opinion there is an immediate danger to the safety or welfare of an animal, the Minister may order, for a period not exceeding 60 days, the owner or custodian of the animal:

(1) to cease the owner's or the custodian's custody or certain related activities;

(2) to exercise custody or carry on certain related activities according to the conditions the Minister determines.

The order shall be notified to the owner or custodian. It shall contain reasons, and shall mention any minutes, any analysis or research reports or any other technical reports considered by the Minister. It shall have effect on its date of notification.

If the Minister issues a second order within three years of the first, whether or not it is based on the same facts, the Court of Québec may, at the request of the Minister, issue an order prohibiting the owner or custodian from owning or having the custody of animals or limiting the number of animals they may own or have custody of, for a period the Court deems appropriate.

55.9.7

An inspector who has reasonable grounds to believe that an animal is suffering significantly may, in the performance of his duties, whether or not seizure has taken place, confiscate the animal so that it may be destroyed and its carcass disposed of, if the inspector has obtained the authorization of the animal's owner or custodian. Failing such authorization, the inspector may confiscate the animal so that it may be destroyed and its carcass disposed of; the inspector must first obtain the opinion of a veterinary surgeon, unless no veterinary surgeon is readily available and it is urgent that the animal's suffering be stopped.

All other animal carcasses shall also be confiscated during the inspection for the purpose of disposal.

The disposal of a carcass referred to in the first or second paragraph may be preceded by an autopsy.

55.9.10

The seized animal must be returned to the person from whom it was seized if no proceedings have been instituted within 90 days after the date of seizure. In addition, if it is decided before the expiry of that period that no proceedings will be instituted, the animal must be returned as soon as possible to the person from whom it was seized.

A justice of the peace may, however, order the period of seizure extended by not more than 90 days.

However, if the owner or custodian of the animal is unknown or cannot be found, the seized animal shall be confiscated by the seizer, but not before the expiry of seven days after the date of seizure. It shall then be disposed of by the seizer.

55.9.11

Upon the service of a statement of offence, the seizer shall, except where an agreement has been made with the owner or custodian of the animal, apply to a judge for permission to dispose of the animal.

Prior notice of the application, of at least three clear days, shall be served on the person from whom the animal was seized, and he may contest the application.

The judge shall rule on the application taking into consideration the safety and welfare of the animal and, where applicable, the expenses caused by the continuation of seizure. He may order that the animal be returned to the person from whom it was seized, that it be kept under seizure until a final judgment, or that it be donated, sold or slaughtered. If he orders that it be returned, the return may take place only upon payment of the expenses incurred as a result of the seizure, including expenses for treatment, medication, transportation and veterinary services. If he orders that it be sold, the product of the sale is remitted to the person from whom the animal was seized, after deduction of the expenses incurred for its keep. If he orders that the animal be kept under seizure until a final judgment is made, he shall order the person from whom the animal was seized to pay to the seizer, in addition to previous expenses incurred as a result of the seizure, including expenses for treatment, medication, transportation and veterinary services, an advance on future expenses for the animal's keep in accordance with the terms and conditions fixed by him.

The judge may order that the animal be confiscated if the applicant fails to comply with the terms and conditions of payment of the advance, and he shall return the animal to the seizer for disposal.

55.9.13

In the event of conviction for an offence under section 55.9.2 or a regulation made under section 55.9.14.1 or 55.9.14.2, a judge may, on an application by the prosecuting party, issue an order prohibiting the person found guilty from owning animals or having the custody of animals, or limiting the number of animals the person may own or have custody of, for a period that the judge deems appropriate.

When issuing the order, the judge shall confiscate any animals held in contravention thereof and shall determine the procedures for disposing of them.

55.24

Upon pronouncing a conviction for an offence under a provision of this Act or the regulations thereunder, a judge may, on an application by either party and where a seizure has been made under section 55.14, order the confiscation of what has been seized.

Prior notice of the application for confiscation shall be given to the person from whom it was seized and to the other party, except where they are in the presence of the judge.

The Minister shall prescribe the manner of disposing of anything seized under this section.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Animal Health Protection Act, R.S.Q. c. P-42, s. 55.13 (2012)

55.13

In no case may the Minister, a veterinary surgeon, a person authorized for the purposes of section 2.0.1, an inspector or an analyst be prosecuted for acts done in good faith in the performance of his duties.

A person to whom a seized animal has been entrusted under section 55.9.8 cannot be prosecuted by the person from whom it was seized for acts done in good faith within the framework of the mandate of the person caring for the seized animal.

11. LAW ENFORCEMENT POLICIES

Animal Health Protection Act, R.S.Q. c. P-42, ss. 55.9.4, 55.9.16, 55.9.16.1, 55.11, 55.12 (2012)

55.9.4

The inspectors responsible for the enforcement of the provisions of this division shall be designated by the Minister.

The Minister may also enter into an agreement with any person, including a municipality, a metropolitan community or the Kativik Regional Government, to establish a program of inspection in respect of the application of this division. Such an agreement must, in particular, contain terms and conditions for the application and financing of the program and for the remuneration and other expenses of the inspectors which shall be borne by the person having entered into the agreement.

55.9.16

The provisions of this division and those of any regulation made under section 55.9.14.1 have precedence over incompatible provisions of the Cities and Towns Act (chapter C-19), the Municipal Code of Québec (chapter C-27.1) and municipal charters, and over the provisions of their regulatory instruments.

55.9.16.1

For the purpose of better reconciling the safety and welfare requirements of dogs with the activities carried on by Native people in certain regions and the cultural, climatic and geographical realities of those regions, the Government is authorized to enter into an agreement with a first nation represented by all the band councils of the communities comprising that nation, with a Native community represented by its band council or by the council of a northern village, with a group of communities so represented or, in the absence of such councils, with any other Native group on any subject covered by this division or the regulations.

The provisions of such an agreement take precedence over the provisions of this division and the regulations. However, any person covered by an agreement is only exempt from the application of the provisions of this division or the regulations that are inconsistent with the agreement to the extent that the person respects the agreement.

An agreement entered into under this section is tabled in the National Assembly within 15 days of its signature or, if the Assembly is not sitting, within 15 days of resumption. In addition, it is published in the Gazette officielle du Québec.

55.11

The owner or the person in charge of a vehicle or of premises being inspected and any person in such vehicle or premises are required to assist a veterinary surgeon, inspector or analyst in the performance of his duties.

A veterinary surgeon, inspector or analyst shall, upon request, identify himself and show a certificate signed by the Minister and attesting his quality.

55.12

No person may, in any manner, hinder the action of a veterinary surgeon, inspector or analyst in the performance of his duties, mislead him by false statements or refuse to give him information he is entitled to obtain under this Act.

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES

Animal Health Protection Act, R.S.Q. c. P-42, s. 55.9.1– 55.47(2012)

DIVISION IV.1.1

SAFETY AND WELFARE OF ANIMALS

55.9.1

The provisions of this division apply to domestic animals and animals kept in captivity, other than those governed by the Act respecting the conservation and development of wildlife (chapter C-61.1) and that belong to a species or category designated by regulation of the Government.

55.9.2

The owner or custodian of an animal shall ensure that the safety and welfare of the animal are not jeopardized. The safety or welfare of an animal is jeopardized where

- (1) the animal does not have access to drinking water or food in quantities and of a quality in keeping with its biological requirements;
- (2) the animal is not kept in premises that are suitable, salubrious, clean and adapted to the animal's biological requirements and where the installations are not likely to affect the animal's safety or welfare or is not properly transported in an appropriate vehicle;
- (3) the animal does not receive the health care required by its condition while it is wounded, sick or suffering;
- (4) the animal is subject to abuse or ill-treatment that may affect its health;
- (5) (paragraph repealed).

55.9.3(Repealed).

55.9.4

The inspectors responsible for the enforcement of the provisions of this division shall be designated by the Minister.

The Minister may also enter into an agreement with any person, including a municipality, a metropolitan community or the Kativik Regional Government, to establish a program of inspection in respect of the application of this division. Such an agreement must, in particular, contain terms and conditions for the application and financing of the program and for the remuneration and other expenses of the inspectors which shall be borne by the person having entered into the agreement.

55.9.5

Sections 55.10 to 55.15, 55.19 and 55.24 apply to this division, with the necessary modifications.

Where an animal is in a dwelling-house, the inspector may enter without the authorization of the occupant only if he obtains a search warrant in accordance with the Code of Penal Procedure (chapter C-25.1).

A judge, on the strength of a sworn statement by the inspector to the effect that he has reasonable grounds to believe that an animal is in the dwelling-house and that the safety or welfare of an animal is in jeopardy, may issue a warrant on the conditions he indicates, authorizing the inspector to enter the dwelling-house and seize the animal in accordance with section 55.14 and to dispose of it in accordance with the provisions of this division.

55.9.6

Where in the Minister's opinion there is an immediate danger to the safety or welfare of an animal, the Minister may order, for a period not exceeding 60 days, the owner or custodian of the animal:

- (1) to cease the owner's or the custodian's custody or certain related activities;
- (2) to exercise custody or carry on certain related activities according to the conditions the Minister determines.

The order shall be notified to the owner or custodian. It shall contain reasons, and shall mention any minutes, any analysis or research reports or any other technical reports considered by the Minister. It shall have effect on its date of notification.

If the Minister issues a second order within three years of the first, whether or not it is based on the same facts, the Court of Québec may, at the request of the Minister, issue an order prohibiting the owner or custodian from owning or having the custody of animals or limiting the number of animals they may own or have custody of, for a period the Court deems appropriate.

55.9.7

An inspector who has reasonable grounds to believe that an animal is suffering significantly may, in the performance of his duties, whether or not seizure has taken place, confiscate the animal so that it may be destroyed and its carcass disposed of, if the inspector has obtained the authorization of the animal's owner or custodian. Failing such authorization, the inspector may confiscate the animal so that it may be destroyed and its carcass disposed of; the inspector must first obtain the opinion of a veterinary surgeon, unless no veterinary surgeon is readily available and it is urgent that the animal's suffering be stopped.

All other animal carcasses shall also be confiscated during the inspection for the purpose of disposal.

The disposal of a carcass referred to in the first or second paragraph may be preceded by an autopsy.

55.9.8

The seizer shall have custody of the seized animal. He may keep the animal or entrust it to a person other than the person from whom it was seized.

The seized animal may be kept at the place of seizure if the owner or occupant of the premises agrees to it in writing, according to the terms agreed to by the parties. If the owner or occupant of the premises does not agree to such custody or fails to respect the terms attached to it, the seizer may apply to a judge for authorization to keep the seized animal on site, according to the terms and conditions that the judge deems appropriate.

In the case of an emergency, the seizer may, before obtaining authorization from a judge, establish interim custody measures to ensure the safety and welfare of the animal.

55.9.9. (Repealed).

55.9.10

The seized animal must be returned to the person from whom it was seized if no proceedings have been instituted within 90 days after the date of seizure. In addition, if it is decided before the expiry of that period that no proceedings will be instituted, the animal must be returned as soon as possible to the person from whom it was seized.

A justice of the peace may, however, order the period of seizure extended by not more than 90 days.

However, if the owner or custodian of the animal is unknown or cannot be found, the seized animal shall be confiscated by the seizer, but not before the expiry of seven days after the date of seizure. It shall then be disposed of by the seizer.

55.9.11

Upon the service of a statement of offence, the seizer shall, except where an agreement has been made with the owner or custodian of the animal, apply to a judge for permission to dispose of the animal.

Prior notice of the application, of at least three clear days, shall be served on the person from whom the animal was seized, and he may contest the application.

The judge shall rule on the application taking into consideration the safety and welfare of the animal and, where applicable, the expenses caused by the continuation of seizure. He may order that the animal be returned to the person from whom it was seized, that it be kept under seizure until a final judgment, or that it be donated, sold or slaughtered. If he orders that it be returned, the return may take place only upon payment of the expenses incurred as a result of the seizure, including expenses for treatment, medication, transportation and veterinary services. If he orders that it be sold, the product of the sale is remitted to the person from whom the animal was seized, after deduction of the expenses incurred for its keep. If he orders that the animal be kept under seizure until a final judgment is made, he shall order the person from whom the animal was seized to pay to the seizer, in addition to previous expenses incurred as a result of the seizure, including expenses for treatment, medication, transportation and veterinary services, an advance on future expenses for the animal's keep in accordance with the terms and conditions fixed by him.

The judge may order that the animal be confiscated if the applicant fails to comply with the terms and conditions of payment of the advance, and he shall return the animal to the seizer for disposal.

55.9.12

The owner of an animal seized while in the custody of another person may, by application to a judge, request that the animal be returned to him.

Prior notice of the application of at least three clear days shall be served on the seizer.

The judge shall grant the application if of the opinion that the safety and welfare of the animal will not be jeopardized, and on payment of the expenses resulting from the seizure, including expenses for treatment, medication, transportation and veterinary services. However, if no proceedings are instituted, the expenses incurred as a result of the seizure are reimbursed to the owner.

55.9.13

In the event of conviction for an offence under section 55.9.2 or a regulation made under section 55.9.14.1 or 55.9.14.2, a judge may, on an application by the prosecuting party, issue an order prohibiting the person found guilty from owning animals or having the custody of animals, or limiting the number of animals the person may own or have custody of, for a period that the judge deems appropriate.

When issuing the order, the judge shall confiscate any animals held in contravention thereof and shall determine the procedures for disposing of them.

55.9.14

Expenses incurred for an animal's keep under this division as a result of a seizure, including expenses for treatment, medication, transportation and veterinary services, as well as expenses incurred for, slaughter or disposal shall be paid by the owner or custodian of the animal, except where no proceedings are instituted. They shall bear interest at the rate fixed by regulation under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002).

55.9.14.1

The Government may, by regulation, set standards to ensure the safety or welfare of animals.

55.9.14.2

The Government may, by regulation,

- (1) determine the conditions in which the owner or custodian of a cat or dog may carry on an activity involving the animal, restrict the activity or forbid certain classes of persons it determines to carry out the activity;
- (2) determine the classes of permits referred to in section 55.9.4.1 or 55.9.4.2 and the conditions and restrictions attached to each;
- (3) establish the conditions for the issue and renewal of the permits referred to in sections 55.9.4.1 and 55.9.4.2, the fees payable and the costs for opening a permit application file;
- (4) determine the skills or qualifications required of the holder of a permit referred to in section 55.9.4.1 or 55.9.4.2 and those required of an employee assigned to the activities for which a permit is required;

(5) establish the standards applicable to the organization, to the maintenance and operation of any premises where an activity involving a cat or dog is carried on, or for which a permit referred to in section 55.9.4.1 or 55.9.4.2 is required;

(6) determine the maximum number of cats or dogs that can be kept on the premises, in particular, according to their species or race, the type of activity carried on by the owner or custodian of a cat or dog or the type of premises in which they are kept, including pounds, animal houses and premises kept by persons or organizations dedicated to the protection of animals;

(7) determine the maximum number of cats or dogs that can be kept by a single natural person;

(8) determine the protocols and registers that the owner or custodian of a cat or dog must observe or keep, what each must contain, where they must be kept, the reports the owner or custodian must file with the Minister, the information that must be reported and the frequency of the reporting;

(9) determine preventive measures for cats or dogs, in particular, vaccination, sterilization, isolation or quarantine, and foresee methods, procedures and conditions applicable to those measures;

(10) determine the standards for euthanizing cats and dogs and regulate or prohibit certain methods, procedures and conditions;

(11) foresee any other measure intended to ensure the safety or welfare of cats or dogs, in addition to those provided for by a regulation made under section 55.9.14.1; the measures may vary according to species or race, the type of activity carried on by the owner or custodian or the type of premises on which the animals are kept.

55.9.14.3

The Government may, by regulation, exempt from the application of all or part of this division or the regulations, according to the conditions it sets, any person, animal race or species, type of activity, establishment or geographical region that it determines.

55.9.15

Notwithstanding the provisions of this division, the following activities and practices continue to be permitted:

- 1) agricultural, teaching or scientific research activities involving animals, provided they are practised in accordance with generally recognized rules;
- 2) ritual practices involving animals prescribed by the laws of a religion.

55.9.16

The provisions of this division and those of any regulation made under section 55.9.14.1 have precedence over incompatible provisions of the Cities and Towns Act (chapter C-19), the Municipal Code of Québec (chapter C-27.1) and municipal charters, and over the provisions of their regulatory instruments.

55.9.16.1

For the purpose of better reconciling the safety and welfare requirements of dogs with the activities carried on by Native people in certain regions and the cultural, climatic and geographical realities of those regions, the Government is authorized to enter into an agreement with a first nation represented by all the band councils of the communities comprising that nation, with a Native community represented by its band council or by the council of a northern village, with a group of communities so represented or, in the absence of such councils, with any other Native group on any subject covered by this division or the regulations.

The provisions of such an agreement take precedence over the provisions of this division and the regulations. However, any person covered by an agreement is only exempt from the application of the provisions of this division or the regulations that are inconsistent with the agreement to the extent that the person respects the agreement.

An agreement entered into under this section is tabled in the National Assembly within 15 days of its signature or, if the Assembly is not sitting, within 15 days of resumption. In addition, it is published in the Gazette officielle du Québec.

55.9.16.2

For the purposes of this division, “judge” means

- (1) a judge of the Court of Québec;
- (2) a judge of a municipal court;
- (3) a presiding justice of the peace.

DIVISION IV.2

INSPECTION, SEIZURE AND CONFISCATION

§ 1. — Inspection

55.10

Every veterinary surgeon designated by the Minister for the purpose of the carrying out of Division I or person authorized by the Minister to act as an inspector or analyst under this Act, who believes, on reasonable grounds, that there is an animal, a product or equipment to which this Act applies in a vehicle or in premises where an animal is kept or sold or in premises where the activities referred to in section 24 or 55.2 are carried on may, in the performance of his duties,

- 1) enter and inspect such premises at any reasonable time;
- 2) inspect any vehicle in which a product, an animal or equipment to which this Act applies is transported or stop any such vehicle to inspect it;
- 3) examine any animal, product or equipment, open any receptacle found in the premises or vehicle and take samples or specimens therefrom free of charge;
- 4) record or take photographs of the vehicle, premises, animal, product or equipment;
- 5) require the communication, for purposes of examination, reproduction or for making extracts, of any book account, register, record or document if he believes on reasonable grounds that they contain information relating to the application of this Act or the regulations.

55.11

The owner or the person in charge of a vehicle or of premises being inspected and any person in such vehicle or premises are required to assist a veterinary surgeon, inspector or analyst in the performance of his duties.

A veterinary surgeon, inspector or analyst shall, upon request, identify himself and show a certificate signed by the Minister and attesting his quality.

55.12

No person may, in any manner, hinder the action of a veterinary surgeon, inspector or analyst in the performance of his duties, mislead him by false statements or refuse to give him information he is entitled to obtain under this Act.

55.13

In no case may the Minister, a veterinary surgeon, a person authorized for the purposes of section 2.0.1, an inspector or an analyst be prosecuted for acts done in good faith in the performance of his duties.

A person to whom a seized animal has been entrusted under section 55.9.8 cannot be prosecuted by the person from whom it was seized for acts done in good faith within the framework of the mandate of the person caring for the seized animal.

§ 2. — Seizure and confiscation

55.14

A veterinary surgeon, an inspector or an analyst may, in the performance of his duties, seize any animal, product or equipment to which this Act applies if he believes, on reasonable grounds, that an offence against this Act or the regulations has been committed in relation to or by means of such animal, product or equipment or where the owner or custodian of an animal has failed to comply with an order.

55.15

The Government may, by regulation, prescribe the terms and conditions of inspection, sample and specimen taking and analysis, seizure and confiscation, at the time of an inspection, and establish a model for any certificate, report or minutes drawn up by a veterinary surgeon, an inspector or an analyst.

55.19. No person may use or remove what has been seized or allow it to be used or removed without the authorization of the veterinary surgeon, inspector or analyst.

55.24

Upon pronouncing a conviction for an offence under a provision of this Act or the regulations thereunder, a judge may, on an application by either party and where a seizure has been made under section 55.14, order the confiscation of what has been seized.

Prior notice of the application for confiscation shall be given to the person from whom it was seized and to the other party, except where they are in the presence of the judge.

The Minister shall prescribe the manner of disposing of anything seized under this section.

* * * * *

DIVISION IV.5

PENAL PROVISIONS AND OTHER SANCTIONS

55.43.1.

The owner or custodian of an animal who compromises the animal's safety or welfare in a manner described in paragraph 1, 2 or 3 of section 55.9.2 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

The owner or custodian of an animal who compromises the animal's safety or welfare in a manner described in paragraph 4 of section 55.9.2 is liable to a fine of \$2,000 to \$25,000 and, in the case of a subsequent conviction, to a fine of \$6,000 to \$75,000.

55.43.1.1.

Every person who contravenes section 55.9.4.1, 55.9.4.2 or 55.9.4.3 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

55.43.1.2.

The owner or custodian of an animal who contravenes an order made under section 55.9.6 is liable to a fine of \$2,000 to \$25,000 and, in the case of a subsequent conviction, to a fine of \$6,000 to \$75,000.

55.43.1.3.

Every person who contravenes a regulation made under section 55.9.14.1, 55.9.14.2 or 55.9.14.3 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

55.43.1.4.

For the purposes of sections 55.43.1 to 55.43.1.3, the court takes the following factors in particular into account in determining the amount of the fine:

- (1) the condition of the animal;
- (2) the state of the premises or the vehicle in which the animal was kept or transported;
- (3) the benefits or income the contravener received as a result of carrying on activities involving the animal; and
- (4) the number of animals involved.

* * * * *

55.46

Every person who, by his consent, encouragement, advice or order, induces another person to commit an offence is guilty of the offence as if he had committed it himself, and of every other offence committed by the other person as a result of the consent, encouragement, advice or order, if he knew or should have known that its probable consequence would be the commission of the offences.

55.47

Every person who, by his act or omission, aids another person to commit an offence is guilty of the offence as if he had committed it himself, if he knew or should have known that the probable consequence of his act or omission would be to aid in the commission of the offence.

ANIMAL PROTECTION LAWS OF RHODE ISLAND

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Rhode Island's general animal protection and related statutes with effective dates on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Rhode Island may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

RHODE ISLAND

1. GENERAL PROHIBITIONS*	(1) Overwork, mistreatment, or neglect R.I. GEN. LAWS§ 4-1-2 (2) Unnecessary cruelty R.I. GEN. LAWS§ 4-1-3 (3) Abandonment of infirm animals R.I. GEN. LAWS§ 4-1-4 (4) Malicious injury to or killing of animals R.I. GEN. LAWS§ 4-1-5 (5) Abandonment of animals R.I. GEN. LAWS§ 4-1-26
<i>Animals Covered in Definition</i>	“[E]very living creature except a human being” R.I. GEN. LAWS§ 4-1-1(a)(1)
<i>Classification of Crimes</i>	(1), (2), (3) Misdemeanor (4) Felony (5) [If animal survives]: Misdemeanor [If animal dies]: Felony

RHODE ISLAND*continued*

2. MAXIMUM PENALTIES**

(1), (2), (3)
11 months imprisonment
and/or
\$500 fine
R.I. GEN. LAWS§ 4-1-2

(4)
2 years imprisonment
or
\$1,000 fine
and
treble civil damages if animal owned by
another
and
10 hours community service
R.I. GEN. LAWS§ 4-1-5

(5)
[If animal survives]:
11 months imprisonment
and/or
\$500 fine
R.I. GEN. LAWS§ 4-1-2

[If animal dies]:
2 years imprisonment
or
\$1,000 fine
and
treble civil damages if animal owned by
another
and
10 hours community service
R.I. GEN. LAWS§ 4-1-5

RHODE ISLAND*continued*

3. EXEMPTIONS ^{***}	3, 5 R.I. GEN. LAWS§ 4-1-5(b)
4. COUNSELING / EVALUATIONS ^H	Court may order a psychiatric evaluation and counseling, at offender's expense. R.I. GEN. LAWS§ 4-1-36
5. PROTECTIVE ORDERS ^H	-----
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS ^H	Defendant liable for triple damages to owner of animal. R.I. GEN. LAWS§ 4-1-5(a) The necessary expenses incurred in the care and disposing of seized birds or animals may be allowed and paid in the same manner that costs in criminal prosecutions are paid. R.I. GEN. LAWS§ 4-1-15 Person making arrest and caring for animals shall have a lien on the animals for the cost of their care. R.I. GEN. LAWS§ 4-1-18 Upon conviction, owner is charged with costs of care for animals seized by the R.I.-SPCA. R.I. GEN. LAWS§ 4-1-22

RHODE ISLAND*continued*

7. SEIZURE / ON-SITE SUPERVISION	<p>Person making arrest for animal cruelty shall properly care and provide for the animals. R.I. GEN. LAWS§ 4-1-18</p> <p>If there is reasonable cause to believe animals are being cruelly treated, the court shall issue a search warrant. R.I. GEN. LAWS§ 4-1-19</p> <p>Humane agents may take charge of any animals found neglected or abused. R.I. GEN. LAWS§ 4-1-22(a)</p>
8. FORFEITURE / POSSESSION^H	<p>Upon conviction, animal may be forfeited. R.I. GEN. LAWS§ 4-1-2(b)</p> <p>Any claimant aggrieved by a sentence of forfeiture of a district court may, before the execution of that sentence, appeal to the superior court. R.I. GEN. LAWS§ 4-1-14</p> <p>Any animals seized by R.I.-SPCA shall be forfeited to the society upon conviction. R.I. GEN. LAWS§ 4-1-22(b)</p> <p>Upon conviction, the court may order an offender not to possess or reside with any animal for 5 years for a misdemeanor, and 15 for a felony. R.I. GEN. LAWS § 4-1-40</p>
9. CROSS ENFORCEMENT / REPORTING	-----

RHODE ISLAND*continued*

10. VETERINARIAN REPORTING/ IMMUNITY	Any licensed veterinarian who makes a good faith report concerning any animal that the veterinarian knows or reasonably believes to be abandoned, neglected, or abused, shall be immune from civil or criminal liability. R.I. GEN. LAWS§ 4-1-37
11. LAW ENFORCEMENT POLICIES	Any person violating animal cruelty laws may be arrested and held without a warrant. R.I. GEN. LAWS§ 4-1-18 Any sheriff, deputy sheriff, constable or police officer shall prosecute all cases of animal mistreatment. R.I. GEN. LAWS§ 4-1-20 Humane agents may arrest offenders, serve search warrants and carry firearms. R.I. GEN. LAWS§ 4-1-21 State veterinarian may request a warrant and enter premises for cruelty investigation purposes. R.I. GEN. LAWS§ 4-1-31
12. SEXUAL ASSAULT	Any person who commits the “crime against nature with any beast” shall be imprisoned between 7 and 20 years. R.I. GEN. LAWS§ 11-10-1

RHODE ISLAND*continued*

13. FIGHTING	<p>Various animal fighting activities are felonies. R.I. GEN. LAWS§ 4-1-9</p> <p>Possession or training of fighting animals is a felony. R.I. GEN. LAWS§ 4-1-10</p> <p>Attendance at bird or animal fight is a felony. R.I. GEN. LAWS§4-1-11</p> <p>Law enforcement officers may enter any premises where there is an animal fighting exhibition, and without a warrant, arrest all persons present, and take possession of the animals. R.I. GEN. LAWS§4-1-12</p> <p>Animals seized from animal fighting exhibitions may be forfeited. R.I. GEN. LAWS§4-1-13</p> <p>Any claimant aggrieved by a sentence of forfeiture of a district court may, before the execution of that sentence, appeal to the superior court. R.I. GEN. LAWS§ 4-1-14</p> <p>State veterinarian shall be made available to assist in animal fighting investigations. R.I. GEN. LAWS§ 4-1-31</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

<p>NOTES</p>	<p>Wherever the word “owner” appears in these provisions, it shall also mean and may be interchanged with the word “guardian” as defined in § 4-1-1. R.I. GEN. LAWS§ 4-1-38</p> <p>State veterinarian or designee (including a humane agent) may be appointed to act as animal advocate to “make recommendations to any court before which the custody or well-being of an animal is at issue.” R.I. GEN. LAWS§ 4-1-31</p>
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* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

R.I. GEN. LAWS § 4-1-1 (2012). Definitions—Responsibility for agents and employees.

(a) *In this chapter and in §§ 4-4-9, 4-4-10, and 23-19-8:*

(1) *“Animal” and “animals” means every living creature except a human being;*

(2) *“Licensed graduate veterinarian” or “veterinarian” means a person licensed to engage in the practice of veterinary medicine, surgery, and dentistry in this state who is a graduate of an accredited veterinary medical, surgical, and dental school or college of a standard recognized by the Rhode Island veterinary medical association; and*

(3) *“Owner”, “person”, and “whoever” means corporations as well as individuals.*

(4) *“Guardian” shall mean a person(s) having the same rights and responsibilities of an owner, and both terms shall be used interchangeably. A guardian shall also mean a person who possesses, has title to or an interest in, harbors or has control, custody or possession of an animal and who is responsible for an animal’s safety and well-being.*

(b) *The knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned or employed by or in the custody of that corporation are held to be the acts and knowledge of that corporation.*

R.I. GEN. LAWS § 4-1-2 (2012). Overwork, mistreatment, or failure to feed animals—“Shelter” defined.

(a) *Whoever shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, shall inflict cruelty upon that animal, or shall willfully fail to provide that animal with proper food, drink, shelter or protection from the weather, shall, for every such offense, be imprisoned not exceeding eleven (11) months, or be fined not less than fifty dollars (\$50.00) nor exceeding five hundred dollars (\$500), or be both imprisoned and fined as aforesaid.*

(b) *Every owner, possessor or person having charge of any animal may upon conviction of a violation of this section be ordered to forfeit all rights to ownership of the animal to the animal control officer of the city or town in which the offense occurred or to a humane society which owns and operates the shelter which provided the subject animal shelter subsequent to any confiscation of said animal pursuant to this section.*

(c) “Shelters”, as used in this chapter, shall mean a structure used to house any animal, and which will provide sufficient protection from inclement elements for the health and well-being of the animal.

R.I. GEN. LAWS§ 4-1-3 (2012). Unnecessary cruelty.

(a) Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works that animal when unfit for labor, or cruelly abandons that animal, or who carries that animal, or causes that animal to be carried, in or upon any vehicle or otherwise in a cruel or inhuman manner, or willfully authorizes or permits that animal to be subjected to unnecessary torture, suffering or cruelty of any kind, or who places or causes to have placed on any animal any substance that may produce irritation or pain, or that is declared a hazardous substance by the U.S. food and drug administration or by the state department of health, shall be punished for each offense in the manner provided in § 4-1-2.

(b) The substances proscribed by subsection (a) do not include any drug having curative and therapeutic effect for disease in animals and which is prepared and intended for veterinary use.

R.I. GEN. LAWS§4-1-4(2012).Abandonment of infirm animals.

If any maimed, sick, infirm, or disabled animal is abandoned to die, by any owner or person having charge of that animal, that person shall, for each offense, be punished in the manner provided in § 4-1-2.

R.I. GEN. LAWS§ 4-1-5 (2012).Malicious injury to or killing of animals.

(a) Every person who cuts out the tongue or otherwise dismembers any animal, maliciously, or maliciously kills or wounds any animal, or maliciously administers poison to or exposes any poisonous substance with intent that the poison shall be taken or swallowed by any animal, or who maliciously exposes poisoned meat with intent that the poison meat is taken or swallowed by any wild animal, shall be imprisoned not exceeding two (2) years or be fined not exceeding one thousand dollars (\$1,000), and shall, in the case of any animal of another, be liable to the owner of this animal for triple damages, to be recovered by civil action. In addition, any person convicted under this section is required to serve ten (10) hours of community restitution. The community restitution penalty shall not be suspended or deferred and is mandatory.

(b) This section shall not apply to licensed hunters during hunting season or a licensed business killing animals for human consumption.

R.I. GEN. LAWS § 4-1-26 (2012). Abandonment of animals from motor vehicles, dwelling houses, streets, roads, highways, public places, private property or other buildings or structures.

If any person having possession and/or control of an animal shall abandon that animal on a street, road, highway or in a public place or on private property or from a motor vehicle, or in a dwelling or any other building or structure without providing for the care of that animal, he or she shall be punished in the manner provided in § 4-1-2 for each such offense. Provided however, if such abandonment results in the death of said animal, the person shall be punished in the manner provided in § 4-1-5. Abandonment shall mean the relinquishment of all right, title, claim or possession of the animal with the intention of not reclaiming it or resuming its ownership or possession.

2. PENALTIES

R.I. GEN. LAWS§ 4-1-2 (2012). Overwork, mistreatment, or failure to feed animals— “shelter” defined.

(a) Whoever shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, shall inflict cruelty upon that animal, or shall willfully fail to provide that animal with proper food, drink, shelter or protection from the weather, *shall, for every such offense, be imprisoned not exceeding eleven (11) months, or be fined not less than fifty dollars (\$50.00) nor exceeding five hundred dollars (\$500), or be both imprisoned and fined as aforesaid.*

(b) Every owner, possessor or person having charge of any animal may upon conviction of a violation of this section be ordered to forfeit all rights to ownership of the animal to the animal control officer of the city or town in which the offense occurred or to a humane society which owns and operates the shelter which provided the subject animal shelter subsequent to any confiscation of said animal pursuant to this section.

(c) “Shelters”, as used in this chapter, shall mean a structure used to house any animal, and which will provide sufficient protection from inclement elements for the health and well-being of the animal.

R.I. GEN. LAWS§ 4-1-3 (2012). Unnecessary cruelty.

(a) Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works that animal when unfit for labor, or cruelly abandons that animal, or who carries that animal, or causes that animal to be carried, in or upon any vehicle or otherwise in a cruel or inhuman manner, or willfully authorizes or permits that animal to be subjected to unnecessary torture, suffering or cruelty of any kind, or who places or causes to have placed on any animal any substance that may produce irritation or pain, or that is declared a hazardous substance by the U.S. food and drug administration or by the state department of health, *shall be punished for each offense in the manner provided in § 4-1-2.*

(b) The substances proscribed by subsection (a) do not include any drug having curative and therapeutic effect for disease in animals and which is prepared and intended for veterinary use.

R.I. GEN. LAWS§ 4-1-5 (2012).Malicious injury to or killing of animals.

(a) Every person who cuts out the tongue or otherwise dismembers any animal, maliciously, or maliciously kills or wounds any animal, or maliciously administers poison to or exposes any poisonous substance with intent that the poison shall be taken or swallowed by any animal, or who maliciously exposes poisoned meat with intent that the poison meat is taken or swallowed by any wild animal, *shall be imprisoned not exceeding two (2) years or be fined not exceeding one thousand dollars (\$1,000), and shall, in the case of any animal of another, be liable to the owner of this animal for triple damages, to be recovered by civil action.*In addition, any person convicted under this section is required to serve ten (10) hours of community restitution. The community restitution penalty shall not be suspended or deferred and is mandatory.

(b) This section shall not apply to licensed hunters during hunting season or a licensed business killing animals for human consumption.

R.I. GEN. LAWS§ 4-1-26 (2012). Abandonment of animals from motor vehicles, dwelling houses, streets, roads, highways, public places, private property or other buildings or structures.

If any person having possession and/or control of an animal shall abandon that animal on a street, road, highway or in a public place or on private property or from a motor vehicle, or in a dwelling or any other building or structure without providing for the care of that animal, *he or she shall be punished in the manner provided in § 4-1-2 for each such offense.* Provided however, if such abandonment results in the death of said animal, *the person shall be punished in the manner provided in § 4-1-5.* Abandonment shall mean the relinquishment of all right, title, claim or possession of the animal with the intention of not reclaiming it or resuming its ownership or possession.

R.I. GEN. LAWS§ 11-1-2 (2012).Felony, misdemeanor—Petty misdemeanor, and violation distinguished.

Unless otherwise provided, any criminal offense which at any given time may be punished by imprisonment for a term of more than one year, or by a fine of more than one thousand dollars (\$1,000), is hereby declared to be a felony; any criminal offense which may be punishable by imprisonment for a term not exceeding one year, or by a fine of not more than one thousand dollars (\$1,000), or both, is hereby declared to be a misdemeanor; any criminal offense which may be punishable by imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars (\$500), or both, is hereby declared to be a petty misdemeanor; and any offense which may be punished by a fine only of not more than five hundred dollars (\$500) is hereby declared to be a violation.

3. EXEMPTIONS

R.I. GEN. LAWS § 4-1-5 (2012). Malicious injury to or killing of animals.

(a) Every person who cuts out the tongue or otherwise dismembers any animal, maliciously, or maliciously kills or wounds any animal, or maliciously administers poison to or exposes any poisonous substance with intent that the poison shall be taken or swallowed by any animal, or who maliciously exposes poisoned meat with intent that the poison meat is taken or swallowed by any wild animal, shall be imprisoned not exceeding two (2) years or be fined not exceeding one thousand dollars (\$1,000), and shall, in the case of any animal of another, be liable to the owner of this animal for triple damages, to be recovered by civil action. In addition, any person convicted under this section is required to serve ten (10) hours of community restitution. The community restitution penalty shall not be suspended or deferred and is mandatory.

(b) This section shall not apply to licensed hunters during hunting season or a licensed business killing animals for human consumption.

4. COUNSELING / EVALUATIONS

R.I. GEN. LAWS § 4-1-36(2012). Psychiatric counseling.

Any person found guilty of violating any of the provisions of this chapter may, in addition to any penalties imposed, be evaluated to determine the need for psychiatric or psychological counseling, and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

R.I. GEN. LAWS§ 4-1-5 (2012).Malicious injury to or killing of animals.

(a) Every person who cuts out the tongue or otherwise dismembers any animal, maliciously, or maliciously kills or wounds any animal, or maliciously administers poison to or exposes any poisonous substance with intent that the poison shall be taken or swallowed by any animal, or who maliciously exposes poisoned meat with intent that the poison meat is taken or swallowed by any wild animal, shall be imprisoned not exceeding two (2) years or be fined not exceeding one thousand dollars (\$1,000), and *shall, in the case of any animal of another, be liable to the owner of this animal for triple damages, to be recovered by civil action.* In addition, any person convicted under this section is required to serve ten (10) hours of community restitution. The community restitution penalty shall not be suspended or deferred and is mandatory.

(b) This section shall not apply to licensed hunters during hunting season or a licensed business killing animals for human consumption.

R.I. GEN. LAWS§4-1-15(2012).Expense of care of seized birds or animals.

The necessary expenses incurred in the care and disposing of seized birds or animals may be allowed and paid in the same manner that costs in criminal prosecutions are paid.

R.I. GEN. LAWS§ 4-1-18 (2012).Arrest of violators without warrant—Care of animals.

Any person violating the provisions of this chapter may be arrested on view and be held without a warrant; provided, that an arrest or detention without warrant shall not continue longer than twenty-four (24) hours; and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for those animals until the owner thereof shall take charge of them, provided the owner shall do so within thirty (30) days from the date of the notice. *The person making an arrest shall have a lien on those animals for the expense of their care and provision.*

R.I. GEN. LAWS§ 4-1-22 (2012). Care of neglected animals by society—Forfeiture of owner’s rights—Expenses.

(a) An officer or agent of the Rhode Island society for the prevention of cruelty to animals may lawfully take charge of any animal found abandoned or neglected or which in the opinion of that officer or agent is aged, maimed, disabled, lame, sick, diseased, injured, unfit for the labor it is performing, or cruelly treated, and shall give notice to the owner, if known, or his agents, and may provide suitable care.

(b) Every owner or agent, upon conviction of abandonment, neglect, or cruel treatment of any animal taken charge of by the Rhode Island society for the prevention of cruelty to animals under this section, forfeits the rights to ownership or control of that animal to the society for disposition in any manner deemed suitable for that animal.

(c) Whenever any officer or agent of the Rhode Island society for the prevention of cruelty to animals lawfully takes charge of any animal under this section, the expense of suitable care of that animal, upon conviction of the owner of that animal for a violation of any section of this chapter, is charged against the owner or agent of the owner having custody of that animal at the time the officer or agent of the Rhode Island society for the prevention of cruelty to animals took charge of the animal. The Rhode Island society for the prevention of cruelty to animals has the authority to commence a civil action for damages against the owner or his or her agent thirty (30) days after a written demand for payment of the expense of the suitable care of that animal has been sent and no payment received.

7. SEIZURE / ON-SITE SUPERVISION

R.I. GEN. LAWS§ 4-1-18 (2012). Arrest of violators without warrant—Care of animals.

Any person violating the provisions of this chapter may be arrested on view and be held without a warrant; provided, that an arrest or detention without warrant shall not continue longer than twenty-four (24) hours; and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for those animals until the owner thereof shall take charge of them, provided the owner shall do so within thirty (30) days from the date of the notice. The person making an arrest shall have a lien on those animals for the expense of their care and provision.

R.I. GEN. LAWS§ 4-1-19 (2012). Issuance of search warrants.

Whenever complaint is made on oath to any magistrate authorized to issue warrants in criminal cases, that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been or are being violated in any building or place, the magistrate, if satisfied that there is reasonable cause for that belief, shall issue a search warrant, authorizing any officer, competent to serve a warrant, to search the building or place; but no search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

R.I. GEN. LAWS§ 4-1-22 (2012). Care of neglected animals by society—Forfeiture of owner's rights—Expenses.

(a) An officer or agent of the Rhode Island society for the prevention of cruelty to animals may lawfully take charge of any animal found abandoned or neglected or which in the opinion of that officer or agent is aged, maimed, disabled, lame, sick, diseased, injured, unfit for the labor it is performing, or cruelly treated, and shall give notice to the owner, if known, or his agents, and may provide suitable care.

(b) Every owner or agent, upon conviction of abandonment, neglect, or cruel treatment of any animal taken charge of by the Rhode Island society for the prevention of cruelty to animals under this section, forfeits the rights to ownership or control of that animal to the society for disposition in any manner deemed suitable for that animal.

(c) Whenever any officer or agent of the Rhode Island society for the prevention of cruelty to animals lawfully takes charge of any animal under this section, the expense of suitable care of that animal, upon conviction of the owner of that animal for a violation of any section of this chapter, is charged against the owner or agent of the owner having custody of that animal at the time the officer or agent of the Rhode Island society for the prevention of cruelty to animals took charge of the animal. The Rhode Island society for the prevention of cruelty to animals has the authority to commence a civil action for damages against the owner or his or her agent thirty (30) days after a written demand for payment of the expense of the suitable care of that animal has been sent and no payment received.

8. FORFEITURE / POSSESSION

R.I. GEN. LAWS§ 4-1-2 (2012). Overwork, mistreatment, or failure to feed animals—“shelter” defined.

(a) Whoever shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, shall inflict cruelty upon that animal, or shall willfully fail to provide that animal with proper food, drink, shelter or protection from the weather, shall, for every such offense, be imprisoned not exceeding eleven (11) months, or be fined not less than fifty dollars (\$50.00) nor exceeding five hundred dollars (\$500), or be both imprisoned and fined as aforesaid.

(b) Every owner, possessor or person having charge of any animal may upon conviction of a violation of this section be ordered to forfeit all rights to ownership of the animal to the animal control officer of the city or town in which the offense occurred or to a humane society which owns and operates the shelter which provided the subject animal shelter subsequent to any confiscation of said animal pursuant to this section.

(c) “Shelters”, as used in this chapter, shall mean a structure used to house any animal, and which will provide sufficient protection from inclement elements for the health and well-being of the animal.

R.I. GEN. LAWS§ 4-1-14(2012).Appeal of sentence of forfeiture.

Any claimant aggrieved by a sentence of forfeiture of a district court may, before the execution of that sentence, appeal to the superior court in the manner provided with reference to criminal appeals from district courts.

R.I. GEN. LAWS§ 4-1-22 (2012). Care of neglected animals by society—Forfeiture of owner’s rights—Expenses.

(a) An officer or agent of the Rhode Island society for the prevention of cruelty to animals may lawfully take charge of any animal found abandoned or neglected or which in the opinion of that officer or agent is aged, maimed, disabled, lame, sick, diseased, injured, unfit for the labor it is performing, or cruelly treated, and shall give notice to the owner, if known, or his agents, and may provide suitable care.

(b) Every owner or agent, upon conviction of abandonment, neglect, or cruel treatment of any animal taken charge of by the Rhode Island society for the prevention of cruelty to animals under this section, forfeits the rights to ownership or control of that animal to the society for disposition in any manner deemed suitable for that animal.

(c) Whenever any officer or agent of the Rhode Island society for the prevention of cruelty to animals lawfully takes charge of any animal under this section, the expense of suitable care of that animal, upon conviction of the owner of that animal for a violation of any section of this chapter, is charged against the owner or agent of the owner having custody of that animal at the time the officer or agent of the Rhode Island society for the prevention of cruelty to animals took charge of the animal. The Rhode Island society for the prevention of cruelty to animals has the authority to commence a civil action for damages against the owner or his or her agent thirty (30) days after a written demand for payment of the expense of the suitable care of that animal has been sent and no payment received.

R.I. GEN. LAWS § 4-1-40(2012). Possession of animals.

(a) In addition to any other penalty imposed by law, a person convicted of, or who entered a plea of nolo contendere to, any misdemeanor violation under the provisions of this chapter may, based on the discretion of the sentencing judge, not possess or reside with any animal for a period of up to five (5) years following entry of the conviction or upon acceptance of a plea of nolo contendere by the court. Any offense under this subsection is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), by imprisonment for a term not more than one year, or both, and forfeiture of the animal(s).

(b) In addition to any other penalty imposed by law, a person convicted of, or who entered a plea of nolo contendere to, any felony violation under the provisions of this chapter may, based on the discretion of the sentencing judge, not possess or reside with any animal for a period of up to fifteen (15) years following entry of the conviction or upon acceptance of a plea of nolo contendere by the court. Any offense under this section is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), by imprisonment for a term not more than one year, or both, and forfeiture of the animal(s).

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

R.I. GEN. LAWS § 4-1-37 (2012). Immunity from suit.

Any Rhode Island licensed veterinarian shall be held harmless from either criminal or civil liability arising out of any reports, either oral or written, made to local and/or state police, animal control officials or officers of private organizations devoted to humane treatment of animals, concerning any animal that the veterinarian knows or reasonably believed to be abandoned, neglected, or abused, and shall be immune from suit by reason of making the report. Provided, however, that a veterinarian who participates or reports in bad faith or with malice shall not be protected under the provisions of this section.

11. LAW ENFORCEMENT POLICIES

R.I. GEN. LAWS§ 4-1-18 (2012). Arrest of violators without warrant—Care of animals.

Any person violating the provisions of this chapter may be arrested on view and be held without a warrant; provided, that an arrest or detention without warrant shall not continue longer than twenty-four (24) hours; and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for those animals until the owner thereof shall take charge of them, provided the owner shall do so within thirty (30) days from the date of the notice. The person making an arrest shall have a lien on those animals for the expense of their care and provision.

R.I. GEN. LAWS§ 4-1-20 (2012). Duty of police officers—Fines paid to society for prevention of cruelty to animals.

Any sheriff, deputy sheriff, constable or police officer shall prosecute all violations of this chapter which come to his or her knowledge and all fines and forfeitures resulting from the complaint of any officer or agent of the society for the prevention of cruelty to animals under this chapter, shall enure and be paid over to the society in aid of the benevolent objects for which it was incorporated.

R.I. GEN. LAWS§ 4-1-21 (2012). Powers of agents of Society for Prevention of Cruelty to Animals.

The general agent of the Rhode Island Society for the Prevention of Cruelty to Animals and such number of special agents as may be appointed by that society shall have the same power and authority to arrest as any officer authorized to serve criminal process for the purpose of enforcing any of the laws of this state in relation to cruelty to animals, that power and authority to extend throughout the state, and they may serve any search warrant issued under the provisions of s 4-1-19 and may search any building or place named in that warrant. A general agent and any special agents may, for the purpose of carrying out their duties, possess and carry pistols as defined in s 11-47-2, and the provisions of s 11-47-5 shall not apply to them. Any person who shall interfere with or obstruct any of those agents in the discharge of their duty shall be guilty of obstructing an officer and punished as provided in s 11-32-1.

R.I. GEN. LAWS§ 4-1-31 (2012).Assignment of State Veterinarian.

(a) Examination of fighting animals.—A licensed veterinarian from the department of environmental management, shall be made available to agents of the Rhode Island society for the prevention of cruelty to animals at the request of the state police for the purpose of examining any animal which those agents believe to have been involved in animal fighting in violation of section 4-1-2, 4-1-8, 4-1-9 or 4-1-11.

(b) Right of entry where cruelty suspected.—The director of the department of environmental management or any veterinarian employed by the department of environmental management designated by the director for such purpose, having reason to suspect the existence of cruelty to animals within the meaning of this chapter upon any grounds or premises, is hereby authorized and empowered to enter upon those grounds or premises for enforcement of the provisions of this chapter. For such inspections, the department shall, unless a search without a warrant is otherwise allowed by law, seek a search warrant from an official of a court authorized to issue warrants.

(c) The director of the department of environmental management may designate a department veterinarian or veterinarians to act as animal advocates. A general agent or special agent from the Rhode Island society for the prevention of cruelty to animals may also act in that capacity.

(d) The animal advocate shall make recommendations to any court before which the custody or well-being of an animal is at issue.

(e) Any animal care facility licensed by the United States department of agriculture or holding a public health service (PHS) assurance of compliance shall be exempt from the provisions of this section.

12. SEXUAL ASSAULT

R.I. GEN. LAWS§11-10-1(2012).Abominable and detestable crime against nature.

Every person who shall be convicted of the abominable and detestable crime against nature, with any beast, shall be imprisoned not exceeding twenty (20) years nor less than seven (7) years.

13. FIGHTING

R.I. GEN. LAWS§ 4-1-9 (2012). Animal fighting.

Any person who causes or encourages the fighting of any bird, dog, or animal with any other bird, dog, or animal, or keeps or maintains any place for the fighting of birds, dogs, or animals, or who knowingly permits, or suffers, any fight to be had on his or her premises or on premises under his or her control, or makes any bet or lays any wager of any kind upon the result of that fight, shall be fined not exceeding one thousand dollars (\$1,000) or be imprisoned not exceeding two (2) years, or both, for the first offense, and for any subsequent offense shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or be imprisoned not exceeding two (2) years, or both.

R.I. GEN. LAWS§4-1-10(2012).Possession or training of fighting animals.

Whoever owns, possesses, keeps or trains any bird, dog, or other animal, with the intent that that bird, dog, or animal engages in an exhibition of fighting, shall be fined not exceeding one thousand dollars (\$1,000) and/or be imprisoned not exceeding two (2) years for the first offense, and for any subsequent offense shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or be imprisoned not exceeding two (2) years, or both.

R.I. GEN. LAWS§ 4-1-11(2012).Attendance at bird or animal fight.

Whoever is present at any place, building, or tenement where preparations are being made for an exhibition of the fighting of birds or animals, with the intent being present at that exhibition, or is present at that exhibition, shall be fined not exceeding one thousand five hundred dollars (\$1,500) or imprisoned for not more than two (2) years, or both.

R.I. GEN. LAWS§ 4-1-12(2012).Entry of premises where bird or animal fights are conducted—Arrest—Seizure of birds or animals.

Any sheriff, deputy sheriff, town sergeant, constable, police officer or any officer authorized to serve criminal process may enter any place, building, or tenement anywhere within the state, where there is an exhibition of the fighting of birds or animals, or where preparations are being made for that exhibition, and without a warrant, arrest all persons present, and take possession of the birds or animals engaged in fighting, and all birds or animals found there and intended to be used or engaged in fighting. Those persons shall be kept in custody in jail or other convenient place not more than twenty-four (24) hours, Sundays and legal holidays excepted, at or before the expiration of which time those persons shall be brought before a district court or the superior court and proceeded against according to law.

R.I. GEN. LAWS§ 4-1-13(2012).Forfeiture of fighting birds or animals.

After the seizure of any birds or animals as provided in § 4-1-12, application shall be made to a district court or the superior court for a sentence of forfeiture of the birds or animals; and if, upon the hearing of the application, it is found that the birds or animals, at the time of their seizure, were engaged in fighting at an exhibition or were owned, possessed, or kept by any person with the intent that they should be engaged in fighting at an exhibition, sentence of forfeiture shall be pronounced against them. Any officer authorized to serve criminal process shall sell them in any manner that the court orders, and pay the proceeds of that sale, after the payment of costs, including costs of seizure and keeping of those birds or animals, to the general treasurer for the use of the state. Whenever a seizure and application for sentence of forfeiture is made by or results from the complaint or information of any officer or agent of the society for the prevention of cruelty to animals, the proceeds of that sale shall be paid over to the society. Should it be found that any seized birds or animals are of no use or value, they shall be set at large, or otherwise disposed of, as the court may direct. The claimant is allowed to appear in the proceedings upon any application for a sentence of forfeiture. All seized birds or animals not sentenced for forfeiture shall be delivered to the owner.

R.I. GEN. LAWS§ 4-1-14(2012).Appeal of sentence of forfeiture.

Any claimant aggrieved by a sentence of forfeiture of a district court may, before the execution of that sentence, appeal to the superior court in the manner provided with reference to criminal appeals from district courts.

R.I. GEN. LAWS§ 4-1-31 (2012).Assignment of State Veterinarian.

(a) Examination of fighting animals.—A licensed veterinarian from the department of environmental management, shall be made available to agents of the Rhode Island society for the prevention of cruelty to animals at the request of the state police for the purpose of examining any animal which those agents believe to have been involved in animal fighting in violation of section 4-1-2, 4-1-8, 4-1-9 or 4-1-11.

(b) Right of entry where cruelty suspected.—The director of the department of environmental management or any veterinarian employed by the department of environmental management designated by the director for such purpose, having reason to suspect the existence of cruelty to animals within the meaning of this chapter upon any grounds or premises, is hereby authorized and empowered to enter upon those grounds or premises for enforcement of the provisions of this chapter. For such inspections, the department shall, unless a search without a warrant is otherwise allowed by law, seek a search warrant from an official of a court authorized to issue warrants.

(c) The director of the department of environmental management may designate a department veterinarian or veterinarians to act as animal advocates. A general agent or special agent from the Rhode Island society for the prevention of cruelty to animals may also act in that capacity.

(d) The animal advocate shall make recommendations to any court before which the custody or well-being of an animal is at issue.

(e) Any animal care facility licensed by the United States department of agriculture or holding a public health service (PHS) assurance of compliance shall be exempt from the provisions of this section.

14. REFERENCED STATUTES

R.I. GEN. LAWS § 4-1-1 (2012). Definitions—Responsibility for agents and employees.

(a) In this chapter and in §§ 4-4-9, 4-4-10, and 23-19-8:

(1) “Animal” and “animals” means every living creature except a human being;

(2) “Licensed graduate veterinarian” or “veterinarian” means a person licensed to engage in the practice of veterinary medicine, surgery, and dentistry in this state who is a graduate of an accredited veterinary medical, surgical, and dental school or college of a standard recognized by the Rhode Island veterinary medical association; and

(3) “Owner”, “person”, and “whoever” means corporations as well as individuals.

(4) “Guardian” shall mean a person(s) having the same rights and responsibilities of an owner, and both terms shall be used interchangeably. A guardian shall also mean a person who possesses, has title to or an interest in, harbors or has control, custody or possession of an animal and who is responsible for an animal’s safety and well-being.

(b) The knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned or employed by or in the custody of that corporation are held to be the acts and knowledge of that corporation.

R.I. GEN. LAWS § 4-1-2 (2012). Overwork, mistreatment, or failure to feed animals—“Shelter” defined.

(a) Whoever shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, shall inflict cruelty upon that animal, or shall willfully fail to provide that animal with proper food, drink, shelter or protection from the weather, shall, for every such offense, be imprisoned not exceeding eleven (11) months, or be fined not less than fifty dollars (\$50.00) nor exceeding five hundred dollars (\$500), or be both imprisoned and fined as aforesaid.

(b) Every owner, possessor or person having charge of any animal may upon conviction of a violation of this section be ordered to forfeit all rights to ownership of the animal to the animal control officer of the city or town in which the offense occurred or to a humane society which owns and operates the shelter which provided the subject animal shelter subsequent to any confiscation of said animal pursuant to this section.

(c) “Shelters”, as used in this chapter, shall mean a structure used to house any animal, and which will provide sufficient protection from inclement elements for the health and well-being of the animal.

R.I. GEN. LAWS§ 4-1-3 (2012). Unnecessary cruelty.

(a) Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works that animal when unfit for labor, or cruelly abandons that animal, or who carries that animal, or causes that animal to be carried, in or upon any vehicle or otherwise in a cruel or inhuman manner, or willfully authorizes or permits that animal to be subjected to unnecessary torture, suffering or cruelty of any kind, or who places or causes to have placed on any animal any substance that may produce irritation or pain, or that is declared a hazardous substance by the U.S. food and drug administration or by the state department of health, shall be punished for each offense in the manner provided in § 4-1-2.

(b) The substances proscribed by subsection (a) do not include any drug having curative and therapeutic effect for disease in animals and which is prepared and intended for veterinary use.

R.I. GEN. LAWS§4-1-4(2012).Abandonment of infirm animals.

If any maimed, sick, infirm, or disabled animal is abandoned to die, by any owner or person having charge of that animal, that person shall, for each offense, be punished in the manner provided in § 4-1-2.

R.I. GEN. LAWS§ 4-1-5 (2012).Malicious injury to or killing of animals.

(a) Every person who cuts out the tongue or otherwise dismembers any animal, maliciously, or maliciously kills or wounds any animal, or maliciously administers poison to or exposes any poisonous substance with intent that the poison shall be taken or swallowed by any animal, or who maliciously exposes poisoned meat with intent that the poison meat is taken or swallowed by any wild animal, shall be imprisoned not exceeding two (2) years or be fined not exceeding one thousand dollars (\$1,000), and shall, in the case of any animal of another, be liable to the owner of this animal for triple damages, to be recovered by civil action. In addition, any person convicted under this section is required to serve ten (10) hours of community restitution. The community restitution penalty shall not be suspended or deferred and is mandatory.

(b) This section shall not apply to licensed hunters during hunting season or a licensed business killing animals for human consumption.

R.I. GEN. LAWS§ 4-1-9 (2012). Animal fighting.

Any person who causes or encourages the fighting of any bird, dog, or animal with any other bird, dog, or animal, or keeps or maintains any place for the fighting of birds, dogs, or animals, or who knowingly permits, or suffers, any fight to be had on his or her premises or on premises under his or her control, or makes any bet or lays any wager of any kind upon the result of that fight, shall be fined not exceeding one thousand dollars (\$1,000) or be imprisoned not exceeding two (2) years, or both, for the first offense, and for any subsequent offense shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or be imprisoned not exceeding two (2) years, or both.

R.I. GEN. LAWS§4-1-10(2012).Possession or training of fighting animals.

Whoever owns, possesses, keeps or trains any bird, dog, or other animal, with the intent that that bird, dog, or animal engages in an exhibition of fighting, shall be fined not exceeding one thousand dollars (\$1,000) and/or be imprisoned not exceeding two (2) years for the first offense, and for any subsequent offense shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or be imprisoned not exceeding two (2) years, or both.

R.I. GEN. LAWS§ 4-1-11(2012).Attendance at bird or animal fight.

Whoever is present at any place, building, or tenement where preparations are being made for an exhibition of the fighting of birds or animals, with the intent being present at that exhibition, or is present at that exhibition, shall be fined not exceeding one thousand five hundred dollars (\$1,500) or imprisoned for not more than two (2) years, or both.

R.I. GEN. LAWS§ 4-1-12(2012).Entry of premises where bird or animal fights are conducted—Arrest—Seizure of birds or animals.

Any sheriff, deputy sheriff, town sergeant, constable, police officer or any officer authorized to serve criminal process may enter any place, building, or tenement anywhere within the state, where there is an exhibition of the fighting of birds or animals, or where preparations are being made for that exhibition, and without a warrant, arrest all persons present, and take possession of the birds or animals engaged in fighting, and all birds or animals found there and intended to be used or engaged in fighting. Those persons shall be kept in custody in jail or other convenient place not more than twenty-four (24) hours, Sundays and legal holidays excepted, at or before the expiration of which time those persons shall be brought before a district court or the superior court and proceeded against according to law.

R.I. GEN. LAWS§ 4-1-13(2012).Forfeiture of fighting birds or animals.

After the seizure of any birds or animals as provided in § 4-1-12, application shall be made to a district court or the superior court for a sentence of forfeiture of the birds or animals; and if, upon the hearing of the application, it is found that the birds or animals, at the time of their seizure, were engaged in fighting at an exhibition or were owned, possessed, or kept by any person with the intent that they should be engaged in fighting at an exhibition, sentence of forfeiture shall be pronounced against them. Any officer authorized to serve criminal process shall sell them in any manner that the court orders, and pay the proceeds of that sale, after the payment of costs, including costs of seizure and keeping of those birds or animals, to the general treasurer for the use of the state. Whenever a seizure and application for sentence of forfeiture is made by or results from the complaint or information of any officer or agent of the society for the prevention of cruelty to animals, the proceeds of that sale shall be paid over to the society. Should it be found that any seized birds or animals are of no use or value, they shall be set at large, or otherwise disposed of, as the court may direct. The claimant is allowed to appear in the proceedings upon any application for a sentence of forfeiture. All seized birds or animals not sentenced for forfeiture shall be delivered to the owner.

R.I. GEN. LAWS§ 4-1-14(2012).Appeal of sentence of forfeiture.

Any claimant aggrieved by a sentence of forfeiture of a district court may, before the execution of that sentence, appeal to the superior court in the manner provided with reference to criminal appeals from district courts.

R.I. GEN. LAWS§4-1-15(2012).Expense of care of seized birds or animals.

The necessary expenses incurred in the care and disposing of seized birds or animals may be allowed and paid in the same manner that costs in criminal prosecutions are paid.

R.I. GEN. LAWS§ 4-1-18 (2012).Arrest of violators without warrant—Care of animals.

Any person violating the provisions of this chapter may be arrested on view and be held without a warrant; provided, that an arrest or detention without warrant shall not continue longer than twenty-four (24) hours; and the person making an arrest, with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for those animals until the owner thereof shall take charge of them, provided the owner shall do so within thirty (30) days from the date of the notice. The person making an arrest shall have a lien on those animals for the expense of their care and provision.

R.I. GEN. LAWS§ 4-1-19 (2012). Issuance of search warrants.

Whenever complaint is made on oath to any magistrate authorized to issue warrants in criminal cases, that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been or are being violated in any building or place, the magistrate, if satisfied that there is reasonable cause for that belief, shall issue a search warrant, authorizing any officer, competent to serve a warrant, to search the building or place; but no search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

R.I. GEN. LAWS§ 4-1-20 (2012). Duty of police officers—Fines paid to society for prevention of cruelty to animals.

Any sheriff, deputy sheriff, constable or police officer shall prosecute all violations of this chapter which come to his or her knowledge and all fines and forfeitures resulting from the complaint of any officer or agent of the society for the prevention of cruelty to animals under this chapter, shall enure and be paid over to the society in aid of the benevolent objects for which it was incorporated.

R.I. GEN. LAWS§ 4-1-21 (2012).Powers of agents of Society for Prevention of Cruelty to Animals.

The general agent of the Rhode Island Society for the Prevention of Cruelty to Animals and such number of special agents as may be appointed by that society shall have the same power and authority to arrest as any officer authorized to serve criminal process for the purpose of enforcing any of the laws of this state in relation to cruelty to animals, that power and authority to extend throughout the state, and they may serve any search warrant issued under the provisions of s 4-1-19 and may search any building or place named in that warrant. A general agent and any special agents may, for the purpose of carrying out their duties, possess and carry pistols as defined in s 11-47-2, and the provisions of s 11-47-5 shall not apply to them. Any person who shall interfere with or obstruct any of those agents in the discharge of their duty shall be guilty of obstructing an officer and punished as provided in s 11-32-1.

R.I. GEN. LAWS§ 4-1-22 (2012). Care of neglected animals by society—Forfeiture of owner's rights—Expenses.

(a) An officer or agent of the Rhode Island society for the prevention of cruelty to animals may lawfully take charge of any animal found abandoned or neglected or which in the opinion of that officer or agent is aged, maimed, disabled, lame, sick, diseased, injured, unfit for the labor it is performing, or cruelly treated, and shall give notice to the owner, if known, or his agents, and may provide suitable care.

(b) Every owner or agent, upon conviction of abandonment, neglect, or cruel treatment of any animal taken charge of by the Rhode Island society for the prevention of cruelty to animals under this section, forfeits the rights to ownership or control of that animal to the society for disposition in any manner deemed suitable for that animal.

(c) Whenever any officer or agent of the Rhode Island society for the prevention of cruelty to animals lawfully takes charge of any animal under this section, the expense of suitable care of that animal, upon conviction of the owner of that animal for a violation of any section of this chapter, is charged against the owner or agent of the owner having custody of that animal at the time the officer or agent of the Rhode Island society for the prevention of cruelty to animals took charge of the animal. The Rhode Island society for the prevention of cruelty to animals has the authority to commence a civil action for damages against the owner or his or her agent thirty (30) days after a written demand for payment of the expense of the suitable care of that animal has been sent and no payment received.

R.I. GEN. LAWS§ 4-1-26 (2012). Abandonment of animals from motor vehicles, dwelling houses, streets, roads, highways, public places, private property or other buildings or structures.

If any person having possession and/or control of an animal shall abandon that animal on a street, road, highway or in a public place or on private property or from a motor vehicle, or in a dwelling or any other building or structure without providing for the care of that animal, he or she shall be punished in the manner provided in § 4-1-2 for each such offense. Provided however, if such abandonment results in the death of said animal, the person shall be punished in the manner provided in § 4-1-5. Abandonment shall mean the relinquishment of all right, title, claim or possession of the animal with the intention of not reclaiming it or resuming its ownership or possession.

R.I. GEN. LAWS§ 4-1-31 (2012).Assignment of State Veterinarian.

(a) Examination of fighting animals.—A licensed veterinarian from the department of environmental management, shall be made available to agents of the Rhode Island society for the prevention of cruelty to animals at the request of the state police for the purpose of examining any animal which those agents believe to have been involved in animal fighting in violation of section 4-1-2, 4-1-8, 4-1-9 or 4-1-11.

(b) Right of entry where cruelty suspected.—The director of the department of environmental management or any veterinarian employed by the department of environmental management designated by the director for such purpose, having reason to suspect the existence of cruelty to animals within the meaning of this chapter upon any grounds or premises, is hereby authorized and empowered to enter upon those grounds or premises for enforcement of the provisions of this chapter. For such inspections, the department shall, unless a search without a warrant is otherwise allowed by law, seek a search warrant from an official of a court authorized to issue warrants.

(c) The director of the department of environmental management may designate a department veterinarian or veterinarians to act as animal advocates. A general agent or special agent from the Rhode Island society for the prevention of cruelty to animals may also act in that capacity.

(d) The animal advocate shall make recommendations to any court before which the custody or well-being of an animal is at issue.

(e) Any animal care facility licensed by the United States department of agriculture or holding a public health service (PHS) assurance of compliance shall be exempt from the provisions of this section.

R.I. GEN. LAWS§4-1-36(2012).Psychiatric counseling.

Any person found guilty of violating any of the provisions of this chapter may, in addition to any penalties imposed, be evaluated to determine the need for psychiatric or psychological counseling, and, if determined appropriate by the court, to receive psychiatric or psychological counseling at his or her own expense.

R.I. GEN. LAWS§ 4-1-37 (2012).Immunity from suit.

Any Rhode Island licensed veterinarian shall be held harmless from either criminal or civil liability arising out of any reports, either oral or written, made to local and/or state police, animal control officials or officers of private organizations devoted to humane treatment of animals, concerning any animal that the veterinarian knows or reasonably believed to be abandoned, neglected, or abused, and shall be immune from suit by reason of making the report. Provided, however, that a veterinarian who participates or reports in bad faith or with malice shall not be protected under the provisions of this section.

R.I. GEN. LAWS§ 4-1-38 (2012).Use of the terms owner or guardian.

Wherever the word “owner” shall appear in this chapter it shall also mean and may be interchanged with the word “guardian” as defined in § 4-1-1.

R.I. GEN. LAWS § 4-1-40(2012). Possession of animals.

(a) In addition to any other penalty imposed by law, a person convicted of, or who entered a plea of nolo contendere to, any misdemeanor violation under the provisions of this chapter may, based on the discretion of the sentencing judge, not possess or reside with any animal for a period of up to five (5) years following entry of the conviction or upon acceptance of a plea of nolo contendere by the court. Any offense under this subsection is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), by imprisonment for a term not more than one year, or both, and forfeiture of the animal(s).

(b) In addition to any other penalty imposed by law, a person convicted of, or who entered a plea of nolo contendere to, any felony violation under the provisions of this chapter may, based on the discretion of the sentencing judge, not possess or reside with any animal for a period of up to fifteen (15) years following entry of the conviction or upon acceptance of a plea of nolo contendere by the court. Any offense under this section is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), by imprisonment for a term not more than one year, or both, and forfeiture of the animal(s).

R.I. GEN. LAWS § 11-1-2 (2012). Felony, misdemeanor—Petty misdemeanor, and violation distinguished.

Unless otherwise provided, any criminal offense which at any given time may be punished by imprisonment for a term of more than one year, or by a fine of more than one thousand dollars (\$1,000), is hereby declared to be a felony; any criminal offense which may be punishable by imprisonment for a term not exceeding one year, or by a fine of not more than one thousand dollars (\$1,000), or both, is hereby declared to be a misdemeanor; any criminal offense which may be punishable by imprisonment for a term not exceeding six (6) months or by a fine of not more than five hundred dollars (\$500), or both, is hereby declared to be a petty misdemeanor; and any offense which may be punished by a fine only of not more than five hundred dollars (\$500) is hereby declared to be a violation.

R.I. GEN. LAWS § 11-10-1(2012). Abominable and detestable crime against nature.

Every person who shall be convicted of the abominable and detestable crime against nature, with any beast, shall be imprisoned not exceeding twenty (20) years nor less than seven (7) years.

ANIMAL PROTECTION LAWS OF SASKATCHEWAN

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
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9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains Saskatchewan's general animal protection and related laws enacted prior to November 2010. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Saskatchewan may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in Saskatchewan. Because the law is continually evolving, always review an official source for the most current language of any statute.

SASKATCHEWAN

1. GENERAL PROHIBITIONS*	<p>No person shall cause an animal to be in distress S.S. c., A-21.1, s. 4(1)</p> <p>No person responsible for an animal shall cause or permit the animal to be or to continue to be in distress S.S. c., A-21.1, s.4(2)</p>
<i>Animals Covered in Definition</i>	<p>“[A]ny animal other than a human being” S.S. c., A-21.1, s. 2(1)</p>
<i>Classification of Crimes</i>	<p>Summary conviction offence S.S. c., A-21.1, s. 14(1)</p>
2. MAXIMUM PENALTIES**	<p>2 years imprisonment <i>and/or</i> \$25,000 fine S.S. c., A-21.1,s. 14(1)</p>
3. EXEMPTIONS***	<p>4, 9 S.S. c., A-21.1, s. 2(3)(b)</p>
4. COUNSELING / EVALUATIONS^H	<p>-----</p>
5. PROTECTIVE ORDERS^H	<p>-----</p>

SASKATCHEWAN*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Proceeds from any sale of an animal shall first go towards reimbursement of costs of care S.S. c., A-21.1, s.10(3)</p> <p>The person responsible for an animal being impounded is liable for all expenses for the impounded animal S.S. c., A-21.1, s.12</p> <p>A humane society has a lien on any animal delivered into the custody of the humane society or to the custody of a caretaker on behalf of the humane society S.S. c., A-21.1, s.13</p> <p>Proceeds from the sale of a seized animal shall go towards the expenses occurred on behalf of the animal R.R.S. c. A-21.1 Reg. 1, s. 11</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>An animal protection officer, without a warrant, may enter and inspect, at reasonable times, premises, other than a dwelling house, where animals are kept for sale, hire or exhibition S.S. c., A-21.1, s.5</p> <p>An animal protection officer may take steps to relieve a distressed animal, including taking the animal into custody, arranging for any necessary care, food, water or transportation for the animal, and may deliver the animal into the custody of a humane society or caretaker S.S. c., A-21.1, s.6</p>

SASKATCHEWAN*continued*

<p>7. SEIZURE / ON-SITE SUPERVISION <i>continued</i></p>	<p>A court may issue a warrant for an animal protection officer to enter any premises when there are reasonable and probable grounds for believing there is an animal in distress S.S. c., A-21.1, s.7</p> <p>Upon an animal's seizure or if an animal protection officer intends to have an animal destroyed, the officer shall take reasonable steps to locate the person responsible for the animal S.S. c., A-21.1, s.9</p> <p>A humane society may apply for an order of custody of an animal in respect of which a charge has been laid S.S. c., A-21.1, s.15</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>A animal protection officer may destroy an animal that, in the opinion of a registered veterinarian or the peace officer if no veterinarian is available, is in critical distress S.S. c., A-21.1, s.6(3)</p> <p>If the the owner of a seized animal is not found, or if the owner does not pay or make arrangement to pay for the care and expenses of the seized animal within 3 days of seizure, the animal is forfeited to the humane society S.S. c., A-21.1, s.10</p> <p>When an animal is in the custody of a humane society and 3 days have expired without it being claimed by the person responsible, and the humane society is unable to sell or give the animal away, the humane society may cause the animal to be humanely destroyed S.S. c., A-21.1, s.11</p>

SASKATCHEWAN*continued*

<p>8. FORFEITURE / POSSESSION^H <i>continued</i></p>	<p>Upon conviction for an animal in distress offence, the court may, as a part of sentencing, order that the offender be restrained from owning, or having custody or control of any animal for a time period the court specifies S.S. c., A-21.1, s.14(2)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>A veterinarian is immune from liability for good faith actions taken on behalf of this Act S.S. c., A-21.1, s.17</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>The Minister may appoint any person as an animal protection officer who meets the prescribed criteria and demonstrates suitability to be so appointed S.S. c., A-21.1, s.17</p> <p>No person shall obstruct any person who is authorized to make an entry for an animal in distress S.S. c., A-21.1, s.7</p> <p>Animal protection officers, humane societies and employees are immune from liability for good faith actions taken on behalf of this Act S.S. c., A-21.1, s.17</p>
<p>12. SEXUAL ASSAULT</p>	<p>-----</p>
<p>13. FIGHTING</p>	<p>-----</p>

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Animal Protection Act, 1999, S.S. 1999, c. A-21.1,ss.2, 4(2012)

Interpretation of Part

2(1)

In this Part:

(a) *"animal" means any animal other than a human being;*

(b) *"animal protection officer" means:*

(i) a member of the Royal Canadian Mounted Police;

(ii) a member of a municipal police service; or

(iii) a person appointed as an animal protection officer pursuant to subsection 3(2) for the purposes of this Part;

(c) *"business day" means a day on which the relevant humane society is open for business;*

(d) *"caretaker" means an individual who:*

(i) has an appropriate facility in which to keep an animal; and

(ii) agrees to care for the animal in accordance with this Part;

(e) *"court" means the Provincial Court of Saskatchewan;*

(f) *"humane society" means:*

(i) The Saskatchewan Society for the Prevention of Cruelty to Animals; or

(ii) any organization that is approved as a humane society pursuant to subsection 3(1) or that is deemed to be approved as a humane society pursuant to section 26;

(g) *"minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;*

(h) *"prescribed" means prescribed in the regulations made pursuant to this Part;*

(i) *"vehicle" includes an aircraft or water craft;*

(j) "veterinarian" means a registered member of the Saskatchewan Veterinary Medical Association who is in good standing and who is licensed to practice veterinary medicine in Saskatchewan.

2(2)

Subject to subsection (3), for the purposes of this Part, an animal is in distress if it is:

(a) deprived of adequate food, water, care or shelter;

(b) injured, sick, in pain or suffering; or

(c) abused or neglected.

2(3)

An animal is not considered to be in distress if it is handled:

(a) in a manner consistent with a standard or code of conduct, criteria, practice or procedure that is prescribed as acceptable; or

(b) in accordance with generally accepted practices of animal management.

2(4)

For the purposes of this Part, a person responsible for an animal includes a person who:

(a) owns an animal;

(b) has custody or control of an animal; or

(c) has custody or charge of a minor and the minor is the owner of an animal.

Prohibition

4(1)

No person shall cause an animal to be in distress.

4(2)

No person responsible for an animal shall cause or permit the animal to be or to continue to be in distress.

2. PENALTIES

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, s. 14(2012)

Offences and penalties

14(1)

A person who contravenes this Part or the regulations or an order made pursuant to this Part is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000, to imprisonment for not more than two years or to both.

14(2)

In addition to any penalty imposed pursuant to subsection (1), if a person is found guilty of an offence pursuant to section 4, the court may make an order prohibiting that person from owning or having custody or control of any animal for a period specified by the court.

14(3)

The court may make an order pursuant to subsection (2) on any terms and conditions that the court considers appropriate, including a term or condition that:

(a) the person provide the applicable humane society with a current address of residence; and

(b) the person allow for inspections by an animal protection officer, without a warrant, to ensure compliance with the order imposed.

3. EXEMPTIONS

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, s.2(2012)

Interpretation of Part

2(3)

An animal is not considered to be in distress if it is handled:

(a) in a manner consistent with a standard or code of conduct, criteria, practice or procedure that is prescribed as acceptable; or

(b) in accordance with generally accepted practices of animal management.

* * * * *

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, ss.10, 12, 13(2012)

Sale or gift of animal

10(1)

The humane society may sell or give the animal to any person if the person responsible for the animal:

(a) is not located and notified within three business days after the day on which the animal was delivered; or

(b) is located and notified but does not, within three business days after the day on which the animal was delivered:

(i) in accordance with section 12, pay the expenses incurred with respect to the animal; or

(ii) enter into an agreement for the payment of the expenses that is satisfactory to the humane society.

10(2)

Where a humane society sells or gives an animal to any person pursuant to subsection (1), the animal becomes the property of the person to whom it is sold or given.

10(3)

The proceeds of a sale of an animal pursuant to subsection (1) shall be disbursed in the following order of priority:

(a) to pay the expenses of selling the animal;

(b) to pay the other expenses reasonably incurred with respect to the animal pursuant to this Part.

10(4)

Subject to subsection (5), the humane society may retain the balance of the sale proceeds remaining after the payment of the expenses mentioned in subsection (3).

10(5)

If the sale proceeds exceed the expenses mentioned in subsection (3), within 30 days after the date of the sale of the animal, the person formerly responsible for the animal may claim the balance from the humane society, and the humane society shall pay the balance to that person, on being satisfied that the person was the person responsible for the animal at the time the animal was taken into custody.

12Liability for expenses incurred

12(1)

The person responsible for an animal taken into custody pursuant to subsection 6(2) is liable to the humane society for the expenses reasonably incurred by the humane society, or by a caretaker on behalf of the humane society, pursuant to this Part with respect to the animal.

12(2)

The humane society may require the person responsible for the animal to pay the expenses for which he or she is liable pursuant to subsection (1) before returning the animal to that person.

12(3)

Where an animal is destroyed pursuant to subsection 6(3), the person responsible for the animal is liable for the expenses of destroying the animal and disposing of the carcass and has no right or claim to any damages resulting from the destruction of the animal.

12(4)

For the purposes of subsection (3), the expenses of destroying an animal include any veterinarian's inspection fee and any veterinarian's fee for providing an opinion with respect to the animal.

12(5)

The humane society may recover the expenses mentioned in this section against the person responsible for the animal in any manner provided by law, including an action in debt.

12(6)

Where an animal is delivered into the custody of a caretaker pursuant to subsection 6(2), the humane society that is notified of the actions taken with respect to the animal pursuant to subsection 9(2) is liable to the caretaker for the expenses reasonably incurred by the caretaker pursuant to this Part with respect to the animal.

Lien on animals

13(1)

A humane society:

(a) has a lien on any animal delivered into the custody of the humane society, or delivered into the custody of a caretaker on behalf of the humane society, pursuant to this Part; and

(b) in addition to the remedies mentioned in section 12, may detain the animal in the custody of the humane society, or in the custody of a caretaker on behalf of the humane society, and may sell the animal, subject to the regulations, where the person responsible for the animal is indebted to the humane society for the expenses mentioned in section 12.

13(2)

The right of the humane society pursuant to subsection (1) has priority over, and is not subject to, any existing lien, security interest, purchase-money security interest or any other charge or encumbrance affecting the animal.

Animal Protection Regulations, 2000, R.R.S. c. A-21.1 Reg. 1, s. 11 (2012)

Sale of detained animals

11(1)

Before selling an animal detained by it pursuant to clause 13(1)(b) of the Act, a humane society shall comply with this section.

11(2)

The humane society is responsible for the proper care of the animal that it detains or causes to be detained for the period of detention.

11(3)

Subject to subsection (5), the humane society shall post a notice of the sale, for at least two consecutive days before the sale:

- (a) at any premises of the humane society that are accessible to the public; and*
- (b) either:*
 - (i) at the place of sale, if the animal is to be sold by auction;*
 - (ii) at the local detachment of the Royal Canadian Mounted Police; or*
 - (iii) in any public place that the humane society considers appropriate in the circumstances.*

11(4)

The notice mentioned in subsection (3) must state:

- (a) the name and address of the humane society;*
- (b) a description of the animal; and*
- (c) the location of the premises where the animal will be offered for sale.*

11(5)

A humane society is not required to post the notice mentioned in subsection (3) where:

- (a) the person responsible for the animal is known to the humane society; and*
- (b) the humane society has sent a written notice to the person responsible for the animal that the humane society may sell the animal if that person does not, within the period specified by the humane society in the written notice:*
 - (i) pay to the humane society the expenses incurred with respect to the animal; or*
 - (ii) enter into an agreement with the humane society for the payment of the expenses incurred with respect to the animal.*

11(6)

The proceeds derived from the sale of the detained animal must be applied in priority of payment:

(a) first to the expenses incurred in connection with the detention, advertising and sale of the detained animal pursuant to clause 13(1)(b) of the Act; and

(b) second to the expenses mentioned in section 12 of the Act related to the detention.

11(7)

Subject to subsection (8), the humane society may retain the balance of the sale proceeds remaining after the payment of the expenses mentioned in subsection (6).

11(8)

If the sale proceeds exceed the expenses mentioned in subsection (6):

(a) within 30 days after the date of the sale of the animal, the person formerly responsible for the animal may claim the balance from the humane society; and

(b) on receipt of a claim pursuant to clause (a), the humane society shall pay the balance to that person, on being satisfied that the person was the person responsible for the animal at the time the animal was taken into custody.

11(9)

Where an animal is sold pursuant to this section and section 13 of the Act, the animal becomes the property of the person to whom it is sold.

11(10)

A person responsible for an animal detained by a humane society pursuant to the Act may, at any time before the animal is sold pursuant to the Act and these regulations, reclaim the animal by:

(a) paying to the humane society the expenses incurred with respect to the animal; or

(b) entering into an agreement with the humane society for the payment of the expenses incurred with respect to the animal.

7. SEIZURE / ON-SITE SUPERVISION

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, ss.5-9, 15 (2012)

Inspection

5(1)

Any animal protection officer, without a warrant, during ordinary business hours, may enter any premises, other than a private dwelling, where animals are kept for sale, hire or exhibition for the purpose of enforcing this Part and the regulations.

5(2)

No person operating or in charge of any premises, other than a private dwelling, where animals are kept for sale, hire or exhibition shall refuse to permit an animal protection officer to enter the premises during ordinary business hours for the purposes mentioned in subsection (1).

Relieving animals in distress

6(1)

Where an animal is found in distress in a public place or, subject to section 7, in any other place, an animal protection officer may take any action that the animal protection officer considers necessary to relieve the animal's distress where the person responsible for the animal:

(a) does not promptly take steps to relieve the animal's distress; or

(b) cannot be found immediately and informed of the animal's distress.

6(2)

Without limiting the powers of an animal protection officer acting in accordance with subsection (1) the animal protection officer may:

(a) take custody of the animal;

(b) arrange for transportation, food, water, care, shelter and veterinary treatment for the animal; and

(c) deliver the animal into the custody of:

(i) a humane society; or

(ii) a caretaker, if there is no humane society near the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

6(3)

Notwithstanding any other provision of this Part, an animal protection officer may destroy an animal, or have an animal destroyed, where the animal is in such distress that it cannot be relieved of its distress in the opinion of:

- (a) a veterinarian; or
- (b) if a veterinarian is not readily available, the animal protection officer.

Authority to enter

7(1)

A justice of the peace or a provincial court judge may issue a warrant in the prescribed form authorizing an animal protection officer to enter and search any place or premises named, or stop and search any vehicle described, in the warrant if the justice or judge is satisfied by information on the oath of the animal protection officer in the prescribed form that there are reasonable grounds to believe:

- (a) that an animal is in distress in any place, premises or vehicle; or*
- (b) that an offence against this Part has occurred and evidence of that offence is likely to be found in the place, premises or vehicle to be searched.*

7(2)

With a warrant issued pursuant to subsection (1), an animal protection officer may:

- (a) enter at any time and search any place or premises named in the warrant for the purpose of taking any action authorized by this Part to relieve the animal's distress;*
- (b) stop and search any vehicle described in the warrant for the purpose of taking any action authorized by this Part to relieve the animal's distress;*
- (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the animal protection officer finds in the place, premises or vehicle; and*
- (d) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Part, including the carcass of a dead animal.*

7(3)

Subject to subsection (4), an animal protection officer may exercise all or any of the powers mentioned in subsection (2) without a warrant if:

(a) the conditions for obtaining a warrant exist; and

(b) the animal protection officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result in:

(i) the death of an animal; or

(ii) the loss, removal or destruction of evidence.

7(4)

An animal protection officer shall not enter a private dwelling without a warrant issued pursuant to subsection (2) unless the occupant of the private dwelling consents.

7(5)

When exercising any power pursuant to this section, an animal protection officer may be accompanied by any specialist or expert whom the animal protection officer considers necessary to carry out the search and seizure or to diagnose and assist an animal in distress.

7(6)

When an animal protection officer removes the carcass of a dead animal from any place, premises or vehicle pursuant to this section, the person responsible for that animal has no right in or claim to:

(a) the carcass; or

(b) the value of the carcass, if any.

7(7)

No person shall obstruct any person who is authorized to make an entry pursuant to this section.

Identification

8

An animal protection officer who is appointed pursuant to subsection 3(2) and who is exercising a power pursuant to section 5, 6 or 7, must, on demand, produce his or her certificate of appointment to the owner or occupant of any place or premises entered or vehicle stopped pursuant to those sections.

Notification

9(1)

If an animal protection officer intends to destroy an animal or have an animal destroyed pursuant to subsection 6(3), the animal protection officer shall take reasonable steps to locate the person responsible for the animal and to obtain that person's consent to the destruction of the animal.

9(2)

Where, pursuant to subsection 6(2), an animal protection officer delivers an animal into the custody of a caretaker, the animal protection officer shall notify a humane society of the actions taken with respect to the animal.

9(3)

After an animal is delivered to a humane society or after a humane society is notified pursuant to subsection (2) that an animal has been delivered to a caretaker, the humane society shall take reasonable steps to locate the person responsible for the animal and, where that person is located, shall notify that person of the actions taken with respect to the animal.

Order for custody

15(1)

A humane society may apply to the court for an order of custody of an animal with respect to which a charge has been laid pursuant to section 14.

15(2)

On an application pursuant to this section, the court may make an order on any terms and conditions it considers appropriate, including granting the humane society, or a caretaker on behalf of the humane society, custody of the animal pending the outcome of any proceeding pursuant to section 14, notwithstanding that the person responsible for the animal:

(a) has, in accordance with section 12, paid the expenses incurred with respect to the animal; and

(b) has requested the return of the animal.

8. FORFEITURE / POSSESSION

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, ss.6, 10, 11, 14(2012)

Relieving animals in distress

6(1)

Where an animal is found in distress in a public place or, subject to section 7, in any other place, an animal protection officer may take any action that the animal protection officer considers necessary to relieve the animal's distress where the person responsible for the animal:

- (a) does not promptly take steps to relieve the animal's distress; or
- (b) cannot be found immediately and informed of the animal's distress.

6(2)

Without limiting the powers of an animal protection officer acting in accordance with subsection (1) the animal protection officer may:

- (a) take custody of the animal;
- (b) arrange for transportation, food, water, care, shelter and veterinary treatment for the animal; and
- (c) deliver the animal into the custody of:
 - (i) a humane society; or
 - (ii) a caretaker, if there is no humane society near the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

6(3)

Notwithstanding any other provision of this Part, an animal protection officer may destroy an animal, or have an animal destroyed, where the animal is in such distress that it cannot be relieved of its distress in the opinion of:

- (a) a veterinarian; or*
- (b) if a veterinarian is not readily available, the animal protection officer.*

Sale or gift of animal

10(1)

The humane society may sell or give the animal to any person if the person responsible for the animal:

(a) is not located and notified within three business days after the day on which the animal was delivered; or

(b) is located and notified but does not, within three business days after the day on which the animal was delivered:

(i) in accordance with section 12, pay the expenses incurred with respect to the animal; or

(ii) enter into an agreement for the payment of the expenses that is satisfactory to the humane society.

10(2)

Where a humane society sells or gives an animal to any person pursuant to subsection (1), the animal becomes the property of the person to whom it is sold or given.

10(3)

The proceeds of a sale of an animal pursuant to subsection (1) shall be disbursed in the following order of priority:

(a) to pay the expenses of selling the animal;

(b) to pay the other expenses reasonably incurred with respect to the animal pursuant to this Part.

10(4)

Subject to subsection (5), the humane society may retain the balance of the sale proceeds remaining after the payment of the expenses mentioned in subsection (3).

10(5)

If the sale proceeds exceed the expenses mentioned in subsection (3), within 30 days after the date of the sale of the animal, the person formerly responsible for the animal may claim the balance from the humane society, and the humane society shall pay the balance to that person, on being satisfied that the person was the person responsible for the animal at the time the animal was taken into custody.

Destruction of animal

11(1)

A humane society may destroy the animal or have the animal destroyed if, at the expiration of the three-day period mentioned in subsection 10(1):

(a) the person responsible for the animal has not claimed the animal in accordance with subsection 10(1); and

(b) the humane society is unable to sell or give the animal away.

11(2)

Where an animal is given to a humane society and the society is unable to sell or give the animal away or, in the opinion of the humane society, the animal is not suitable to be sold or given away, at the expiration of three business days after receiving the animal, the humane society may destroy the animal or have the animal destroyed.

11(3)

Any person charged with the destruction of an animal pursuant to this Part must destroy the animal in a humane manner.

Offences and penalties

14(1)

A person who contravenes this Part or the regulations or an order made pursuant to this Part is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000, to imprisonment for not more than two years or to both.

14(2)

In addition to any penalty imposed pursuant to subsection (1), if a person is found guilty of an offence pursuant to section 4, the court may make an order prohibiting that person from owning or having custody or control of any animal for a period specified by the court.

14(3)

The court may make an order pursuant to subsection (2) on any terms and conditions that the court considers appropriate, including a term or condition that:

- (a) the person provide the applicable humane society with a current address of residence;
and
- (b) the person allow for inspections by an animal protection officer, without a warrant, to ensure compliance with the order imposed.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, s. 17(2012)

Immunity

17(1)

No action lies or shall be instituted against any animal protection officer, veterinarian, caretaker, humane society or officer or employee of a humane society for any loss or damage suffered by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Part or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Part or the regulations.

17(2)

No action lies or shall be instituted against the minister or the Crown in right of Saskatchewan for any act or omission of any animal protection officer, veterinarian, caretaker, humane society or officer or employee of a humane society, in connection with this Act or the regulations.

11. LAW ENFORCEMENT POLICIES

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, ss.3, 7, 17(2012)

Humane societies

3(1)

Subject to the regulations, the minister may:

(a) approve as a humane society for the purposes of this Part any organization that:

(i) is incorporated or registered as a corporation pursuant to an Act; and

(ii) has as a principal object the prevention of cruelty to animals; and

(b) suspend or revoke the approval mentioned in clause (a).

3(2)

Subject to the regulations, the minister may appoint any person as an animal protection officer for the purposes of this Part who:

(a) meets the prescribed criteria; and

(b) demonstrates to the minister that he or she is suitable to be appointed as an animal protection officer.

Authority to enter

* * * * *

7(7)

No person shall obstruct any person who is authorized to make an entry pursuant to this section.

Immunity

17(1)

No action lies or shall be instituted against any animal protection officer, veterinarian, caretaker, humane society or officer or employee of a humane society for any loss or damage suffered by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Part or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Part or the regulations.

17(2)

No action lies or shall be instituted against the minister or the Crown in right of Saskatchewan for any act or omission of any animal protection officer, veterinarian, caretaker, humane society or officer or employee of a humane society, in connection with this Act or the regulations.

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES & REGULATIONS

Animal Protection Act, 1999, S.S. 1999, c. A-21.1, s. 1-17(2012)

Part I -- Short Title

Short title

1

This Act may be cited as The Animal Protection Act, 1999.

Part II -- Animals in Distress

Interpretation of Part

2(1)

In this Part:

- (a) "animal" means any animal other than a human being;
- (b) "animal protection officer" means:
 - (i) a member of the Royal Canadian Mounted Police;
 - (ii) a member of a municipal police service; or
 - (iii) a person appointed as an animal protection officer pursuant to subsection 3(2) for the purposes of this Part;
- (c) "business day" means a day on which the relevant humane society is open for business;
- (d) "caretaker" means an individual who:
 - (i) has an appropriate facility in which to keep an animal; and
 - (ii) agrees to care for the animal in accordance with this Part;
- (e) "court" means the Provincial Court of Saskatchewan;

(f) "humane society" means:

(i) The Saskatchewan Society for the Prevention of Cruelty to Animals; or

(ii) any organization that is approved as a humane society pursuant to subsection 3(1) or that is deemed to be approved as a humane society pursuant to section 26;

(g) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(h) "prescribed" means prescribed in the regulations made pursuant to this Part;

(i) "vehicle" includes an aircraft or water craft;

(j) "veterinarian" means a registered member of the Saskatchewan Veterinary Medical Association who is in good standing and who is licensed to practice veterinary medicine in Saskatchewan.

2(2)

Subject to subsection (3), for the purposes of this Part, an animal is in distress if it is:

(a) deprived of adequate food, water, care or shelter;

(b) injured, sick, in pain or suffering; or

(c) abused or neglected.

2(3)

An animal is not considered to be in distress if it is handled:

(a) in a manner consistent with a standard or code of conduct, criteria, practice or procedure that is prescribed as acceptable; or

(b) in accordance with generally accepted practices of animal management.

2(4)

For the purposes of this Part, a person responsible for an animal includes a person who:

(a) owns an animal;

(b) has custody or control of an animal; or

(c) has custody or charge of a minor and the minor is the owner of an animal.

Humane societies

3(1)

Subject to the regulations, the minister may:

(a) approve as a humane society for the purposes of this Part any organization that:

(i) is incorporated or registered as a corporation pursuant to an Act; and

(ii) has as a principal object the prevention of cruelty to animals; and

(b) suspend or revoke the approval mentioned in clause (a).

3(2)

Subject to the regulations, the minister may appoint any person as an animal protection officer for the purposes of this Part who:

(a) meets the prescribed criteria; and

(b) demonstrates to the minister that he or she is suitable to be appointed as an animal protection officer.

Prohibition

4(1)

No person shall cause an animal to be in distress.

4(2)

No person responsible for an animal shall cause or permit the animal to be or to continue to be in distress.

Inspection

5(1)

Any animal protection officer, without a warrant, during ordinary business hours, may enter any premises, other than a private dwelling, where animals are kept for sale, hire or exhibition for the purpose of enforcing this Part and the regulations.

5(2)

No person operating or in charge of any premises, other than a private dwelling, where animals are kept for sale, hire or exhibition shall refuse to permit an animal protection officer to enter the premises during ordinary business hours for the purposes mentioned in subsection (1).

Relieving animals in distress

6(1)

Where an animal is found in distress in a public place or, subject to section 7, in any other place, an animal protection officer may take any action that the animal protection officer considers necessary to relieve the animal's distress where the person responsible for the animal:

- (a) does not promptly take steps to relieve the animal's distress; or
- (b) cannot be found immediately and informed of the animal's distress.

6(2)

Without limiting the powers of an animal protection officer acting in accordance with subsection (1) the animal protection officer may:

- (a) take custody of the animal;
- (b) arrange for transportation, food, water, care, shelter and veterinary treatment for the animal; and
- (c) deliver the animal into the custody of:
 - (i) a humane society; or
 - (ii) a caretaker, if there is no humane society near the location where the animal is found or if the humane society does not have an appropriate facility in which to keep the animal.

6(3)

Notwithstanding any other provision of this Part, an animal protection officer may destroy an animal, or have an animal destroyed, where the animal is in such distress that it cannot be relieved of its distress in the opinion of:

- (a) a veterinarian; or
- (b) if a veterinarian is not readily available, the animal protection officer.

Authority to enter

7(1)

A justice of the peace or a provincial court judge may issue a warrant in the prescribed form authorizing an animal protection officer to enter and search any place or premises named, or stop and search any vehicle described, in the warrant if the justice or judge is satisfied by information on the oath of the animal protection officer in the prescribed form that there are reasonable grounds to believe:

- (a) that an animal is in distress in any place, premises or vehicle; or
- (b) that an offence against this Part has occurred and evidence of that offence is likely to be found in the place, premises or vehicle to be searched.

7(2)

With a warrant issued pursuant to subsection (1), an animal protection officer may:

- (a) enter at any time and search any place or premises named in the warrant for the purpose of taking any action authorized by this Part to relieve the animal's distress;
- (b) stop and search any vehicle described in the warrant for the purpose of taking any action authorized by this Part to relieve the animal's distress;
- (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the animal protection officer finds in the place, premises or vehicle; and
- (d) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Part, including the carcass of a dead animal.

7(3)

Subject to subsection (4), an animal protection officer may exercise all or any of the powers mentioned in subsection (2) without a warrant if:

- (a) the conditions for obtaining a warrant exist; and
- (b) the animal protection officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result in:
 - (i) the death of an animal; or
 - (ii) the loss, removal or destruction of evidence.

7(4)

An animal protection officer shall not enter a private dwelling without a warrant issued pursuant to subsection (2) unless the occupant of the private dwelling consents.

7(5)

When exercising any power pursuant to this section, an animal protection officer may be accompanied by any specialist or expert whom the animal protection officer considers necessary to carry out the search and seizure or to diagnose and assist an animal in distress.

7(6)

When an animal protection officer removes the carcass of a dead animal from any place, premises or vehicle pursuant to this section, the person responsible for that animal has no right in or claim to:

- (a) the carcass; or
- (b) the value of the carcass, if any.

7(7)

No person shall obstruct any person who is authorized to make an entry pursuant to this section.

Identification

8

An animal protection officer who is appointed pursuant to subsection 3(2) and who is exercising a power pursuant to section 5, 6 or 7, must, on demand, produce his or her certificate of appointment to the owner or occupant of any place or premises entered or vehicle stopped pursuant to those sections.

Notification

9(1)

If an animal protection officer intends to destroy an animal or have an animal destroyed pursuant to subsection 6(3), the animal protection officer shall take reasonable steps to locate the person responsible for the animal and to obtain that person's consent to the destruction of the animal.

9(2)

Where, pursuant to subsection 6(2), an animal protection officer delivers an animal into the custody of a caretaker, the animal protection officer shall notify a humane society of the actions taken with respect to the animal.

9(3)

After an animal is delivered to a humane society or after a humane society is notified pursuant to subsection (2) that an animal has been delivered to a caretaker, the humane society shall take reasonable steps to locate the person responsible for the animal and, where that person is located, shall notify that person of the actions taken with respect to the animal.

Sale or gift of animal

10(1)

The humane society may sell or give the animal to any person if the person responsible for the animal:

(a) is not located and notified within three business days after the day on which the animal was delivered; or

(b) is located and notified but does not, within three business days after the day on which the animal was delivered:

- (i) in accordance with section 12, pay the expenses incurred with respect to the animal; or
- (ii) enter into an agreement for the payment of the expenses that is satisfactory to the humane society.

10(2)

Where a humane society sells or gives an animal to any person pursuant to subsection (1), the animal becomes the property of the person to whom it is sold or given.

10(3)

The proceeds of a sale of an animal pursuant to subsection (1) shall be disbursed in the following order of priority:

- (a) to pay the expenses of selling the animal;
- (b) to pay the other expenses reasonably incurred with respect to the animal pursuant to this Part.

10(4)

Subject to subsection (5), the humane society may retain the balance of the sale proceeds remaining after the payment of the expenses mentioned in subsection (3).

10(5)

If the sale proceeds exceed the expenses mentioned in subsection (3), within 30 days after the date of the sale of the animal, the person formerly responsible for the animal may claim the balance from the humane society, and the humane society shall pay the balance to that person, on being satisfied that the person was the person responsible for the animal at the time the animal was taken into custody.

Destruction of animal

11(1)

A humane society may destroy the animal or have the animal destroyed if, at the expiration of the three-day period mentioned in subsection 10(1):

- (a) the person responsible for the animal has not claimed the animal in accordance with subsection 10(1); and
- (b) the humane society is unable to sell or give the animal away.

11(2)

Where an animal is given to a humane society and the society is unable to sell or give the animal away or, in the opinion of the humane society, the animal is not suitable to be sold or given away, at the expiration of three business days after receiving the animal, the humane society may destroy the animal or have the animal destroyed.

11(3)

Any person charged with the destruction of an animal pursuant to this Part must destroy the animal in a humane manner.

Liability for expenses incurred

12(1)

The person responsible for an animal taken into custody pursuant to subsection 6(2) is liable to the humane society for the expenses reasonably incurred by the humane society, or by a caretaker on behalf of the humane society, pursuant to this Part with respect to the animal.

12(2)

The humane society may require the person responsible for the animal to pay the expenses for which he or she is liable pursuant to subsection (1) before returning the animal to that person.

12(3)

Where an animal is destroyed pursuant to subsection 6(3), the person responsible for the animal is liable for the expenses of destroying the animal and disposing of the carcass and has no right or claim to any damages resulting from the destruction of the animal.

12(4)

For the purposes of subsection (3), the expenses of destroying an animal include any veterinarian's inspection fee and any veterinarian's fee for providing an opinion with respect to the animal.

12(5)

The humane society may recover the expenses mentioned in this section against the person responsible for the animal in any manner provided by law, including an action in debt.

12(6)

Where an animal is delivered into the custody of a caretaker pursuant to subsection 6(2), the humane society that is notified of the actions taken with respect to the animal pursuant to subsection 9(2) is liable to the caretaker for the expenses reasonably incurred by the caretaker pursuant to this Part with respect to the animal.

Lien on animals

13(1)

A humane society:

(a) has a lien on any animal delivered into the custody of the humane society, or delivered into the custody of a caretaker on behalf of the humane society, pursuant to this Part; and

(b) in addition to the remedies mentioned in section 12, may detain the animal in the custody of the humane society, or in the custody of a caretaker on behalf of the humane society, and may sell the animal, subject to the regulations, where the person responsible for the animal is indebted to the humane society for the expenses mentioned in section 12.

13(2)

The right of the humane society pursuant to subsection (1) has priority over, and is not subject to, any existing lien, security interest, purchase-money security interest or any other charge or encumbrance affecting the animal.

Offences and penalties

14(1)

A person who contravenes this Part or the regulations or an order made pursuant to this Part is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000, to imprisonment for not more than two years or to both.

14(2)

In addition to any penalty imposed pursuant to subsection (1), if a person is found guilty of an offence pursuant to section 4, the court may make an order prohibiting that person from owning or having custody or control of any animal for a period specified by the court.

14(3)

The court may make an order pursuant to subsection (2) on any terms and conditions that the court considers appropriate, including a term or condition that:

- (a) the person provide the applicable humane society with a current address of residence; and
- (b) the person allow for inspections by an animal protection officer, without a warrant, to ensure compliance with the order imposed.

Order for custody

15(1)

A humane society may apply to the court for an order of custody of an animal with respect to which a charge has been laid pursuant to section 14.

15(2)

On an application pursuant to this section, the court may make an order on any terms and conditions it considers appropriate, including granting the humane society, or a caretaker on behalf of the humane society, custody of the animal pending the outcome of any proceeding pursuant to section 14, notwithstanding that the person responsible for the animal:

- (a) has, in accordance with section 12, paid the expenses incurred with respect to the animal; and
- (b) has requested the return of the animal.

Duty of court

16

Not more than 15 days after a person is convicted of an offence pursuant to section 14, the court shall send a record of the conviction and a certified copy of any order made pursuant to subsection 14(2) by ordinary mail to The Saskatchewan Society for the Prevention of Cruelty to Animals at the prescribed address.

Immunity

17(1)

No action lies or shall be instituted against any animal protection officer, veterinarian, caretaker, humane society or officer or employee of a humane society for any loss or damage suffered by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Part or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Part or the regulations.

17(2)

No action lies or shall be instituted against the minister or the Crown in right of Saskatchewan for any act or omission of any animal protection officer, veterinarian, caretaker, humane society or officer or employee of a humane society, in connection with this Act or the regulations.

* * * * *

Animal Protection Regulations, 2000, R.R.S. c. A-21.1 Reg. 1, s. 11 (2012)

Sale of detained animals

11(1)

Before selling an animal detained by it pursuant to clause 13(1)(b) of the Act, a humane society shall comply with this section.

11(2)

The humane society is responsible for the proper care of the animal that it detains or causes to be detained for the period of detention.

11(3)

Subject to subsection (5), the humane society shall post a notice of the sale, for at least two consecutive days before the sale:

- (a) at any premises of the humane society that are accessible to the public; and
- (b) either:
 - (i) at the place of sale, if the animal is to be sold by auction;
 - (ii) at the local detachment of the Royal Canadian Mounted Police; or
 - (iii) in any public place that the humane society considers appropriate in the circumstances.

11(4)

The notice mentioned in subsection (3) must state:

- (a) the name and address of the humane society;
- (b) a description of the animal; and
- (c) the location of the premises where the animal will be offered for sale.

11(5)

A humane society is not required to post the notice mentioned in subsection (3) where:

- (a) the person responsible for the animal is known to the humane society; and
- (b) the humane society has sent a written notice to the person responsible for the animal that the humane society may sell the animal if that person does not, within the period specified by the humane society in the written notice:
 - (i) pay to the humane society the expenses incurred with respect to the animal; or
 - (ii) enter into an agreement with the humane society for the payment of the expenses incurred with respect to the animal.

11(6)

The proceeds derived from the sale of the detained animal must be applied in priority of payment:

(a) first to the expenses incurred in connection with the detention, advertising and sale of the detained animal pursuant to clause 13(1)(b) of the Act; and

(b) second to the expenses mentioned in section 12 of the Act related to the detention.

11(7)

Subject to subsection (8), the humane society may retain the balance of the sale proceeds remaining after the payment of the expenses mentioned in subsection (6).

11(8)

If the sale proceeds exceed the expenses mentioned in subsection (6):

(a) within 30 days after the date of the sale of the animal, the person formerly responsible for the animal may claim the balance from the humane society; and

(b) on receipt of a claim pursuant to clause (a), the humane society shall pay the balance to that person, on being satisfied that the person was the person responsible for the animal at the time the animal was taken into custody.

11(9)

Where an animal is sold pursuant to this section and section 13 of the Act, the animal becomes the property of the person to whom it is sold.

11(10)

A person responsible for an animal detained by a humane society pursuant to the Act may, at any time before the animal is sold pursuant to the Act and these regulations, reclaim the animal by:

(a) paying to the humane society the expenses incurred with respect to the animal; or

(b) entering into an agreement with the humane society for the payment of the expenses incurred with respect to the animal.

ANIMAL PROTECTION LAWS OF SOUTH CAROLINA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains South Carolina's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

South Carolina may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

1. GENERAL PROHIBITIONS

- (1)
Ill-treatment of animals generally
S.C. CODE ANN. § 47-1-40(A)

- (2)
Torture, torment, cruelly kill any animal
S.C. CODE ANN. § 47-1-40(B)

- (3)
Cruelly drive or work an animal, or carry an animal in or upon a vehicle
S.C. CODE ANN. § 47-1-50

- (4)
Abandonment of animals
S.C. CODE ANN. § 47-1-70

- (5)
Willful or malicious injury or killing of a horse, mule, cattle, hog, sheep, goat, or any other kind of personal property of another
S.C. CODE ANN. § 16-11-510(A)

Animals Covered in Definition

“[A]living vertebrate creature except a homo sapien”
S.C. CODE ANN. § 47-1-10(1)

“Fowl” are not covered.
S.C. CODE ANN. § 47-1-40(C)

SOUTH CAROLINA <i>continued</i>	
<i>Classification of Crimes</i>	<p>(1), (3), (4) Misdemeanor</p> <p>(2) Felony</p> <p>(5) Felony (if injury or loss is \$2,000 or more), Misdemeanor (if injury or loss is less than \$2,000)</p>
2. MAXIMUM PENALTIES ^{**}	<p>(1), (3) [1st offense]: 60 days imprisonment <i>and/or</i> \$500 fine S.C. CODE ANN.§ 47-1-40(A)</p> <p>[2nd offense]: 90 days imprisonment <i>and/or</i> \$800 fine S.C. CODE ANN.§ 47-1-40(A)</p> <p>[3rd and subsequent offenses]: 2 years imprisonment <i>and/or</i> \$2,000 fine S.C. CODE ANN.§ 47-1-40(A)</p> <p>-----</p> <p>(2) 5 years imprisonment <i>and</i> \$5,000 fine S.C. CODE ANN.§ 47-1-40(B)</p> <p>-----</p>

SOUTH CAROLINA <i>continued</i>	
2. MAXIMUM PENALTIES ^{**} <i>continued</i>	<p>(4) 30 days imprisonment <i>and/or</i> \$500 fine S.C. CODE ANN.§ 47-1-70(B)</p> <p>-----</p> <p>(5) [When injury or loss is \$10,000 or more]: 10 years imprisonment <i>and/or</i> Fine at discretion of court S.C. CODE ANN.§ 16-11-510(B)(1)</p> <p>[When injury or loss is between \$2,000 and \$10,000]: 5 years imprisonment <i>and/or</i> Fine at discretion of court S.C. CODE ANN.§ 16-11-510(B)(2)</p> <p>[When injury or loss is \$2,000 or less]: Imprisonment <i>and/or</i> Fine at discretion of court S.C. CODE ANN.§ 16-11-510(B)(3)</p>
3. EXEMPTIONS ^{***}	<p>1, 3, 4, 9 S.C. CODE ANN.§ 47-1-40(C)</p> <p>9 S.C. CODE ANN.§47-1-70(C)</p>
4. COUNSELING / EVALUATIONS [†]	-----
5. PROTECTIVE ORDERS [†]	-----

SOUTH CAROLINA <i>continued</i>	
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]	<p>All necessary expenses incurred on behalf of seized animals shall be a lien thereon. S.C. CODE ANN.§ 47-1-120</p> <p>Person making arrest and caring for animals has a lien on the animals for the costs of care. S.C. CODE ANN.§ 47-1-140</p> <p>Upon conviction, court must order defendant to pay costs of care for seized animals. S.C. CODE ANN.§ 47-1-170</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>Animals in the charge of a person arrested may be impounded by the SC-SPCA. S.C. CODE ANN.§ 47-1-120</p> <p>Person making the arrest shall properly care and provide for animals until owner takes charge S.C. CODE ANN.§ 47-1-140</p> <p>Court may issue search warrants or orders permitting the seizure of cruelly treated animals. S.C. CODE ANN.§ 47-1-150</p>
8. FORFEITURE / POSSESSION[†]	<p>Upon conviction, court may order forfeiture of mistreated animals. S.C. CODE ANN.§ 47-1-170</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians, animal control officers and humane agents are immune from civil and criminal liability for good faith care and treatment of animals in distress.</p>

	S.C. CODE ANN. § 47-1-75
SOUTH CAROLINA <i>continued</i>	
11. LAW ENFORCEMENT POLICIES	Any person violating the animal cruelty laws may be arrested and held without warrant in the same manner as someone found breaking the peace. S.C. CODE ANN.§ 47-1-130
12. SEXUAL ASSAULT	“Buggery” with a “beast” is a felony punishable by up to five years imprisonment and/or a \$500 fine. S.C. CODE ANN.§ 16-15-120
13. FIGHTING	Cockfighting, including spectatorship, is a misdemeanor. S.C. CODE ANN.§ 16-17-650 Various animal fighting activities are felonies; spectatorship is a misdemeanor on 1 st and 2 nd offenses, felony on subsequent offenses; seizure and disposition of animals used for fighting are authorized; certain activities are exempt. S.C. CODE ANN.§§ 16-27-20 to 80
<i>Other Felony Provisions Affecting Animals</i> [‡]	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

†This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

S.C. CODE ANN. § 16-11-510 (2012). Malicious injury to animals and other personal property.

(A) It is unlawful for a person to wilfully and maliciously cut, shoot, maim, wound, or otherwise injure or destroy any horse, mule, cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property, or the goods and chattels of another.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrate's court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the property or the property loss is worth two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, not more than thirty days, or both.

S.C. CODE ANN. § 47-1-10 (2012). Definitions.

As used in this chapter:

(1) "Animal" means a living vertebrate creature except a homo sapien.

(2) "Sustenance" means adequate food provided at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight and adequate water provided with constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species.

(3) "Shelter" means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

S.C. CODE ANN. § 47-1-40 (2012). III-treatment of animals generally.

(A) Whoever knowingly or intentionally overloads, overdrives, overworks, ill-treats any animal, deprives any animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon any animal, or by omission or commission knowingly or intentionally causes these things to be done, for every offense is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding sixty days or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both, for a first offense; by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a third or subsequent offense. Notwithstanding any other provision of law, a first offense under this subsection shall be tried in magistrate's or municipal court.

(B) Whoever tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon any animal or by omission or commission causes the acts to be done for any of the offenses is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.

S.C. CODE ANN. § 47-1-50. Cruel work; carriage in vehicles; penalties.

(A) An owner, a possessor, or a person having the charge or custody of an animal may not:

(1) cruelly drive or work it when unfit for labor;

(2) carry it, or cause it to be carried, in or upon a vehicle or otherwise in an unnecessarily cruel or inhumane manner.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished for each offense in the manner prescribed in Section 47-1-40(A).

S.C. CODE ANN. § 47-1-70 (2012). Abandonment of animals; penalties; hunting dog exception.

(A) A person may not abandon an animal. As used in this section “abandonment” is defined as deserting, forsaking, or intending to give up absolutely an animal without securing another owner or without providing the necessities of life. “Necessities of life” includes:

(1) adequate water which means a constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species;

(2) adequate food which means provision at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight;

(3) adequate shelter which means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than thirty days, or both. Offenses under this section must be tried in the magistrate’s or municipal court.

(C) A hunting dog that is positively identifiable in accordance with Section 47-3-510 or Section 47-3-530 is exempt from this section.

2. PENALTIES

S.C. CODE ANN. § 16-11-510 (2012).Malicious injury to animals and other personal property.

(A) It is unlawful for a person to wilfully and maliciously cut, shoot, maim, wound, or otherwise injure or destroy any horse, mule, cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property, or the goods and chattels of another.

(B) *A person who violates the provisions of this section is guilty of a:*

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrate's court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the property or the property loss is worth two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, not more than thirty days, or both.

S.C. CODE ANN. § 47-1-40 (2012).Ill-treatment of animals generally.

(A) Whoever knowingly or intentionally overloads, overdrives, overworks, ill-treats any animal, deprives any animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon any animal, or by omission or commission knowingly or intentionally causes these things to be done, for every offense is guilty of a misdemeanor and, *upon conviction, must be punished by imprisonment not exceeding sixty days or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both, for a first offense; by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a third or subsequent offense.* Notwithstanding any other provision of law, a first offense under this subsection shall be tried in magistrate's or municipal court.

(B) Whoever tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon any animal or by omission or commission causes the acts to be done for any of the offenses is guilty of a felony and, *upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.*

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.

S.C. CODE ANN.§ 47-1-50.Cruel work; carriage in vehicles; penalties.

(A) *An owner, a possessor, or a person having the charge or custody of an animal may not:*

(1) cruelly drive or work it when unfit for labor;

(2) carry it, or cause it to be carried, in or upon a vehicle or otherwise in an unnecessarily cruel or inhumane manner.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished for each offense in the manner prescribed in Section 47-1-40(A).

S.C. CODE ANN.§ 47-1-70 (2012).Abandonment of animals; penalties; hunting dog exception.

(A) A person may not abandon an animal. As used in this section “abandonment” is defined as deserting, forsaking, or intending to give up absolutely an animal without securing another owner or without providing the necessities of life. “Necessities of life” includes:

(1) adequate water which means a constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species;

(2) adequate food which means provision at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight;

(3) adequate shelter which means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

(B) A person who violates this section is guilty of a misdemeanor and, *upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than thirty days, or both.* Offenses under this section must be tried in the magistrate’s or municipal court.

(C) A hunting dog that is positively identifiable in accordance with Section 47-3-510 or Section 47-3-530 is exempt from this section.

3. EXEMPTIONS

S.C. CODE ANN.§ 47-1-40 (2012).III-treatment of animals generally.

(A) Whoever knowingly or intentionally overloads, overdrives, overworks, ill-treats any animal, deprives any animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon any animal, or by omission or commission knowingly or intentionally causes these things to be done, for every offense is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding sixty days or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both, for a first offense; by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a third or subsequent offense. Notwithstanding any other provision of law, a first offense under this subsection shall be tried in magistrate's or municipal court.

(B) Whoever tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon any animal or by omission or commission causes the acts to be done for any of the offenses is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.

S.C. CODE ANN.§ 47-1-70 (2012).Abandonment of animals; penalties; hunting dog exception.

(A) A person may not abandon an animal. As used in this section "abandonment" is defined as deserting, forsaking, or intending to give up absolutely an animal without securing another owner or without providing the necessities of life. "Necessities of life" includes:

(1) adequate water which means a constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species;

(2) adequate food which means provision at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight;

(3) adequate shelter which means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than thirty days, or both. Offenses under this section must be tried in the magistrate's or municipal court.

(C) *A hunting dog that is positively identifiable in accordance with Section 47-3-510 or Section 47-3-530 is exempt from this section.*

S.C. CODE ANN. § 47-3-220 (2012). Dog found in act of worrying or destroying sheep may be killed.

Any person who may find any dog in the act of worrying or destroying any sheep in this State may kill such dog and such person shall not for so doing be held to answer to any action, civil or criminal.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

S.C. CODE ANN.§ 47-1-120 (2012).Custody of animals in charge of arrested persons.

When a person arrested is, at the time of the arrest, in charge of an animal, an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, may take charge of the animal and deposit the animal in a safe place of custody or deliver the animal into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody of the animal; *and all necessary expenses incurred in taking charge of the animal shall be a lien thereon.*

S.C. CODE ANN.§ 47-1-140 (2012). Care of animals after arrest of person in charge.

The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owner of the animals found in the charge or custody of the person arrested, if such person is not the owner, and shall care and provide properly for the animals. *The person making such arrest shall have a lien on the animals for the expense of such care and provision.* But if such person making the arrest be an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or other society incorporated for that purpose, the provisions of § 47-1-120 shall apply in lieu of the provisions of this section. Notwithstanding any other provision of law, an animal may be seized preceding arrest and pursuant to section 47-1-150.

S.C. CODE ANN.§ 47-1-170 (2012). Penalties, fines and costs constitute lien on animal cruelly treated.

The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal and at the discretion of the court, *the person who is charged with or convicted of a violation of this chapter must be ordered to pay costs incurred to care for the animal and related expenses.*

7. SEIZURE / ON-SITE SUPERVISION

S.C. CODE ANN.§ 47-1-120 (2012).Custody of animals in charge of arrested persons.

When a person arrested is, at the time of the arrest, in charge of an animal, an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, may take charge of the animal and deposit the animal in a safe place of custody or deliver the animal into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody of the animal; and all necessary expenses incurred in taking charge of the animal shall be a lien thereon.

S.C. CODE ANN.§ 47-1-140 (2012). Care of animals after arrest of person in charge.

The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owner of the animals found in the charge or custody of the person arrested, if such person is not the owner, and shall care and provide properly for the animals. The person making such arrest shall have a lien on the animals for the expense of such care and provision. But if such person making the arrest be an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or other society incorporated for that purpose, the provisions of § 47-1-120 shall apply in lieu of the provisions of this section. Notwithstanding any other provision of law, an animal may be seized preceding arrest and pursuant to section 47-1-150.

S.C. CODE ANN.§ 47-1-150 (2012).Issuance of search warrant; purpose of section; motions regarding custody of animal; notice; care, disposal of, or return of animal.

(A) When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, deputy state constable, constable or police officer to search such building or place; but no search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown. If an animal is seized pursuant to this section and the South Carolina Society for the Prevention of Cruelty of Animals, or other society incorporated for that purpose is involved with the seizure, the animal may be held pending criminal disposition of the case at a facility maintained or contracted by that agency.

(B) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(1)removed from its present custody, or

(2) made the subject of an order to provide care, issued to its owner by the magistrate or municipal judge, any law enforcement officer, or any agent of the county or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose and given protection and an appropriate and humane disposition made.

(C) Any law enforcement officer or any agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose may move before a magistrate for an order to:

(1) lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location if deemed by the court that removal is necessary to prevent further suffering or ill-treatment, or

(2) order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall forthwith petition the magistrate or municipal judge of the county or municipality wherein the animal is found for a hearing, to be set within twenty-four hours after the date of seizure of the animal or issuance of the order to provide care and held not more than two days after the setting of such date, to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded, and the court order entered the date the hearing is commenced. No fee shall be charged for the filing of the petition. Nothing herein is intended to require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(D) The officer or agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, taking charge of any animal pursuant to the provisions of this section shall have written notice served prior to the hearing set forth in subsection (C)(2), upon the owner of the animal, if he is known and is residing in the county where the animal was taken. The sheriff of the county shall not charge a fee for service of such notice. If the owner of the animal is known but is residing outside of the county wherein the animal was taken, notice of the hearing shall be by publication.

(E) If any seized animal held by court order at the owner's premises is removed without notification to the investigating agency, or if an animal becomes sick or dies, and the owner or custodian fails to immediately notify the investigating agency, the owner must be held in contempt of court and fined up to the penalties provided by law.

(F) The officer or agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, taking charge of an animal as provided for in this section shall provide for the animal until either:

(1) The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment for the care and provision of the animal while in the agent's or officer's custody; or

(2) The animal is turned over to the officer or agent as provided in Section 47-1-170 and a humane disposition of the animal is made.

(G) If the court determines that the owner is able to provide adequately for, and have custody of the animal, the order shall provide that the animal in possession of the officer or agent be claimed and removed by the owner within seven days after the date of the order.

8. FORFEITURE / POSSESSION

S.C. CODE ANN. § 47-1-170 (2012). Penalties, fines and costs constitute lien on animal cruelly treated.

The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal and at the discretion of the court, the person who is charged with or convicted of a violation of this chapter must be ordered to pay costs incurred to care for the animal and related expenses.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

S.C. CODE ANN. § 47-1-75 (2012).Immunity from civil and criminal liability.

Any person, including a person licensed to practice veterinary medicine, or an animal control officer or agent of the South Carolina Society for the Prevention of Cruelty to Animals or any society incorporated for that purpose, who in good faith and without compensation for services provided, acting without malice, recklessness, or gross negligence, renders emergency care or treatment to a domestic animal which is abandoned, ill, injured, or in distress related to an accident or disaster shall not be liable or subject to any civil or criminal liability for any injuries or harm to such animal resulting from the rendering of such care or treatment, or any act or failure to act to provide or arrange for further medical treatment or care for such animal.

11. LAW ENFORCEMENT POLICIES

S.C. CODE ANN.§ 47-1-130 (2012). Arrest for violation of laws prohibiting cruelty to animals.

Any person violating the laws in relation to cruelty to animals may be arrested and held, without warrant, in the same manner as in the case of persons found breaking the peace.

12. SEXUAL ASSAULT

S.C. CODE ANN. § 16-15-120 (2012). Buggery.

Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be guilty of felony and shall be imprisoned in the Penitentiary for five years or shall pay a fine of not less than five hundred dollars, or both, at the discretion of the court.

13. FIGHTING

S.C. CODE ANN. § 16-17-650 (2012). Cockfighting.

(A) A person who engages in or is present at cockfighting or game fowl fighting or illegal game fowl testing is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year for a first offense; or

(2) misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than three years for a second or subsequent offense.

(B) For purposes of this section, “illegal game fowl testing” means allowing game fowl to engage in physical combat:

(1) with or without spurs or other artificial items while in the presence of more than five spectators;

(2) under any circumstances while employing spurs or other artificial items or with the injection or application of a stimulant substance; or

(3) for purposes of or in the presence of wagering or gambling.

(C) A person who violates the provisions of subsection (A)(1) must be tried exclusively in summary court.

(D) A person who violates the provisions of subsection (A)(2) is subject to the forfeiture of monies, negotiable instruments, and securities specifically gained or used to engage in or further a violation of this section pursuant to Section 16-27-55.

(E) All game fowl breeders and game fowl breeder testing facilities must comply with the Department of Health and Environmental Control and the State Veterinarian’s regulations, policies, and procedures regarding avian influenza preparedness and testing. In the event of an avian influenza outbreak in South Carolina, all game fowl breeders and game fowl breeder testing facilities must allow the Department of Health and Environmental Control and the State Veterinarian to conduct avian influenza testing of all game fowl.

S.C. CODE ANN. §16-27-20(2012). Definitions.

As used in this chapter:

(a) "Animal" means any live vertebrate creature, domestic or wild.

(b) "Fighting" means an attack with violence by an animal against another animal or a human.

(c) "Baiting" means to provoke or to harass an animal with one or more animals with the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals or between animals and humans.

(d) "Person" means every natural person or individual and any firm, partnership, association, or corporation.

S.C. CODE ANN. § 16-27-30(2012). Acts or omissions constituting felonies; penalties.

Any person who:

(a) owns an animal for the purpose of fighting or baiting;

(b) is a party to or causes any fighting or baiting of any animal;

(c) purchases, rents, leases, or otherwise acquires or obtains the use of any structure, facility, or location for the purpose of fighting or baiting any animal; or

(d) knowingly allows or permits or makes available any structure, facility, or location to be used for the purpose of fighting or baiting any animal is guilty of a felony and upon conviction must be punished by a fine of five thousand dollars or imprisoned for five years, or both.

S.C. CODE ANN.§ 16-27-40(2012).Acts constituting misdemeanors upon conviction of first or second offense and constituting felonies upon conviction of third or subsequent offense; penalties.

Any person who:

(a) is present at any structure, facility, or location where preparations are being made for the purpose of fighting or baiting any animal with knowledge that those preparations are being made, or

(b) is present at any structure, facility, or location with knowledge that fighting or baiting of any animal is taking place or is about to take place there is guilty of a misdemeanor and upon conviction for a first offense must be punished by a fine of five hundred dollars or imprisonment for six months, or both, and for a second offense by a fine of one thousand dollars or imprisonment for one year, or both. Any person convicted of a third or subsequent offense is guilty of a felony and must be punished by a fine of five thousand dollars or imprisonment for five years, or both.

S.C. CODE ANN.§ 16-27-50(2012).Applicability of cruelty provisions; presumption of cruelty.

(A) The provisions of Section 47-1-150 apply to this chapter.

(B) For purposes of a hearing to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal, any animal found to be owned, trained, possessed, purchased, sold, transported, or bred in violation of this chapter must be considered cruelly treated and the owner must be deemed unfit.

S.C. CODE ANN.§ 16-27-55(2012). Forfeiture of property of one found in violation of act.

(A) A person who violates a provision of this chapter is subject to forfeiture of:

(1) property, both real and personal, which is knowingly used to engage in a violation or to further a violation of this chapter; and

(2) monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of this chapter.

(B) Property subject to forfeiture pursuant to the provisions of this chapter may be seized by the appropriate law enforcement agency with a warrant properly issued by a court with jurisdiction over the property. Property may be seized without a warrant if the:

(1) seizure is incident to an arrest or a search with a search warrant or an inspection under an administrative inspection warrant;

(2) property subject to seizure was the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding pursuant to the provisions of this chapter;

(3) law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of the provisions of this chapter.

(C) Forfeiture proceedings instituted pursuant to the provisions of this section are subject to the procedures and requirements for forfeiture as set out in Section 44-53-530.

(D) Property taken or detained pursuant to the provisions of this section is not subject to replevin but is considered to be in the custody of the law enforcement agency making the seizure subject only to an order of the court having jurisdiction over the forfeiture proceedings.

(E) For purposes of this section, when the seizure of property subject to forfeiture is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.

(F) A law enforcement agency seizing property pursuant to the provisions of this section shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for appropriate security in another manner.

(G) When property, monies, negotiable instruments, securities, or other things of value are seized pursuant to the provisions of subsection (A), the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecuting agency.

(1) The report must include the following information:

(a) a description of the property seized;

(b) the circumstances of the seizure;

(c) the present custodian and where the property is being stored or its location;

(d) the name of the owner of the property;

(e) the name of any lienholders of the property; and

(f) the seizing agency.

(2) If the property is a conveyance, the report must include the:

(a) make, model, serial number, and year of the conveyance;

(b) person in whose name the conveyance is registered; and

(c) name of any lienholders.

(3) In addition to the report provided for in items (1) and (2) of this subsection, the appropriate law enforcement agency shall prepare for dissemination to the public, upon request, a report providing the following information:

(a) a description of the quantity and nature of the property and money seized;

(b) the seizing agency;

(c) the make, model, and year of a conveyance; and

(d) the law enforcement agency responsible for the property or conveyance seized.

(H) Property or conveyances seized by a law enforcement agency may not be used by officers or employees of the agency for personal purposes.

(I)

(1) An innocent owner or a manager or owner of a licensed rental agency or a common carrier or carrier of goods for hire may apply to the court of common pleas for the return of an item seized pursuant to the provisions of this chapter. Notice of hearing or rule to show cause accompanied by copy of the application must be directed to all persons and agencies entitled to notice as provided in Section 44-53-530. If the court denies the application, the hearing may proceed as a forfeiture hearing held pursuant to the provisions of Section 44-53-530.

(2) The court may return a seized item to the owner if the owner demonstrates to the court by a preponderance of the evidence:

(a) in the case of an innocent owner, that the person or entity was not a consenting party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture; or

(b) in the case of a manager or an owner of a licensed rental agency, a common carrier, or a carrier of goods for hire, that an agent, servant, or employee of the rental agency or of the common carrier or carrier of goods for hire was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(3) If the licensed rental agency demonstrates to the court that it has rented the seized property in the ordinary course of its business and that the tenant or tenants were not related within the third degree of kinship to the manager or owner, or any agents, servants, or employees of the rental agency, then it is presumed that the licensed rental agency was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(4) The lien of an innocent person or other legal entity, recorded in public records, continues in force upon transfer of title of a forfeited item, and a transfer of title is subject to the lien if the lienholder demonstrates to the court by a preponderance of the evidence that he was not a consenting party to, or privy to, or did not have knowledge of, the involvement of the property which made it subject to seizure and forfeiture.

S.C. CODE ANN. § 16-27-60(2012). Inapplicability of chapter to certain activities and to game fowl.

(A) The provisions of Section 16-27-30 do not apply to any person:

(1) using any animal to pursue or take wildlife or to participate in hunting in accordance with the game and wildlife laws of this State and regulations of the South Carolina Department of Natural Resources;

(2) using any animal to work livestock for agricultural purposes;

(3) properly training or using dogs for law enforcement purposes or protection of persons and private property.

(B) The provisions of this chapter do not apply to game fowl.

S.C. CODE ANN. § 16-27-70(2012). Relationship to other laws.

The provisions of this chapter are cumulative and not in lieu of any other provision of law.

S.C. CODE ANN.§ 16-27-80(2012).Applicability of chapter to hunting dogs and certain events.

(A) This chapter does not apply to dogs used for the purpose of hunting, including, but not limited to, hunting on shooting preserves or wildlife management areas authorized pursuant to Title 50, or to dogs used in field trials, including events more commonly known as “water races”, “treeing contests”, “coon-on-a-log”, “bear-baying”, or “fox- pen-trials”. Such “fox-pen-trials” must be approved by permit for field trials by the South Carolina Department of Natural Resources.

(B) Except as otherwise provided in Section 16-27-60, this chapter applies to events more commonly known as “hog-dog fights”, “hog-dog rodeos”, or “hog-dogging” in which bets are placed, or cash, points, titles, trophies, or other awards are given based primarily on the ability of a dog to catch a hog using physical contact in the controlled environment of an enclosure.

14. REFERENCED STATUTES

S.C. CODE ANN.§ 16-11-510 (2012).Malicious injury to animals and other personal property.

(A) It is unlawful for a person to wilfully and maliciously cut, shoot, maim, wound, or otherwise injure or destroy any horse, mule, cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property, or the goods and chattels of another.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrate's court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the property or the property loss is worth two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, not more than thirty days, or both.

S.C. CODE ANN.§ 16-15-120 (2012). Buggery.

Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be guilty of felony and shall be imprisoned in the Penitentiary for five years or shall pay a fine of not less than five hundred dollars, or both, at the discretion of the court.

S.C. CODE ANN.§ 16-17-650 (2012). Cockfighting.

(A) A person who engages in or is present at cockfighting or game fowl fighting or illegal game fowl testing is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year for a first offense; or

(2) misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than three years for a second or subsequent offense.

(B) For purposes of this section, “illegal game fowl testing” means allowing game fowl to engage in physical combat:

- (1) with or without spurs or other artificial items while in the presence of more than five spectators;
- (2) under any circumstances while employing spurs or other artificial items or with the injection or application of a stimulant substance; or
- (3) for purposes of or in the presence of wagering or gambling.

(C) A person who violates the provisions of subsection (A)(1) must be tried exclusively in summary court.

(D) A person who violates the provisions of subsection (A)(2) is subject to the forfeiture of monies, negotiable instruments, and securities specifically gained or used to engage in or further a violation of this section pursuant to Section 16-27-55.

(E) All game fowl breeders and game fowl breeder testing facilities must comply with the Department of Health and Environmental Control and the State Veterinarian’s regulations, policies, and procedures regarding avian influenza preparedness and testing. In the event of an avian influenza outbreak in South Carolina, all game fowl breeders and game fowl breeder testing facilities must allow the Department of Health and Environmental Control and the State Veterinarian to conduct avian influenza testing of all game fowl.

S.C. CODE ANN. §16-27-20(2012). Definitions.

As used in this chapter:

- (a) “Animal” means any live vertebrate creature, domestic or wild.
- (b) “Fighting” means an attack with violence by an animal against another animal or a human.
- (c) “Baiting” means to provoke or to harass an animal with one or more animals with the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals or between animals and humans
- (d) “Person” means every natural person or individual and any firm, partnership, association, or corporation.

S.C. CODE ANN. § 16-27-30(2012). Acts or omissions constituting felonies; penalties.

Any person who:

- (a) owns an animal for the purpose of fighting or baiting;
- (b) is a party to or causes any fighting or baiting of any animal;
- (c) purchases, rents, leases, or otherwise acquires or obtains the use of any structure, facility, or location for the purpose of fighting or baiting any animal; or
- (d) knowingly allows or permits or makes available any structure, facility, or location to be used for the purpose of fighting or baiting any animal is guilty of a felony and upon conviction must be punished by a fine of five thousand dollars or imprisoned for five years, or both.

S.C. CODE ANN. § 16-27-40 (2012). Acts constituting misdemeanors upon conviction of first or second offense and constituting felonies upon conviction of third or subsequent offense; penalties.

Any person who:

- (a) is present at any structure, facility, or location where preparations are being made for the purpose of fighting or baiting any animal with knowledge that those preparations are being made, or
- (b) is present at any structure, facility, or location with knowledge that fighting or baiting of any animal is taking place or is about to take place there is guilty of a misdemeanor and upon conviction for a first offense must be punished by a fine of five hundred dollars or imprisonment for six months, or both, and for a second offense by a fine of one thousand dollars or imprisonment for one year, or both. Any person convicted of a third or subsequent offense is guilty of a felony and must be punished by a fine of five thousand dollars or imprisonment for five years, or both.

S.C. CODE ANN.§ 16-27-50(2012).Applicability of cruelty provisions; presumption of cruelty.

(A) The provisions of Section 47-1-150 apply to this chapter.

(B) For purposes of a hearing to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal, any animal found to be owned, trained, possessed, purchased, sold, transported, or bred in violation of this chapter must be considered cruelly treated and the owner must be deemed unfit.

S.C. CODE ANN.§ 16-27-55(2012). Forfeiture of property of one found in violation of act.

(A) A person who violates a provision of this chapter is subject to forfeiture of:

(1) property, both real and personal, which is knowingly used to engage in a violation or to further a violation of this chapter; and

(2) monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of this chapter.

(B) Property subject to forfeiture pursuant to the provisions of this chapter may be seized by the appropriate law enforcement agency with a warrant properly issued by a court with jurisdiction over the property. Property may be seized without a warrant if the:

(1) seizure is incident to an arrest or a search with a search warrant or an inspection under an administrative inspection warrant;

(2) property subject to seizure was the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding pursuant to the provisions of this chapter;

(3) law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of the provisions of this chapter.

(C) Forfeiture proceedings instituted pursuant to the provisions of this section are subject to the procedures and requirements for forfeiture as set out in Section 44-53-530.

(D) Property taken or detained pursuant to the provisions of this section is not subject to replevin but is considered to be in the custody of the law enforcement agency making the seizure subject only to an order of the court having jurisdiction over the forfeiture proceedings.

(E) For purposes of this section, when the seizure of property subject to forfeiture is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.

(F) A law enforcement agency seizing property pursuant to the provisions of this section shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for appropriate security in another manner.

(G) When property, monies, negotiable instruments, securities, or other things of value are seized pursuant to the provisions of subsection (A), the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecuting agency.

(1) The report must include the following information:

- (a) a description of the property seized;
- (b) the circumstances of the seizure;
- (c) the present custodian and where the property is being stored or its location;
- (d) the name of the owner of the property;
- (e) the name of any lienholders of the property; and
- (f) the seizing agency.

(2) If the property is a conveyance, the report must include the:

- (a) make, model, serial number, and year of the conveyance;
- (b) person in whose name the conveyance is registered; and
- (c) name of any lienholders.

(3) In addition to the report provided for in items (1) and (2) of this subsection, the appropriate law enforcement agency shall prepare for dissemination to the public, upon request, a report providing the following information:

- (a) a description of the quantity and nature of the property and money seized;
- (b) the seizing agency;

(c) the make, model, and year of a conveyance; and

(d) the law enforcement agency responsible for the property or conveyance seized.

(H) Property or conveyances seized by a law enforcement agency may not be used by officers or employees of the agency for personal purposes.

(I)

(1) An innocent owner or a manager or owner of a licensed rental agency or a common carrier or carrier of goods for hire may apply to the court of common pleas for the return of an item seized pursuant to the provisions of this chapter. Notice of hearing or rule to show cause accompanied by copy of the application must be directed to all persons and agencies entitled to notice as provided in Section 44-53-530. If the court denies the application, the hearing may proceed as a forfeiture hearing held pursuant to the provisions of Section 44-53-530.

(2) The court may return a seized item to the owner if the owner demonstrates to the court by a preponderance of the evidence:

(a) in the case of an innocent owner, that the person or entity was not a consenting party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture; or

(b) in the case of a manager or an owner of a licensed rental agency, a common carrier, or a carrier of goods for hire, that an agent, servant, or employee of the rental agency or of the common carrier or carrier of goods for hire was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(3) If the licensed rental agency demonstrates to the court that it has rented the seized property in the ordinary course of its business and that the tenant or tenants were not related within the third degree of kinship to the manager or owner, or any agents, servants, or employees of the rental agency, then it is presumed that the licensed rental agency was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(4) The lien of an innocent person or other legal entity, recorded in public records, continues in force upon transfer of title of a forfeited item, and a transfer of title is subject to the lien if the lienholder demonstrates to the court by a preponderance of the evidence that he was not a consenting party to, or privy to, or did not have knowledge of, the involvement of the property which made it subject to seizure and forfeiture.

S.C. CODE ANN. § 16-27-60(2012). Inapplicability of chapter to certain activities and to game fowl.

(A) The provisions of Section 16-27-30 do not apply to any person:

(1) using any animal to pursue or take wildlife or to participate in hunting in accordance with the game and wildlife laws of this State and regulations of the South Carolina Department of Natural Resources;

(2) using any animal to work livestock for agricultural purposes;

(3) properly training or using dogs for law enforcement purposes or protection of persons and private property.

(B) The provisions of this chapter do not apply to game fowl.

S.C. CODE ANN. § 16-27-70 (2012). Relationship to other laws.

The provisions of this chapter are cumulative and not in lieu of any other provision of law.

S.C. CODE ANN. § 16-27-80(2012). Applicability of chapter to hunting dogs and certain events.

(A) This chapter does not apply to dogs used for the purpose of hunting, including, but not limited to, hunting on shooting preserves or wildlife management areas authorized pursuant to Title 50, or to dogs used in field trials, including events more commonly known as “water races”, “treeing contests”, “coon-on-a-log”, “bear-baying”, or “fox-pen-trials”. Such “fox-pen-trials” must be approved by permit for field trials by the South Carolina Department of Natural Resources.

(B) Except as otherwise provided in Section 16-27-60, this chapter applies to events more commonly known as “hog-dog fights”, “hog-dog rodeos”, or “hog-dogging” in which bets are placed, or cash, points, titles, trophies, or other awards are given based primarily on the ability of a dog to catch a hog using physical contact in the controlled environment of an enclosure.

S.C. CODE ANN.§ 47-1-10 (2012). Definitions.

As used in this chapter:

- (1) “Animal” means a living vertebrate creature except a homo sapien.
- (2) “Sustenance” means adequate food provided at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight and adequate water provided with constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species.
- (3) “Shelter” means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

S.C. CODE ANN.§ 47-1-40 (2012).III-treatment of animals generally.

(A) Whoever knowingly or intentionally overloads, overdrives, overworks, ill-treats any animal, deprives any animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon any animal, or by omission or commission knowingly or intentionally causes these things to be done, for every offense is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding sixty days or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both, for a first offense; by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a third or subsequent offense. Notwithstanding any other provision of law, a first offense under this subsection shall be tried in magistrate’s or municipal court.

(B) Whoever tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon any animal or by omission or commission causes the acts to be done for any of the offenses is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.

S.C. CODE ANN.§ 47-1-50.Cruel work; carriage in vehicles; penalties.

(A) An owner, a possessor, or a person having the charge or custody of an animal may not:

- (1) cruelly drive or work it when unfit for labor;
- (2) carry it, or cause it to be carried, in or upon a vehicle or otherwise in an unnecessarily cruel or inhumane manner.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished for each offense in the manner prescribed in Section 47-1-40(A).

S.C. CODE ANN.§ 47-1-70 (2012).Abandonment of animals; penalties; hunting dog exception.

(A) A person may not abandon an animal. As used in this section “abandonment” is defined as deserting, forsaking, or intending to give up absolutely an animal without securing another owner or without providing the necessities of life. “Necessities of life” includes:

- (1) adequate water which means a constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species;
- (2) adequate food which means provision at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight;
- (3) adequate shelter which means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than thirty days, or both. Offenses under this section must be tried in the magistrate’s or municipal court.

(C) A hunting dog that is positively identifiable in accordance with Section 47-3-510 or Section 47-3-530 is exempt from this section.

S.C. CODE ANN. § 47-1-75 (2012).Immunity from civil and criminal liability.

Any person, including a person licensed to practice veterinary medicine, or an animal control officer or agent of the South Carolina Society for the Prevention of Cruelty to Animals or any society incorporated for that purpose, who in good faith and without compensation for services provided, acting without malice, recklessness, or gross negligence, renders emergency care or treatment to a domestic animal which is abandoned, ill, injured, or in distress related to an accident or disaster shall not be liable or subject to any civil or criminal liability for any injuries or harm to such animal resulting from the rendering of such care or treatment, or any act or failure to act to provide or arrange for further medical treatment or care for such animal.

S.C. CODE ANN.§ 47-1-120 (2012).Custody of animals in charge of arrested persons.

When a person arrested is, at the time of the arrest, in charge of an animal, an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, may take charge of the animal and deposit the animal in a safe place of custody or deliver the animal into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody of the animal; and all necessary expenses incurred in taking charge of the animal shall be a lien thereon.

S.C. CODE ANN.§ 47-1-130 (2012). Arrest for violation of laws prohibiting cruelty to animals.

Any person violating the laws in relation to cruelty to animals may be arrested and held, without warrant, in the same manner as in the case of persons found breaking the peace.

S.C. CODE ANN.§ 47-1-140 (2012). Care of animals after arrest of person in charge.

The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owner of the animals found in the charge or custody of the person arrested, if such person is not the owner, and shall care and provide properly for the animals. The person making such arrest shall have a lien on the animals for the expense of such care and provision. But if such person making the arrest be an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or other society incorporated for that purpose, the provisions of § 47-1-120 shall apply in lieu of the provisions of this section. Notwithstanding any other provision of law, an animal may be seized preceding arrest and pursuant to section 47-1-150.

S.C. CODE ANN. § 47-1-150 (2012). Issuance of search warrant; purpose of section; motions regarding custody of animal; notice; care, disposal of, or return of animal.

(A) When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, deputy state constable, constable or police officer to search such building or place; but no search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown. If an animal is seized pursuant to this section and the South Carolina Society for the Prevention of Cruelty of Animals, or other society incorporated for that purpose is involved with the seizure, the animal may be held pending criminal disposition of the case at a facility maintained or contracted by that agency.

(B) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(1) removed from its present custody, or

(2) made the subject of an order to provide care, issued to its owner by the magistrate or municipal judge, any law enforcement officer, or any agent of the county or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose and given protection and an appropriate and humane disposition made.

(C) Any law enforcement officer or any agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose may move before a magistrate for an order to:

(1) lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location if deemed by the court that removal is necessary to prevent further suffering or ill-treatment, or

(2) order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall forthwith petition the magistrate or municipal judge of the county or municipality wherein the animal is found for a hearing, to be set within twenty-four hours after the date of seizure of the animal or issuance of the order to provide care and held not more than two days after the setting of such date, to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded, and the court order entered the date the hearing is commenced. No fee shall be charged for the filing of the petition. Nothing herein is intended to require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(D) The officer or agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, taking charge of any animal pursuant to the provisions of this section shall have written notice served prior to the hearing set forth in subsection (C)(2), upon the owner of the animal, if he is known and is residing in the county where the animal was taken. The sheriff of the county shall not charge a fee for service of such notice. If the owner of the animal is known but is residing outside of the county wherein the animal was taken, notice of the hearing shall be by publication.

(E) If any seized animal held by court order at the owner's premises is removed without notification to the investigating agency, or if an animal becomes sick or dies, and the owner or custodian fails to immediately notify the investigating agency, the owner must be held in contempt of court and fined up to the penalties provided by law.

(F) The officer or agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, taking charge of an animal as provided for in this section shall provide for the animal until either:

(1) The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment for the care and provision of the animal while in the agent's or officer's custody; or

(2) The animal is turned over to the officer or agent as provided in Section 47-1-170 and a humane disposition of the animal is made.

(G) If the court determines that the owner is able to provide adequately for, and have custody of the animal, the order shall provide that the animal in possession of the officer or agent be claimed and removed by the owner within seven days after the date of the order.

S.C. CODE ANN. § 47-1-170 (2012). Penalties, fines and costs constitute lien on animal cruelly treated.

The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal and at the discretion of the court, the person who is charged with or convicted of a violation of this chapter must be ordered to pay costs incurred to care for the animal and related expenses.

ANIMAL PROTECTION LAWS OF SOUTH DAKOTA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains South Dakota's general animal protection and related statutes with effective dates on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

South Dakota may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

SOUTH DAKOTA

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Keeping an injured or diseased animal, past recovery, or unfit for any useful purpose and in suffering, or intentionally abandoning to die any sick or disabled animal S.D. CODIFIED LAWS§ 40-1-12</p> <p>(2) Poisoning animal of another S.D. CODIFIED LAWS§ 40-1-20</p> <p>(3) Killing or injuring animal of another S.D. CODIFIED LAWS§ 40-1-21</p> <p>(4) Inhumane treatment of an animal S.D. CODIFIED LAWS§ 40-1-27</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[A]ny mammal, bird, reptile, amphibian or fish, except humans” S.D. CODIFIED LAWS§ 40-1-1(2)</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (2), (3), (4) Class 1 misdemeanor</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1), (2), (3), (4) 1 year county jail <i>and/or</i> \$2,000 fine S.D. CODIFIED LAWS§ 22-6-2(1)</p>

SOUTH DAKOTA*continued*

<p>3. EXEMPTIONS^{***}</p>	<p>1 S.D. CODIFIED LAWS§ 40-1-33</p> <p>1, 6 S.D. CODIFIED LAWS§§ 40-1-20, 40-1-21</p> <p>2 S.D. CODIFIED LAWS§ 40-1-16</p> <p>4 S.D. CODIFIED LAWS§§ 40-1-26, 40-1-33, 40-2-4</p> <p>3, 5, 9 S.D. CODIFIED LAWS§ 40-1-17</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Upon conviction, the court shall order restitution to any “victim” as authorized in chapter 23A-28. S.D. CODIFIED LAWS§ 22-6-2</p> <p>Expenses of impoundment and costs of care shall be a lien on the animal. S.D. CODIFIED LAWS§ 40-1-5</p> <p>Owner is liable for expenses of seized animals. S.D. CODIFIED LAWS§ 40-1-5.1</p>

SOUTH DAKOTA*continued*

<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Any peace officer, agent of the board or agent or officer of any humane society may have inhumanely treated animals impounded. S.D. CODIFIED LAWS§ 40-1-5</p> <p>Inspection of premises authorized. S.D. CODIFIED LAWS§ 40-1-28</p> <p>No agent of the board, peace officer, or agent or officer of a humane society may be held liable as a result of reasonable actions taken. S.D. CODIFIED LAWS§ 40-1-31</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>Impounded animals may be disposed of at direction of humane agent or board. S.D. CODIFIED LAWS§ 40-1-34</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>-----</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>The South Dakota Animal Industry Board shall administer and enforce the provisions of this chapter concerning cattle, horses, sheep, swine and other livestock. The board may also address situations involving dangerous animals, including nonlivestock animals. S.D. CODIFIED LAWS§40-1-25</p> <p>The board, any peace officer or any agent or officer of a humane society may administer oaths, take statements, access memoranda, papers and other documents, articles and instruments, and may compel the disclosure by witnesses of all facts known to them relative to the matters under investigation. S.D. CODIFIED LAWS§ 40-1-29</p>

SOUTH DAKOTA*continued*

11. LAW ENFORCEMENT POLICIES <i>cont'd.</i>	Law enforcement and animal control agencies may enforce the animal protection laws; animal control officers may request that law enforcement arrest suspects, and may prepare and execute search warrants when accompanied by law enforcement. S.D. CODIFIED LAWS§40-2-7
12. SEXUAL ASSAULT	The sexual assault of an animal is a sex crime and a Class 6 felony; however, if the offender has a previous sex crime conviction, the offense is a Class 5 felony. S.D. CODIFIED LAWS§§22-22-42—44
13. FIGHTING	Being a spectator at an animal fighting exhibition is a Class 1 misdemeanor. S.D. CODIFIED LAWS§40-1-9 Training an animal with the intent to fight is prohibited. S.D. CODIFIED LAWS § 40-1-10 Various dogfighting activities are Class 6 felonies. S.D. CODIFIED LAWS§40-1-10.1 Any peace officer may enter any place where there is any sport or exhibition of the fighting of animals or where preparations are being made for such sport or exhibition, and without a warrant arrest all persons there present, and seize all animals and property used in for animal fighting. S.D. CODIFIED LAWS§§40-1-11, 40-11.1

SOUTH DAKOTA*continued*

<i>Other Felony Provisions Affecting Animals¹</i>	Intentionally and unjustifiably killing a law enforcement animal is a Class 6 felony. S.D. CODIFIED LAWS § 22-11-36
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* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

S.D. CODIFIED LAWS§ 40-1-1 (2012).Definition of terms.

Terms used in chapters 40-1 and 40-2, mean:

(1)“Abandonment,” *giving up with the intent of never again regaining one’s interests in, or rights to, an animal other than placing ownership with a responsible party;*

(2)“Animal,” *any mammal, bird, reptile, amphibian or fish, except humans;*

(3)“Board,” *the South Dakota animal industry board;*

(4)“Captive wild animal,” *any wild animal held in man-made confinement or physically altered to limit movement and facilitate capture;*

(5)“Domestic animal,” *any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind;*

(6)“Exotic animal,” *any animal not occurring naturally in the United States either currently or historically;*

(7)“Impoundment,” *taking physical control and custody of an animal;*

(8)“Non-domestic animal,” *any animal that is not domestic;*

(9)“Other livestock,” *any agricultural or commercial animal owned, bred or raised for profit, but not including dogs, cats, rabbits or other household pets;*

(10)“Wild animal,” *any animal not in captivity, other than a domestic animal; and*

(11)“Zoological animal,” *any animal in any zoo or intended to be used in a zoo.*

S.D. CODIFIED LAWS§ 40-1-2.2 (2012). Mistreatment, torture or cruelty of animals defined.

For the purposes of this chapter and chapter 40-2, the mistreatment, torture or cruelty of an animal is any act or omission whereby unnecessary, unjustifiable or unreasonable physical pain or suffering is caused, permitted or allowed to continue including acts of mutilation.

S.D. CODIFIED LAWS§40-1-2.3 (2012). Neglect Defined.

For the purposes of this chapter and chapter 40-2, the neglect of an animal is the failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities or care generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition and type of animal.

S.D. CODIFIED LAWS§ 40-1-2.4 (2012). Inhumane treatment defined.

For the purposes of this chapter and chapter 40-2, the inhumane treatment of an animal is any act of mistreatment, torture, cruelty, neglect, abandonment, mutilation or inhumane slaughter of an animal that is not consistent with generally accepted training, use and husbandry procedures for the species, breed, physical condition and type of animal.

S.D. CODIFIED LAWS§40-1-12 (2012).Keeping unfit animal—Abandoning sick or disabled animal—Penalty.

No person may keep any animal which is injured or diseased, past recovery, or unfit for any useful purpose and in suffering, or intentionally abandon to die any sick or disabled animal. A violation of this section is a Class 1 misdemeanor.

S.D. CODIFIED LAWS§ 40-1-20 (2012). Poisoning animal of another as misdemeanor.

Except as specifically provided for in this chapter, no person may intentionally administer poison to any animal which belongs to another, nor intentionally expose any poisonous substance so that it may be taken by an animal which belongs to another. A violation of this section is a Class 1 misdemeanor. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prevent animal control activities conducted by municipalities or counties, separately or through contract with a humane society, in accordance with chapters 36-12 and 34-20B.

S.D. CODIFIED LAWS§ 40-1-21 (2012).Killing or injuring animal of another as misdemeanor—Authorized euthanasia excepted.

No person may intentionally kill any animal of any age or value, the property of another, nor intentionally injure any such animal. A violation of this section is a Class 1 misdemeanor. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prohibit euthanasia conducted by the municipality or under a municipality's animal control activities. This section may not be construed to prohibit activities conducted under chapter 40-34.

S.D. CODIFIED LAWS§ 40-1-27 (2012).Inhumane treatment as misdemeanor.

No person owning or responsible for the care of an animal may inhumanely treat such animal. A violation of this section is a Class 1 misdemeanor.

2. PENALTIES

S.D. CODIFIED LAWS § 22-6-2 (2012). Misdemeanor classes and penalties—Restitution—Misdemeanor when no penalty imposed.

Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

(1) Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both;

(2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42, inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing of such act is a Class 2 misdemeanor.

3. EXEMPTIONS

S.D. CODIFIED LAWS§ 40-1-16 (2012). Scientific experiments not prohibited—Guidelines.

Nothing in this chapter may be construed to interfere with any properly conducted scientific experiments or investigations, which experiments or investigations are performed by personnel following guidelines established by the National Institute of Health and the United States Department of Agriculture. Any experiments or scientific investigation and facilities used under this section shall be open to inspection by the board.

S.D. CODIFIED LAWS§ 40-1-17 (2012).Exemptions from chapter—Destruction of dangerous animals.

The acts and conduct of persons who are lawfully engaged in any of the activities authorized by Title 41 or laws for the destruction or control of certain animals known to be dangerous or injurious to life, limb, or property, and persons who properly kill any animal used for food and sport hunting, trapping and fishing as authorized by the South Dakota department of game, fish and parks, are exempt from the provisions of this chapter.

S.D. CODIFIED LAWS§ 40-1-20 (2012). Poisoning animal of another as misdemeanor.

Except as specifically provided for in this chapter, no person may intentionally administer poison to any animal which belongs to another, nor intentionally expose any poisonous substance so that it may be taken by an animal which belongs to another. A violation of this section is a Class 1 misdemeanor. *This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prevent animal control activities conducted by municipalities or counties, separately or through contract with a humane society, in accordance with chapters 36-12 and 34-20B.*

S.D. CODIFIED LAWS§ 40-1-21 (2012).Killing or injuring animal of another as misdemeanor—Authorized euthanasia excepted.

No person may intentionally kill any animal of any age or value, the property of another, nor intentionally injure any such animal. A violation of this section is a Class 1 misdemeanor. *This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prohibit euthanasia conducted by the municipality or under a municipality's animal control activities. This section may not be construed to prohibit activities conducted under chapter 40-34.*

S.D. CODIFIED LAWS§ 40-1-26 (2012).Proper care for impounded animals—Livestock excepted.

No person may impound or permit any animal to be in any building, enclosure, lane, street, square or lot without proper care and attention for more than twelve consecutive hours. *This section does not apply to cattle, horses, sheep, swine or other livestock.*

S.D. CODIFIED LAWS§ 40-1-33 (2012).Noninterference with veterinarian or accepted agricultural pursuits.

Nothing in this chapter and chapter 40-2 may be construed to interfere with an animal under the direct and proper care of a licensed veterinarian or with persons engaged in standard and accepted agricultural pursuits.

S.D. CODIFIED LAWS§ 40-2-4 (2012).Limitation on activities.

Except as provided in chapter 40-1, the activities of any humane society incorporated pursuant to this chapter for the prevention of inhumane treatment of animals, as provided in chapter 40-1 or this chapter, are limited to animals other than cattle, horses, sheep, swine and other livestock.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

S.D. CODIFIED LAWS § 22-6-2 (2012). Misdemeanor classes and penalties—Restitution—Misdemeanor when no penalty imposed.

Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

(1) Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both;

(2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42, inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing of such act is a Class 2 misdemeanor.

S.D. CODIFIED LAWS § 40-1-5 (2012). Officer or agent to take custody of inhumanely treated animal pursuant to warrant or court order—Exception—Expenses of care as lien.

Any peace officer, agent of the board, or agent or officer of any humane society finding an animal inhumanely treated, as defined in § 40-1-2.4, shall, pursuant to a warrant or court order, cause the animal to be impounded or otherwise properly cared for, *and the expenses of such impoundment or care shall be a lien on the animal to be paid before the animal may be lawfully recovered.* However, a warrant or court order is not necessary if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any animal is impounded or subjected to other action under this section without a warrant or court order, the officer or agent shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action; or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.

S.D. CODIFIED LAWS § 40-1-5.1 (2012). Liability of owner or caretaker for impounded animal.

The owner or caretaker of an animal impounded or cared for pursuant to § 40-1-5 is liable for the expense of services rendered. The governing body of the county or municipality that has rendered such services may recover such sums for services pursuant to § 40-1-5 as it deems reasonable. The payment shall be on vouchers, as other claims against the county or municipality are paid. Expenses may be recovered in a civil action against the owner unless the expenses are paid within thirty days after notice and demand.

7. SEIZURE / ON-SITE SUPERVISION

S.D. CODIFIED LAWS§ 40-1-5 (2012).Officer or agent to take custody of inhumanely treated animal pursuant to warrant or court order—Exception—Expenses of care as lien.

Any peace officer, agent of the board, or agent or officer of any humane society finding an animal inhumanely treated, as defined in § 40-1-2.4, shall, pursuant to a warrant or court order, cause the animal to be impounded or otherwise properly cared for, and the expenses of such impoundment or care shall be a lien on the animal to be paid before the animal may be lawfully recovered. However, a warrant or court order is not necessary if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any animal is impounded or subjected to other action under this section without a warrant or court order, the officer or agent shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action; or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.

S.D. CODIFIED LAWS§ 40-1-28 (2012). Inspection of premises authorized.

The board, any peace officer or any agent or officer of a humane society may enter and inspect any premises necessary to carry out the provisions of this chapter.

S.D. CODIFIED LAWS§40-1-31 (2012).Liability of officer or agent.

No agent of the board, peace officer, or agent or officer of a humane society may be held liable as a result of reasonable actions taken pursuant to this chapter.

8. FORFEITURE / POSSESSION

S.D. CODIFIED LAWS § 40-1-34 (2012). Disposition of impounded animals.

An animal impounded under this chapter shall, within reasonable time at the direction of the board, any agent or officer of a humane society or any peace officer be disposed of by:

- (1) Returning to the owner or caretaker;*
- (2) Transferring ownership to a humane society as described in chapter 40-1-2;*
- (3) Euthanizing;*
- (4) Sold through public auction;*
- (5) Transferring ownership to a suitable caretaker or facility as prescribed in rule by the board; or*
- (6) Any other disposition as determined by the board, any agent or officer of a humane society or any peace officer in accordance with rules promulgated pursuant to § 40-1-25.*

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

S.D. CODIFIED LAWS§40-1-25 (2012).Administration and enforcement of livestock provisions—Promulgation of rules.

The South Dakota Animal Industry Board shall administer and enforce the provisions of this chapter concerning cattle, horses, sheep, swine and other livestock. In addition, the board may address situations involving dangerous animals, including nonlivestock animals, under the provisions of §§ 40-1-2.5, 40-1-2.6, 40-1-23 and 40-1-24. The board may issue orders for the execution of the powers conferred upon it by this chapter. The board may promulgate rules, pursuant to chapter 1-26, which may address cattle, horses, sheep, swine and other livestock and dangerous animals, and which shall include:

- (1) Procedures for filing complaints;*
- (2) Reasons for and methods of euthanizing animals;*
- (3) Specific standards and accepted food, water, protection from the elements, sanitation facilities and care;*
- (4) Procedures and methods for impoundment;*
- (5) Methods for transferring ownership of impounded animals;*
- (6) Methods of investigating reported inhumane treatment;*
- (7) Methods for contracting with peace officers, humane societies or others to serve as agents for the board;*
- (8) Methods for certifying the proper training for agents of the board;*
- (9) Procedures and criteria for the euthanasia of animals pursuant to § 40-1-13; and*
- (10) Procedures for dealing with dangerous animals.*

S.D. CODIFIED LAWS§40-1-29 (2012).Investigation Procedure.

The board, any peace officer or any agent or officer of a humane society may administer oaths, take statements, access memoranda, papers and other documents, articles and instruments, and may compel the disclosure by witnesses of all facts known to them relative to the matters under investigation pursuant to § 40-1-28.

S.D. CODIFIED LAWS§40-2-7 (2012). Enforcement by law enforcement officer or animal control officer—Powers.

Any law enforcement agency may enforce the provisions of this chapter or chapter 40-1. An animal care and control agency may enforce the provisions of this chapter or chapter 40-1 in a county or municipality if the legislative authority of the county or municipality has entered into a contract with the agency to enforce the provisions of this chapter and chapter 40-1. An animal control officer enforcing this chapter or chapter 40-1 shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on a law enforcement officer who enforces this chapter, chapter 40-1, and other criminal laws. An animal control officer has the following enforcement powers when enforcing this chapter:

(1) The power to issue citations based on probable cause to offenders for misdemeanor and felony violations of this chapter or chapter 40-1;

(2) The power to request that a law enforcement officer arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or chapter 40-1. An animal control officer may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate an arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;

(3) The power to carry protective devices, other than firearms, for personal protection;

(4) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or chapter 40-1, and to seize evidence of those violations.

12. SEXUAL ASSAULT

S.D. CODIFIED LAWS § 22-22-42 (2012). Bestiality—Penalty.

No person, for the purpose of that person's sexual gratification, may:

- (1) Engage in a sexual act with an animal; or*
- (2) Coerce any other person to engage in a sexual act with an animal; or*
- (3) Use any part of the person's body or an object to sexually stimulate an animal; or*
- (4) Videotape a person engaging in a sexual act with an animal; or*
- (5) Kill or physically abuse an animal.*

Any person who violates any provision of this section is guilty of the crime of bestiality. Bestiality is a Class 6 felony. However, if any person has been previously convicted of a sex crime pursuant to § 22-22-30, any subsequent violation of this section is a Class 5 felony.

S.D. CODIFIED LAWS § 22-22-43 (2012). Bestiality—Definition of sexual act.

For the purposes of § 22-22-42, the term, sexual act with an animal, means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act with an animal may be proved without evidence of penetration.

S.D. CODIFIED LAWS § 22-22-44 (2012). Bestiality—Conduct not prohibited.

The provisions of § 22-22-42 do not apply to or prohibit normal, ordinary, or accepted practices involved in animal husbandry, artificial insemination, or veterinary medicine.

13. FIGHTING

S.D. CODIFIED LAWS§40-1-9 (2012).Animal fighting—Penalty.

No person, for amusement purposes or for wager, may cause any animal to fight or injure another.

No person may knowingly permit any animal fighting or injuring on any premises under his charge or control.

It is a Class 1 misdemeanor to be present at any animal fighting as a spectator.

S.D. CODIFIED LAWS§40-1-10 (2012).Having or training animal for fighting prohibited.

No person may have or train any animal with the intent that it be used in an exhibition of fighting.

S.D. CODIFIED LAWS§40-1-10.1 (2012).Dog fighting—Penalty.

Notwithstanding §§ 40-1-9 and 40-1-10, no person may:

(1) Own, possess, keep or train any dog with the intent to engage the dog in an exhibition of fighting with another dog;

(2) For amusement or gain cause any dog to fight with another dog or cause any dog to injure another dog; or

(3) Permit the activity prohibited by this section or § 40-1-11.1 to be done on any premises under his charge or control, or aid or abet any activity prohibited by this section or § 40-1-11.1.

A violation of this section or § 40-1-11.1 is a Class 6 felony.

S.D. CODIFIED LAWS§40-1-11 (2012). Peace officer may enter place of animal fighting— Arrest of all present.

Any peace officer may enter any place where there is any sport or exhibition of the fighting of animals or where preparations are being made for such sport or exhibition, and without a warrant arrest all persons there present.

**S.D. CODIFIED LAWS § 40-1-11.1 (2012). Seizure of dogs and property upon arrest—
Destruction of dogs.**

Any law enforcement officer making an arrest for a violation of § 40-1-10.1 shall take possession of all dogs and all paraphernalia, implements or other property or things used or employed, or about to be employed, in the violation of any of the provisions of § 40-1-10.1. The provisions of chapters 23A-35 and 23A-37 shall apply to the search and seizure of violations of § 40-1-10.1 and shall apply to the disposition of seized paraphernalia, implements or other property or things used or employed, or about to be employed, in violation of § 40-1-10.1. For the purposes of this section, dogs seized pursuant to a violation of § 40-1-10.1 are contraband and property of an illegal nature and shall be destroyed pursuant to § 23A-37-9.

14. REFERENCED STATUTES

S.D. CODIFIED LAWS § 22-6-2 (2012). Misdemeanor classes and penalties—Restitution—Misdemeanor when no penalty imposed.

Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both;
- (2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42, inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing of such act is a Class 2 misdemeanor.

S.D. CODIFIED LAWS § 22-22-42 (2012). Bestiality—Penalty.

No person, for the purpose of that person's sexual gratification, may:

- (1) Engage in a sexual act with an animal; or
- (2) Coerce any other person to engage in a sexual act with an animal; or
- (3) Use any part of the person's body or an object to sexually stimulate an animal; or
- (4) Videotape a person engaging in a sexual act with an animal; or
- (5) Kill or physically abuse an animal.

Any person who violates any provision of this section is guilty of the crime of bestiality. Bestiality is a Class 6 felony. However, if any person has been previously convicted of a sex crime pursuant to § 22-22-30, any subsequent violation of this section is a Class 5 felony.

S.D. CODIFIED LAWS § 22-22-43 (2012). Bestiality—Definition of sexual act.

For the purposes of § 22-22-42, the term, sexual act with an animal, means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act with an animal may be proved without evidence of penetration.

S.D. CODIFIED LAWS § 22-22-44 (2012). Bestiality—Conduct not prohibited.

The provisions of § 22-22-42 do not apply to or prohibit normal, ordinary, or accepted practices involved in animal husbandry, artificial insemination, or veterinary medicine.

S.D. CODIFIED LAWS § 40-1-1 (2012). Definition of terms.

Terms used in chapters 40-1 and 40-2, mean:

- (1) “Abandonment,” giving up with the intent of never again regaining one’s interests in, or rights to, an animal other than placing ownership with a responsible party;
- (2) “Animal,” any mammal, bird, reptile, amphibian or fish, except humans;
- (3) “Board,” the South Dakota animal industry board;
- (4) “Captive wild animal,” any wild animal held in man-made confinement or physically altered to limit movement and facilitate capture;
- (5) “Domestic animal,” any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind;
- (6) “Exotic animal,” any animal not occurring naturally in the United States either currently or historically;
- (7) “Impoundment,” taking physical control and custody of an animal;
- (8) “Non-domestic animal,” any animal that is not domestic;
- (9) “Other livestock,” any agricultural or commercial animal owned, bred or raised for profit, but not including dogs, cats, rabbits or other household pets;

(10) “Wild animal,” any animal not in captivity, other than a domestic animal; and

(11) “Zoological animal,” any animal in any zoo or intended to be used in a zoo.

S.D. CODIFIED LAWS§ 40-1-2.2 (2012). Mistreatment, torture or cruelty of animals defined.

For the purposes of this chapter and chapter 40-2, the mistreatment, torture or cruelty of an animal is any act or omission whereby unnecessary, unjustifiable or unreasonable physical pain or suffering is caused, permitted or allowed to continue including acts of mutilation.

S.D. CODIFIED LAWS§40-1-2.3 (2012). Neglect Defined.

For the purposes of this chapter and chapter 40-2, the neglect of an animal is the failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities or care generally considered to be standard and accepted for an animal’s health and well-being consistent with the species, breed, physical condition and type of animal.

S.D. CODIFIED LAWS§ 40-1-2.4 (2012). Inhumane treatment defined.

For the purposes of this chapter and chapter 40-2, the inhumane treatment of an animal is any act of mistreatment, torture, cruelty, neglect, abandonment, mutilation or inhumane slaughter of an animal that is not consistent with generally accepted training, use and husbandry procedures for the species, breed, physical condition and type of animal.

S.D. CODIFIED LAWS§ 40-1-5 (2012).Officer or agent to take custody of inhumanely treated animal pursuant to warrant or court order—Exception—Expenses of care as lien.

Any peace officer, agent of the board, or agent or officer of any humane society finding an animal inhumanely treated, as defined in § 40-1-2.4, shall, pursuant to a warrant or court order, cause the animal to be impounded or otherwise properly cared for, and the expenses of such impoundment or care shall be a lien on the animal to be paid before the animal may be lawfully recovered. However, a warrant or court order is not necessary if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any animal is impounded or subjected to other action under this section without a warrant or court order, the officer or agent shall subsequently show cause for the impoundment or other action to the court, and the court shall issue an order ratifying the impoundment or action; or, if sufficient cause for the impoundment or action is not shown, the court shall order the return of the animal to the owner or other appropriate remedy.

S.D. CODIFIED LAWS§ 40-1-5.1 (2012). Liability of owner or caretaker for impounded animal.

The owner or caretaker of an animal impounded or cared for pursuant to § 40-1-5 is liable for the expense of services rendered. The governing body of the county or municipality that has rendered such services may recover such sums for services pursuant to § 40-1-5 as it deems reasonable. The payment shall be on vouchers, as other claims against the county or municipality are paid. Expenses may be recovered in a civil action against the owner unless the expenses are paid within thirty days after notice and demand.

S.D. CODIFIED LAWS§40-1-9 (2012).Animal fighting—Penalty.

No person, for amusement purposes or for wager, may cause any animal to fight or injure another.

No person may knowingly permit any animal fighting or injuring on any premises under his charge or control.

It is a Class 1 misdemeanor to be present at any animal fighting as a spectator.

S.D. CODIFIED LAWS§40-1-10 (2012).Having or training animal for fighting prohibited.

No person may have or train any animal with the intent that it be used in an exhibition of fighting.

S.D. CODIFIED LAWS§40-1-10.1 (2012).Dog fighting—Penalty.

Notwithstanding §§ 40-1-9 and 40-1-10, no person may:

- (1) Own, possess, keep or train any dog with the intent to engage the dog in an exhibition of fighting with another dog;
- (2) For amusement or gain cause any dog to fight with another dog or cause any dog to injure another dog; or
- (3) Permit the activity prohibited by this section or § 40-1-11.1 to be done on any premises under his charge or control, or aid or abet any activity prohibited by this section or § 40-1-11.1.

A violation of this section or § 40-1-11.1 is a Class 6 felony.

**S.D. CODIFIED LAWS § 40-1-11 (2012). Peace officer may enter place of animal fighting—
Arrest of all present.**

Any peace officer may enter any place where there is any sport or exhibition of the fighting of animals or where preparations are being made for such sport or exhibition, and without a warrant arrest all persons there present.

**S.D. CODIFIED LAWS § 40-1-11.1 (2012). Seizure of dogs and property upon arrest—
Destruction of dogs.**

Any law enforcement officer making an arrest for a violation of § 40-1-10.1 shall take possession of all dogs and all paraphernalia, implements or other property or things used or employed, or about to be employed, in the violation of any of the provisions of § 40-1-10.1. The provisions of chapters 23A-35 and 23A-37 shall apply to the search and seizure of violations of § 40-1-10.1 and shall apply to the disposition of seized paraphernalia, implements or other property or things used or employed, or about to be employed, in violation of § 40-1-10.1. For the purposes of this section, dogs seized pursuant to a violation of § 40-1-10.1 are contraband and property of an illegal nature and shall be destroyed pursuant to § 23A-37-9.

S.D. CODIFIED LAWS § 40-1-12 (2012). Keeping unfit animal—Abandoning sick or disabled animal—Penalty.

No person may keep any animal which is injured or diseased, past recovery, or unfit for any useful purpose and in suffering, or intentionally abandon to die any sick or disabled animal. A violation of this section is a Class 1 misdemeanor.

S.D. CODIFIED LAWS § 40-1-16 (2012). Scientific experiments not prohibited—Guidelines.

Nothing in this chapter may be construed to interfere with any properly conducted scientific experiments or investigations, which experiments or investigations are performed by personnel following guidelines established by the National Institute of Health and the United States Department of Agriculture. Any experiments or scientific investigation and facilities used under this section shall be open to inspection by the board.

S.D. CODIFIED LAWS§ 40-1-17 (2012).Exemptions from chapter—Destruction of dangerous animals.

The acts and conduct of persons who are lawfully engaged in any of the activities authorized by Title 41 or laws for the destruction or control of certain animals known to be dangerous or injurious to life, limb, or property, and persons who properly kill any animal used for food and sport hunting, trapping and fishing as authorized by the South Dakota department of game, fish and parks, are exempt from the provisions of this chapter.

S.D. CODIFIED LAWS§ 40-1-20 (2012). Poisoning animal of another as misdemeanor.

Except as specifically provided for in this chapter, no person may intentionally administer poison to any animal which belongs to another, nor intentionally expose any poisonous substance so that it may be taken by an animal which belongs to another. A violation of this section is a Class 1 misdemeanor. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prevent animal control activities conducted by municipalities or counties, separately or through contract with a humane society, in accordance with chapters 36-12 and 34-20B.

S.D. CODIFIED LAWS§ 40-1-21 (2012).Killing or injuring animal of another as misdemeanor—Authorized euthanasia excepted.

No person may intentionally kill any animal of any age or value, the property of another, nor intentionally injure any such animal. A violation of this section is a Class 1 misdemeanor. This section may not be construed to prevent euthanasia by a licensed veterinarian with proper authority from the animal's owner nor may it prevent acts of euthanasia authorized by this chapter. This section may not be construed to prohibit euthanasia conducted by the municipality or under a municipality's animal control activities. This section may not be construed to prohibit activities conducted under chapter 40-34.

S.D. CODIFIED LAWS§40-1-25 (2012).Administration and enforcement of livestock provisions—Promulgation of rules.

The South Dakota Animal Industry Board shall administer and enforce the provisions of this chapter concerning cattle, horses, sheep, swine and other livestock. In addition, the board may address situations involving dangerous animals, including nonlivestock animals, under the provisions of §§ 40-1-2.5, 40-1-2.6, 40-1-23 and 40-1-24. The board may issue orders for the execution of the powers conferred upon it by this chapter. The board may promulgate rules, pursuant to chapter 1-26, which may address cattle, horses, sheep, swine and other livestock and dangerous animals, and which shall include:

- (1) Procedures for filing complaints;
- (2) Reasons for and methods of euthanizing animals;
- (3) Specific standards and accepted food, water, protection from the elements, sanitation facilities and care;
- (4) Procedures and methods for impoundment;
- (5) Methods for transferring ownership of impounded animals;
- (6) Methods of investigating reported inhumane treatment;
- (7) Methods for contracting with peace officers, humane societies or others to serve as agents for the board;
- (8) Methods for certifying the proper training for agents of the board;
- (9) Procedures and criteria for the euthanasia of animals pursuant to § 40-1-13; and
- (10) Procedures for dealing with dangerous animals.

S.D. CODIFIED LAWS § 40-1-27 (2012). Inhumane treatment as misdemeanor.

No person owning or responsible for the care of an animal may inhumanely treat such animal. A violation of this section is a Class 1 misdemeanor.

S.D. CODIFIED LAWS § 40-1-28 (2012). Inspection of premises authorized.

The board, any peace officer or any agent or officer of a humane society may enter and inspect any premises necessary to carry out the provisions of this chapter.

S.D. CODIFIED LAWS § 40-1-29 (2012). Investigation Procedure.

The board, any peace officer or any agent or officer of a humane society may administer oaths, take statements, access memoranda, papers and other documents, articles and instruments, and may compel the disclosure by witnesses of all facts known to them relative to the matters under investigation pursuant to § 40-1-28.

S.D. CODIFIED LAWS§40-1-31 (2012).Liability of officer or agent.

No agent of the board, peace officer, or agent or officer of a humane society may be held liable as a result of reasonable actions taken pursuant to this chapter.

S.D. CODIFIED LAWS§ 40-1-33 (2012).Noninterference with veterinarian or accepted agricultural pursuits.

Nothing in this chapter and chapter 40-2 may be construed to interfere with an animal under the direct and proper care of a licensed veterinarian or with persons engaged in standard and accepted agricultural pursuits.

S.D. CODIFIED LAWS§ 40-1-34 (2012).Disposition of impounded animals.

An animal impounded under this chapter shall, within reasonable time at the direction of the board, any agent or officer of a humane society or any peace officer be disposed of by:

- (1) Returning to the owner or caretaker;
- (2) Transferring ownership to a humane society as described in chapter 40-2;
- (3) Euthanizing;
- (4) Sold through public auction;
- (5) Transferring ownership to a suitable caretaker or facility as prescribed in rule by the board; or
- (6) Any other disposition as determined by the board, any agent or officer of a humane society or any peace officer in accordance with rules promulgated pursuant to § 40-1-25.

S.D. CODIFIED LAWS§ 40-2-4 (2012).Limitation on activities.

Except as provided in chapter 40-1, the activities of any humane society incorporated pursuant to this chapter for the prevention of inhumane treatment of animals, as provided in chapter 40-1 or this chapter, are limited to animals other than cattle, horses, sheep, swine and other livestock.

S.D. CODIFIED LAWS§40-2-7 (2012). Enforcement by law enforcement officer or animal control officer—Powers.

Any law enforcement agency may enforce the provisions of this chapter or chapter 40-1. An animal care and control agency may enforce the provisions of this chapter or chapter 40-1 in a county or municipality if the legislative authority of the county or municipality has entered into a contract with the agency to enforce the provisions of this chapter and chapter 40-1. An animal control officer enforcing this chapter or chapter 40-1 shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on a law enforcement officer who enforces this chapter, chapter 40-1, and other criminal laws. An animal control officer has the following enforcement powers when enforcing this chapter:

- (1) The power to issue citations based on probable cause to offenders for misdemeanor and felony violations of this chapter or chapter 40-1;
- (2) The power to request that a law enforcement officer arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or chapter 40-1. An animal control officer may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate an arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;
- (3) The power to carry protective devices, other than firearms, for personal protection;
- (4) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or chapter 40-1, and to seize evidence of those violations.

ANIMAL PROTECTION LAWS OF TENNESSEE

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Tennessee's general animal protection and related statutes with effective dates on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Tennessee may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

TENNESSEE

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) General cruelty TENN. CODE ANN.§ 39-14-202</p> <p>(2) Intentional killing of an animal TENN. CODE ANN.§ 39-14-205</p> <p>(3) Aggravated cruelty TENN. CODE ANN.§ 39-14-212</p> <p>(4) Aggravated cruelty to livestock TENN. CODE ANN.§ 39-14-216****</p> <p>(5) [Cruelty to service animals] TENN. CODE ANN.§ 39-14-216****</p>
<p><i>Animals Covered in Definition</i></p>	<p>“[A] domesticated living creature or a wild creature previously captured” TENN. CODE ANN.§ 39-14-201(1)</p>
<p><i>Classification of Crimes</i></p>	<p>(1) [1st offense]: Class A misdemeanor</p> <p>[2nd or subsequent offenses]: Class E felony</p> <p>-----</p> <p>(2) Class A misdemeanor - Class B felony (depending upon value of animal)</p> <p>-----</p> <p>(3) (4) Class E felony</p>

TENNESSEE*continued*

<p>2. MAXIMUM PENALTIES **</p>	<p>(1) [1st offense]: 11 months, 29 days imprisonment <i>and/or</i> \$2,500 fine TENN. CODE ANN. § 40-35-111(e)(1)</p> <p>[2nd or subsequent offenses]: 6 years imprisonment <i>and</i> \$3,000 fine TENN. CODE ANN. § 40-35-111(b)(5)</p> <p>-----</p> <p>(2) 30 years imprisonment <i>and</i> \$25,000 fine TENN. CODE ANN. § 40-35-111(b)(2)</p> <p>-----</p> <p>(3) 6 years imprisonment <i>and</i> \$3,000 fine TENN. CODE ANN. § 40-35-111(b)(5)</p>
<p>3. EXEMPTIONS ***</p>	<p>1, 2, 4, 9 TENN. CODE ANN. § 39-14-202(c),(f)</p> <p>3 TENN. CODE ANN. § 39-14-201(4)</p> <p>9 TENN. CODE ANN. § 39-14-205(b)</p> <p>1, 2, 3, 4, 9 TENN. CODE ANN. § 39-14-212(c)</p> <p>1, 2, 3 TENN. CODE ANN. § 39-14-216(d),(e)</p>

TENNESSEE*continued*

<p>4. COUNSELING / EVALUATIONS^H</p>	<p>Upon conviction for aggravated cruelty or aggravated cruelty to livestock, the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. TENN. CODE ANN.§§ 39-14-212, -216</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>TENN. CODE ANN.§§ 36-3-601, 36-3-606</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Any necessary expense incurred for animals taken into custody for cruel transport or confinement shall be a lien thereon, to be paid before they can lawfully be recovered. TENN. CODE ANN.§ 39-14-202(d)</p> <p>Owner is liable for costs of care of impounded animals. TENN. CODE ANN.§ 39-14-207(a)</p> <p>Humane society shall have a right of action against the owner of the animal for all necessary and reasonable expenses so incurred unless owner elects to forfeit animal. TENN. CODE ANN.§ 39-14-207(b)</p> <p>All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to such society in aid of the purpose for which it was incorporated. TENN. CODE ANN.§ 39-14-210(d)</p> <p>Humane society has lien on animals over which it legally obtains custody. TENN. CODE ANN.§ 39-14-210(e)</p> <p>Court may order defendant to post security for the costs of care for impounded animals. TENN. CODE ANN. § 39-14-210(g)</p>

TENNESSEE*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS<i>continued</i>^H</p>	<p>Defendant may be held liable to the impounding officer or agency for all costs of impoundment. TENN. CODE ANN. § 39-14-212(h)</p> <p>Defendant may be held liable to the owner of the animal for damages. TENN. CODE ANN. § 39-14-212(i)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Animals may be seized if they are being cruelly transported. TENN. CODE ANN. § 39-14-202(d)</p> <p>Custody of any animal victimized under animal cruelty statutes shall be placed with humane society. TENN. CODE ANN. § 39-14-210(f)</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>Persons convicted must forfeit the animals whose treatment was the basis of the conviction; the court may also prohibit the person from having custody of other animals. TENN. CODE ANN. § 39-14-202(e)</p> <p>Under certain circumstances, any agent or officer of such society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise. TENN. CODE ANN. § 39-14-210(c)</p> <p>Failure to post a court-ordered bond for costs of care for an impounded animal can result in forfeiture. TENN. CODE ANN. § 39-14-210(g)</p>

TENNESSEE*continued*

<p>8. FORFEITURE / POSSESSION <i>continued</i>^H</p>	<p>The court may order the defendant to surrender custody and forfeit all companion animals; may prohibit the defendant from having custody of other animals for any reasonable period of time; or impose any other reasonable restrictions on the person's custody of animals. TENN. CODE ANN. § 39-14-212(e)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>Child and adult protective services employees shall report suspected animal cruelty. TENN. CODE ANN. §§ 38-1-401, - 403</p> <p>If a defendant convicted of aggravated cruelty resides in a household with minor children or elderly individuals, the court may send notification of the conviction to the appropriate protective agencies. TENN. CODE ANN. § 39-14-212(g)</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>-----</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Appointed humane agents may make arrests within their county with regard to non-livestock animals. TENN. CODE ANN. § 39-14-210(a)</p> <p>Agents may interfere to prevent acts of cruelty. TENN. CODE ANN. § 39-14-210(b)</p>
<p>12. SEXUAL ASSAULT</p>	<p>Sexual assault of an animal is a Class E felony. TENN. CODE ANN. § 39-14-214</p>

TENNESSEE*continued*

13. FIGHTING	<p>Various animal fighting activities (cockfighting excluded) are Class E felonies. TENN. CODE ANN.§39-14-203(c)(1)</p> <p>Various cockfighting activities are Class A misdemeanors. TENN. CODE ANN.§39-14-203(c)(2)</p> <p>Spectatorship at a dogfight is a Class B misdemeanor, and a Class C misdemeanor for other animal fights. TENN. CODE ANN.§39-14-203(d)</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

******Editor's note:** The Tennessee legislature enacted both the Aggravated Cruelty to Livestock and Cruelty to Service Animals sections as § 39-14-216 in May 2012.

HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

TENN. CODE ANN. § 39-14-201 (2012). Definitions for animal offenses.

As used in this part, unless the context otherwise requires:

- (1) *“Animal” means a domesticated living creature or a wild creature previously captured;*
- (2) *“Livestock” means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry;*
- (3) *“Non-livestock animal” means a pet normally maintained in or near the household(s) of its owner(s), other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as “livestock” pursuant to this part; and*
- (4) *“Torture” means every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted, but nothing herein shall be construed as prohibiting the shooting of birds or game for the purpose of human food or the use of animate targets by incorporated gun clubs.*

TENN. CODE ANN. § 39-14-202 (2012). Cruelty to animals.

(a) A person commits an offense who intentionally or knowingly:

- (1) Tortures, maims or grossly overworks an animal;*
- (2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person’s custody;*
- (3) Abandons unreasonably an animal in the person’s custody;*
- (4) Transports or confines an animal in a cruel manner; or*
- (5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.*

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f)

(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)

(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subdivision (e) is a Class A misdemeanor.

TENN. CODE ANN. § 39-14-205 (2012). Intentional killing of animal.

(a)

(1)

(A) It is an offense to knowingly and unlawfully kill the animal of another without the owner's effective consent.

(B) A violation of subdivision (a)(1)(A) is theft of property, graded according to the value of the animal, and punished in accordance with § 39-14-105.

(2) In determining the value of a police dog, fire dog, search and rescue dog, service animal or police horse under § 39-14-105, the court shall consider the value of the police dog, fire dog, search and rescue dog, service animal or police horse as both the cost of the animal and any specialized training the animal received.

(b) A person is justified in killing the animal of another if the person acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to that person or another or an imminent danger of death to an animal owned by that person. *A person is not justified in killing the animal of another if at the time of the killing the person is trespassing upon the property of the owner of the animal.* The justification for killing the animal of another authorized by this subsection (b) shall not apply to a person who, while engaging in or attempting to escape from criminal conduct, kills a police dog that is acting in its official capacity. In that case the provisions of subsection (a) shall apply to the person.

TENN. CODE ANN. § 39-14-212 (2012). Aggravated cruelty to animals; definitions; penalties.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) "Aggravated cruelty" means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) "Companion animal" means any non-livestock animal as defined in § 39-14-201(3);

(3) "Elderly" means any person sixty-five (65) years of age or older; and

(4) "Minor" means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

- (1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;
- (2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;
- (3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;
- (4) Dispatching an animal in any manner absent of aggravated cruelty;
- (5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);
- (6) Dispatching rabid or diseased animals;
- (7) Dispatching animals posing a clear and immediate threat to human safety;
- (8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;
- (9) Performing accepted veterinary medical practices or treatments;
- (10) Dispatching animals in accordance with § 44-17-403(e);
- (11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;
- (12) Dispatching wild or abandoned animals on a farm or residential real property; or
- (13) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)

(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

TENN. CODE ANN. § 39-14-216 (2012).** Aggravated Cruelty to Livestock Animal.**

(a) As used in this section only, "livestock" means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, and goats.

(b) Except as provided in subsections (d) and (e), a person commits aggravated cruelty to a livestock animal who, in a depraved and sadistic manner, intentionally engages in any of the conduct described in subdivisions (c)(1) - (12), the conduct results in serious bodily injury to the animal or the death of the animal, and is without justifiable or lawful purpose.

(c) The following conduct constitutes aggravated cruelty to livestock animals if accomplished in the manner described in subsection (b):

- (1) Setting an animal on fire;*
- (2) Burning an animal with any hot object;*
- (3) Cutting or stabbing an animal with any object;*
- (4) Causing blunt force trauma to an animal;*
- (5) Securing an animal to a vehicle and dragging it;*
- (6) Blinding an animal;*
- (7) Applying acid or other caustic substance or chemical to any exposed area of an animal or forcing the animal to ingest the substance;*
- (8) Hanging a living animal;*
- (9) Skinning an animal while it is still alive;*
- (10) Administering electric shock to an animal;*
- (11) Drowning an animal; or*
- (12) Shooting an animal with a weapon.*

(d) Subsections (b) and (c) shall not be construed to apply to, prohibit or interfere with the following:

- (1) Any provision of Title 70, involving fish and wildlife, or any hunting, trapping, or fishing activities lawful under such title;*
- (2) Activities or conduct that are prohibited by Section 39-14-203; or*
- (3) Dispatching an animal in any manner not prohibited by this section.*

(e) The following shall not be construed as aggravated cruelty to a livestock animal as defined in this section:

- (1) Dispatching rabid, diseased, sick or injured livestock animals;*
- (2) Dispatching livestock animals posing a clear and immediate threat to human safety;*
- (3) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;*

(4) Performing accepted veterinary medical practices or treatments;

(5) Engaging, with the consent of the owner of a livestock animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;

(6) Dispatching wild or abandoned livestock animals on a farm or residential real property; or

(7) Applying methods and equipment used to train livestock animals.

(f) In addition to the penalty imposed by subsection (j), the defendant may be held liable to:

(1) The owner of the livestock animal for damages; and

(2) The impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(g) In addition to the penalty imposed by subsection (j), the sentencing court may order the defendant to surrender custody and forfeit all livestock animals, and may award custody of the animals to the agency presenting the case. The court may prohibit the defendant from having custody of other livestock animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of livestock animals as is necessary for the protection of the animals.

(h) In addition to the penalty imposed by subsection (j), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(i) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

(j) Aggravated cruelty to a livestock animal is a Class E felony.

TENN. CODE ANN. § 39-14-216 (2012).** [Cruelty to service animals].**

(a)

(1) As used in this section, "service animal" means:

(A) Any animal that is individually trained, or being trained by an employee or puppy raiser from a recognized training agency or school to do work or perform tasks for the benefit of an individual with a disability, including a physical,

sensory, psychiatric, intellectual, or other mental disability; and

(B) Any police dog, fire dog, search and rescue dog, or police horse.

(2) Other species of animals not specified in this subsection, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

(3) For purposes of a service animal as defined under subdivision (a)(1)(A), the work or tasks performed by the service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of the animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of subdivision (a)(1)(A).

(b) It is an offense to knowingly:

(1) Maim or otherwise inflict harm upon a service animal;

(2) Attempt to maim or otherwise inflict harm upon a service animal; or

(3) Permit an animal that the person owns or is in the immediate control of to maim or otherwise inflict harm upon a service animal.

(c) It is an offense to recklessly maim or otherwise inflict harm upon a service animal or permit an animal that the person owns or is in the immediate control of to maim or otherwise inflict harm upon a service animal.

(d) It is an offense to knowingly interfere with a service animal in the performance of its duties, or permit an animal that the person owns or is in control of to interfere with a service animal in the performance of its duties.

(e)

(1) A violation of subsection (b) or (c) is a Class A misdemeanor.

(2) A violation of subsection (d) is a Class C misdemeanor.

(f)

(1) In addition to any other penalty provided by this section, a person convicted of a violation of subsection (b), (c) or (d) shall be ordered by the court to make full restitution for all damages that arise out of or are related to the offense, including incidental and consequential damages incurred by the service animal's handler or the recognized training agency or school.

(2) Restitution, for purposes of this section, includes:

(A) The value of the service animal if the animal is disabled or can no longer perform service animal duties;

(B) Replacement and training or retraining expenses of the service animal or handler if necessary to restore the animal to service animal capabilities;

(C) Veterinary and other medical and boarding expenses for the service animal;

(D) Medical expenses for the handler; and

(E) Lost wages or income incurred by the handler during any period that the handler is without the services of the service animal.

(g) If the violation of this section involves a guide dog and the offense results in injury to the dog that permanently deprives the owner of the use of the guide dog's services, nothing in this section shall preclude prosecution and conviction for such conduct under § 39-14-208.

2. PENALTIES

TENN. CODE ANN. § 39-14-105 (2012). Grading of theft.

Theft of property or services is:

- (1) *A Class A misdemeanor if the value of the property or services obtained is five hundred dollars (\$500) or less;*
- (2) *A Class E felony if the value of the property or services obtained is more than five hundred dollars (\$500) but less than one thousand dollars (\$1,000);*
- (3) *A Class D felony if the value of the property or services obtained is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);*
- (4) *A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000); and*
- (5) *A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more.*

TENN. CODE ANN. § 40-35-111 (2012). Authorized terms of imprisonment and fines for felonies and misdemeanors.

- (a) *A sentence for a felony is a determinate sentence.*
- (b) *The authorized terms of imprisonment and fines for felonies are:*
 - (1) *Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;*
 - (2) *Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;*
 - (3) *Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;*
 - (4) *Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and*

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.

(c) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:

(1) Three hundred fifty thousand dollars (\$350,000) for a Class A felony;

(2) Three hundred thousand dollars (\$300,000) for a Class B felony;

(3) Two hundred fifty thousand dollars (\$250,000) for a Class C felony;

(4) One hundred twenty-five thousand dollars (\$125,000) for a Class D felony; and

(5) Fifty thousand dollars (\$50,000) for a Class E felony.

If a special fine for a corporation is expressly specified in the statute which defines an offense, the fine fixed shall be within the limits specified in the statute.

(d) *A sentence for a misdemeanor is a determinate sentence.*

(e) *The authorized terms of imprisonment and fines for misdemeanors are:*

(1) Class A misdemeanor, not greater than eleven (11) months twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;

(2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and

(3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.

(f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during such five-year period.

3. EXEMPTIONS

TENN. CODE ANN. § 39-14-201 (2012). Definitions for animal offenses.

As used in this part, unless the context otherwise requires:

- (1) “Animal” means a domesticated living creature or a wild creature previously captured;
- (2) “Livestock” means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry;
- (3) “Non-livestock animal” means a pet normally maintained in or near the household(s) of its owner(s), other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as “livestock” pursuant to this part; and
- (4) “Torture” means every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted, but *nothing herein shall be construed as prohibiting the shooting of birds or game for the purpose of human food or the use of animate targets by incorporated gun clubs.*

TENN. CODE ANN. § 39-14-202 (2012). Cruelty to animals.

(a) A person commits an offense who intentionally or knowingly:

- (1) Tortures, maims or grossly overworks an animal;
 - (2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person’s custody;
 - (3) Abandons unreasonably an animal in the person’s custody;
 - (4) Transports or confines an animal in a cruel manner; or
 - (5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.
- (b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f)

(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)

(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subdivision (e) is a Class A misdemeanor.

TENN. CODE ANN. § 39-14-205 (2012). Intentional killing of animal.

(a)

(1)

(A) It is an offense to knowingly and unlawfully kill the animal of another without the owner's effective consent.

(B) A violation of subdivision (a)(1)(A) is theft of property, graded according to the value of the animal, and punished in accordance with § 39-14-105.

(2) In determining the value of a police dog, fire dog, search and rescue dog, service animal or police horse under § 39-14-105, the court shall consider the value of the police dog, fire dog, search and rescue dog, service animal or police horse as both the cost of the animal and any specialized training the animal received.

(b) A person is justified in killing the animal of another if the person acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to that person or another or an imminent danger of death to an animal owned by that person. A person is not justified in killing the animal of another if at the time of the killing the person is trespassing upon the property of the owner of the animal. The justification for killing the animal of another authorized by this subsection (b) shall not apply to a person who, while engaging in or attempting to escape from criminal conduct, kills a police dog that is acting in its official capacity. In that case the provisions of subsection (a) shall apply to the person.

TENN. CODE ANN. § 39-14-212 (2012). Aggravated cruelty to animals; definitions; penalties.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) "Aggravated cruelty" means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) "Companion animal" means any non-livestock animal as defined in § 39-14-201(3);

(3) "Elderly" means any person sixty-five (65) years of age or older; and

(4) "Minor" means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

(1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;

(2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;

(3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;

(4) Dispatching an animal in any manner absent of aggravated cruelty;

(5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);

(6) Dispatching rabid or diseased animals;

(7) Dispatching animals posing a clear and immediate threat to human safety;

(8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(9) Performing accepted veterinary medical practices or treatments;

(10) Dispatching animals in accordance with § 44-17-403(e);

(11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;

(12) Dispatching wild or abandoned animals on a farm or residential real property; or

(13) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)

(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

TENN. CODE ANN. § 39-14-216 (2012).** Aggravated Cruelty to Livestock Animal.**

(a) As used in this section only, "livestock" means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, and goats.

(b) Except as provided in subsections (d) and (e), a person commits aggravated cruelty to a livestock animal who, in a depraved and sadistic manner, intentionally engages in any of the conduct described in subdivisions (c)(1) - (12), the conduct results in serious bodily injury to the animal or the death of the animal, and is without justifiable or lawful purpose.

(c) The following conduct constitutes aggravated cruelty to livestock animals if accomplished in the manner described in subsection (b):

- (1) Setting an animal on fire;
- (2) Burning an animal with any hot object;
- (3) Cutting or stabbing an animal with any object;
- (4) Causing blunt force trauma to an animal;
- (5) Securing an animal to a vehicle and dragging it;
- (6) Blinding an animal;
- (7) Applying acid or other caustic substance or chemical to any exposed area of an animal or forcing the animal to ingest the substance;
- (8) Hanging a living animal;
- (9) Skinning an animal while it is still alive;
- (10) Administering electric shock to an animal;
- (11) Drowning an animal; or
- (12) Shooting an animal with a weapon.

(d) Subsections (b) and (c) shall not be construed to apply to, prohibit or interfere with the following:

- (1) Any provision of Title 70, involving fish and wildlife, or any hunting, trapping, or fishing activities lawful under such title;*
- (2) Activities or conduct that are prohibited by Section 39-14-203; or*
- (3) Dispatching an animal in any manner not prohibited by this section.*

(e) The following shall not be construed as aggravated cruelty to a livestock animal as defined in this section:

- (1) Dispatching rabid, diseased, sick or injured livestock animals;*
- (2) Dispatching livestock animals posing a clear and immediate threat to human safety;*
- (3) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;*

(4) Performing accepted veterinary medical practices or treatments;

(5) Engaging, with the consent of the owner of a livestock animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;

(6) Dispatching wild or abandoned livestock animals on a farm or residential real property; or

(7) Applying methods and equipment used to train livestock animals.

(f) In addition to the penalty imposed by subsection (j), the defendant may be held liable to:

(1) The owner of the livestock animal for damages; and

(2) The impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(g) In addition to the penalty imposed by subsection (j), the sentencing court may order the defendant to surrender custody and forfeit all livestock animals, and may award custody of the animals to the agency presenting the case. The court may prohibit the defendant from having custody of other livestock animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of livestock animals as is necessary for the protection of the animals.

(h) In addition to the penalty imposed by subsection (j), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(i) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

(j) Aggravated cruelty to a livestock animal is a Class E felony.

4. COUNSELING / EVALUATIONS

TENN. CODE ANN. § 39-14-212 (2012). Aggravated cruelty to animals; definitions; penalties.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) “Aggravated cruelty” means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) “Companion animal” means any non-livestock animal as defined in § 39-14-201(3);

(3) “Elderly” means any person sixty-five (65) years of age or older; and

(4) “Minor” means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

(1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;

(2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;

(3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;

(4) Dispatching an animal in any manner absent of aggravated cruelty;

(5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);

(6) Dispatching rabid or diseased animals;

(7) Dispatching animals posing a clear and immediate threat to human safety;

(8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

- (9) Performing accepted veterinary medical practices or treatments;
- (10) Dispatching animals in accordance with § 44-17-403(e);
- (11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;
- (12) Dispatching wild or abandoned animals on a farm or residential real property; or
- (13) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)

(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

TENN. CODE ANN. § 39-14-216 (2012).** Aggravated Cruelty to Livestock Animal.**

(a) As used in this section only, "livestock" means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, and goats.

(b) Except as provided in subsections (d) and (e), a person commits aggravated cruelty to a livestock animal who, in a depraved and sadistic manner, intentionally engages in any of the conduct described in subdivisions (c)(1) - (12), the conduct results in serious bodily injury to the animal or the death of the animal, and is without justifiable or lawful purpose.

(c) The following conduct constitutes aggravated cruelty to livestock animals if accomplished in the manner described in subsection (b):

- (1) Setting an animal on fire;
- (2) Burning an animal with any hot object;
- (3) Cutting or stabbing an animal with any object;
- (4) Causing blunt force trauma to an animal;
- (5) Securing an animal to a vehicle and dragging it;
- (6) Blinding an animal;
- (7) Applying acid or other caustic substance or chemical to any exposed area of an animal or forcing the animal to ingest the substance;
- (8) Hanging a living animal;
- (9) Skinning an animal while it is still alive;
- (10) Administering electric shock to an animal;

(11) Drowning an animal; or

(12) Shooting an animal with a weapon.

(d) Subsections (b) and (c) shall not be construed to apply to, prohibit or interfere with the following:

(1) Any provision of Title 70, involving fish and wildlife, or any hunting, trapping, or fishing activities lawful under such title;

(2) Activities or conduct that are prohibited by Section 39-14-203; or

(3) Dispatching an animal in any manner not prohibited by this section.

(e) The following shall not be construed as aggravated cruelty to a livestock animal as defined in this section:

(1) Dispatching rabid, diseased, sick or injured livestock animals;

(2) Dispatching livestock animals posing a clear and immediate threat to human safety;

(3) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(4) Performing accepted veterinary medical practices or treatments;

(5) Engaging, with the consent of the owner of a livestock animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal;

(6) Dispatching wild or abandoned livestock animals on a farm or residential real property; or

(7) Applying methods and equipment used to train livestock animals.

(f) In addition to the penalty imposed by subsection (j), the defendant may be held liable to:

(1) The owner of the livestock animal for damages; and

(2) The impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(g) In addition to the penalty imposed by subsection (j), the sentencing court may order the defendant to surrender custody and forfeit all livestock animals, and may award custody of the animals to the agency presenting the case. The court may prohibit the defendant from having

custody of other livestock animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of livestock animals as is necessary for the protection of the animals.

(h) In addition to the penalty imposed by subsection (j), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(i) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

(j) Aggravated cruelty to a livestock animal is a Class E felony.

5. PROTECTIVE ORDERS

TENN. CODE ANN. § 36-3-601(2012). Definitions.

As used in this part, unless the context otherwise requires:

(1) “Abuse” means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor;

(2) “Adult” means any person eighteen (18) years of age or older, or who is otherwise emancipated;

(3)

(A) “Court,” in counties having a population of not less than two hundred thousand (200,000) nor more than eight hundred thousand (800,000), according to the 1980 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters;

(B) Notwithstanding the provisions of subdivision (3)(A), “court,” in counties with a metropolitan form of government with a population of more than one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters and the general sessions court. In such county having a metropolitan form of government, a judicial commissioner may issue an ex parte order of protection. Nothing in this definition may be construed to grant jurisdiction to the general sessions court for matters relating to child custody, visitation, or support;

(C) “Court,” in all other counties, means any court of record with jurisdiction over domestic relation matters or the general sessions court;

(D) “Court” also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing ex parte orders of protection when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available;

(E) In counties having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, “court” means any court of record with jurisdiction over domestic relations matters or the general sessions criminal court. In such counties, “court” also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing any order of protection pursuant to this part when a judge of one (1) of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available. Nothing in this definition may be construed to grant jurisdiction to the general sessions court, both criminal and civil, for matters relating to child custody, visitation, or support;

(F) Any appeal from a final ruling on an order of protection by a general sessions court or by any official authorized to issue an order of protection under this subdivision (3) shall be to the circuit or chancery court of the county. Such appeal shall be filed within ten (10) days and shall be heard de novo;

(4) “Domestic abuse” means committing abuse against a victim, as defined in subdivision (5);

(5) “Domestic abuse victim” means any person who falls within the following categories:

(A) Adults or minors who are current or former spouses;

(B) Adults or minors who live together or who have lived together;

(C) Adults or minors who are dating or who have dated or who have or had a sexual relationship, as used herein “dating” and “dated” do not include fraternization between two (2) individuals in a business or social context;

(D) Adults or minors related by blood or adoption;

(E) Adults or minors who are related or were formerly related by marriage; or

(F) Adult or minor children of a person in a relationship that is described in subdivisions (5)(A)-(E);

(6) “Firearm” means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;

(7) “Petitioner” means the person alleging domestic abuse, sexual assault or stalking in a petition for an order for protection;

(8) “Preferred response” means law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest;

(9) “Respondent” means the person alleged to have abused, stalked or sexually assaulted another in a petition for an order for protection;

(10) “Sexual assault victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of any form of rape, as defined in §§ 39-13-502, 39-13-503, 39- 13-506 or 39-13-522, or sexual battery, as defined in §§ 39-13-504, 39-13-505, or 39-13-527;

(11) “Stalking victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of the offense of stalking, as defined in § 39-17-315; and

(12) “Weapon” means a firearm or a device listed in § 39-17-1302(a)(1)-(7).

TENN. CODE ANN. § 36-3-606(2012). Protection orders; contents.

(a) A protection order granted under this part to protect the petitioner from domestic abuse, stalking or sexual assault may include, but is not limited to:

(1) Directing the respondent to refrain from committing domestic abuse, stalking or sexual assault or threatening to commit domestic abuse, stalking or sexual assault against the petitioner or the petitioner’s minor children;

(2) Prohibiting the respondent from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;

(3) Prohibiting the respondent from stalking the petitioner, as defined in § 39-17-315;

(4) Granting to the petitioner possession of the residence or household to the exclusion of the respondent by evicting the respondent, by restoring possession to the petitioner, or by both;

(5) Directing the respondent to provide suitable alternate housing for the petitioner when the respondent is the sole owner or lessee of the residence or household;

(6) Awarding temporary custody of, or establishing temporary visitation rights with regard to, any minor children born to or adopted by the parties;

(7) Awarding financial support to the petitioner and such persons as the respondent has a duty to support. Except in cases of paternity, the court shall not have the authority to order financial support unless the petitioner and respondent are legally married. Such order may be enforced pursuant to chapter 5 of this title;

(8) Directing the respondent to attend available counseling programs that address violence and control issues or substance abuse problems. A violation of a protection order or part of such order that directs counseling pursuant to this subpart may be punished as criminal or civil contempt. The provisions of § 36-3-610(a) apply with respect to a non-lawyer general sessions judge who holds a person in criminal contempt for violating this subdivision (a)(8); or

(9) Directing the care, custody, or control of any animal owned, possessed, leased, kept, or held by either party or a minor residing in the household. In no instance shall the animal be placed in the care, custody, or control of the respondent, but shall instead be placed in the care, custody or control of the petitioner or in an appropriate animal foster situation.

(10) Directing the respondent to immediately and temporarily vacate a residence shared with the petitioner, pending a hearing on the matter, notwithstanding any provision of this part to the contrary;

(11) Directing the respondent to pay the petitioner all costs, expenses and fees pertaining to the petitioner's breach of a lease or rental agreement for residential property if the petitioner is a party to the lease or rental agreement and if the court finds that continuing to reside in the rented or leased premises may jeopardize the life, health and safety of the petitioner or the petitioner's children. Nothing in this subdivision shall be construed as altering the terms of, liability for, or parties to such lease or rental agreement.

(b) Relief granted pursuant to subdivisions (a)(4)-(8) shall be ordered only after the petitioner and respondent have been given an opportunity to be heard by the court.

(c) Any order of protection issued under this part shall include the statement of the maximum penalty that may be imposed pursuant to § 36-3-610 for violating such order.

(d) No order of protection made under this part shall in any manner affect title to any real property.

(e) If the petitioner is a victim as defined in Section 36-3-601(10) or (11), the provisions of subdivisions (a)(4) and (5) shall not apply to such petitioner.

(f) An order of protection issued pursuant to this part shall be valid and enforceable in any county of this state.

(g) An order of protection issued pursuant to this part shall contain a provision:

(1) Stating that it is a criminal offense and a violation of an order of protection to own, possess, transport, carry or receive a firearm during the time an order of protection granted under this part to protect the petitioner from domestic abuse, stalking or sexual assault is in effect; and

(2) Directing the respondent to surrender all firearms that the respondent owns, possesses, or has control over pursuant to the procedure set out in § 36-3-625 and stating that it is a criminal offense to fail to surrender all firearms after being ordered to do so.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

TENN. CODE ANN. §39-14-202 (2012). Cruelty to animals.

(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks an animal;

(2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;

(3) Abandons unreasonably an animal in the person's custody;

(4) Transports or confines an animal in a cruel manner; or

(5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f)

(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)

(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subdivision (e) is a Class A misdemeanor.

TENN. CODE ANN. § 39-14-207 (2012). Feeding of impounded animals—Care provided by humane society—Recovery of expenses.

(a) In case any impounded animal is without necessary food and water for more than twelve (12) successive hours, it is lawful for any person, as often as necessary, to enter any place in which any animal is so confined, and to supply it with necessary food and water so long as it remains so confined. Such person shall not be liable to any action for such entry, *and the reasonable cost of such food and water may be collected from the owner or keeper of the animal. The animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.*

(b) In case any animal is injured, diseased, suffering from the elements, or malnourished, and is found at large by any agent of any humane society chartered by the state, the agent may cause adequate veterinary treatment or shelter or nourishment to be furnished to the animal. *The society shall have a right of action against the owner of the animal for all necessary and reasonable expenses so incurred.* Within forty-eight (48) hours after taking custody of the animal, the society shall make reasonable efforts to notify the owner of the animal's whereabouts and condition. Nothing in this subsection shall affect the right of action of the veterinarian or furnisher of goods or services against the person or persons with whom such veterinarian or furnisher of goods or services contracted for payment of charges. *Any such right of action by a humane society may be voided by an owner who elects to forfeit the animal to the society rather than pay for the goods or services rendered.*

TENN. CODE ANN. §39-14-210 (2012). Societies for prevention of cruelty to animals— Power of governmental agencies working with victimized animals.

(a) The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any county, may, within such county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.

(b) Any officers, agents, or members of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in such person's presence. Any person who interferes with or obstructs any such officer, agent, or member in the discharge of this duty commits a Class C misdemeanor.

(c) Any agent or officer of such society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise:

(1) Which is not properly cared for, appearing, in the judgment of two (2) reputable citizens, who are experts, called to view the same in the agent's or officer's presence, to be glandered, injured or diseased past humane recovery; or

(2) After a holding period of not less than seventy-two (72) hours and after having made a reasonable effort to locate and notify the owners, for the purpose of animal population control.

(d) All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to such society in aid of the purpose for which it was incorporated, and no injunction shall be granted against such society or attorney or its officers or agents, except upon motion, after due notice and hearing.

(e) Any humane society chartered by the state, into whose custody shall lawfully come any animal, shall have a lien on that animal for the reasonable value of the goods and services necessarily rendered by, or at the instance of, the society to that animal.

(f) Custody of any animal victimized under this part shall be placed with any humane society chartered by the state immediately upon arrest of the person alleged to have violated this part. The humane society shall assist the animal and preserve evidence for prosecution.

(g) Any governmental animal control agency or any humane society, chartered by this state, into whose custody any animal victimized under this part shall be placed, may petition the court requesting that the person from whom the animal is seized, or the owner of the seized animal, be ordered to post security. However, if the court determines that a person from whom the posting of security has been requested is indigent pursuant to title 40, chapter 14, part 2, the court may suspend the posting of any security pending the disposition of the criminal charges. Any such security shall be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the governmental animal control agency or the humane society in

caring and providing for the animal pending disposition of the criminal charges. Such reasonable expenses shall include, but are not necessarily limited to, the estimated costs of veterinary care and treatment for the animal as well as the estimated costs of boarding and otherwise caring for the animal. The amount of security shall be determined by the court after taking into consideration all of the facts and circumstances of the case. If the posting of security is ordered pursuant to this subsection (g), then the governmental animal control agency or the humane society may draw from the security the actual costs incurred in caring and providing for the seized animal pending disposition of criminal charges. If the person from whom the animal is seized is the owner of the animal and such person has not posted the security ordered pursuant to this subsection within fifteen (15) business days following the issuance of a security order, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. However, if the person from whom the animal was seized is not the owner of the animal and such person has not posted the court-ordered security within fifteen (15) days, the court shall order the governmental animal control agency or the humane society to make all reasonable efforts to determine who the owner of the animal is and to notify such owner of the pending proceeding. No animal shall be deemed to have been abandoned and forfeited to the governmental animal control agency or humane society until reasonable attempts to determine and notify the owner have been made. If the owner of the animal cannot be located after reasonable efforts or the owner is located and notified but does not post, within ten (10) business days, the court-ordered security plus the costs reasonably incurred by the governmental animal control agency or humane society for housing and caring for the animal since its seizure, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. Nothing in this subsection (g) shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a governmental animal control agency or to a humane society, chartered by the state, in lieu of posting security. Any such voluntary relinquishment shall have no effect on the outcome of the criminal charges.

TENN. CODE ANN. § 39-14-212 (2012). Aggravated cruelty to animals; definitions; penalties.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) “Aggravated cruelty” means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) “Companion animal” means any non-livestock animal as defined in § 39-14-201(3);

(3) “Elderly” means any person sixty-five (65) years of age or older; and

(4) “Minor” means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

(1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;

(2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;

(3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;

(4) Dispatching an animal in any manner absent of aggravated cruelty;

(5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);

(6) Dispatching rabid or diseased animals;

(7) Dispatching animals posing a clear and immediate threat to human safety;

(8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(9) Performing accepted veterinary medical practices or treatments;

(10) Dispatching animals in accordance with § 44-17-403(e);

(11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;

(12) Dispatching wild or abandoned animals on a farm or residential real property; or

(13) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)

(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

7. SEIZURE / ON-SITE SUPERVISION

TENN. CODE ANN. §39-14-202 (2012). Cruelty to animals.

(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks an animal;

(2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;

(3) Abandons unreasonably an animal in the person's custody;

(4) Transports or confines an animal in a cruel manner; or

(5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f)

(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)

(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subdivision (e) is a Class A misdemeanor.

TENN. CODE ANN. §39-14-210 (2012). Societies for prevention of cruelty to animals— Power of governmental agencies working with victimized animals.

(a) The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any county, may, within such county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.

(b) Any officers, agents, or members of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in such person's presence. Any person who interferes with or obstructs any such officer, agent, or member in the discharge of this duty commits a Class C misdemeanor.

(c) Any agent or officer of such society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise:

(1) Which is not properly cared for, appearing, in the judgment of two (2) reputable citizens, who are experts, called to view the same in the agent's or officer's presence, to be glandered, injured or diseased past humane recovery; or

(2) After a holding period of not less than seventy-two (72) hours and after having made a reasonable effort to locate and notify the owners, for the purpose of animal population control.

(d) All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to such society in aid of the purpose for which it was incorporated, and no injunction shall be granted against such society or attorney or its officers or agents, except upon motion, after due notice and hearing.

(e) Any humane society chartered by the state, into whose custody shall lawfully come any animal, shall have a lien on that animal for the reasonable value of the goods and services necessarily rendered by, or at the instance of, the society to that animal.

(f) Custody of any animal victimized under this part shall be placed with any humane society chartered by the state immediately upon arrest of the person alleged to have violated this part. The humane society shall assist the animal and preserve evidence for prosecution.

(g) Any governmental animal control agency or any humane society, chartered by this state, into whose custody any animal victimized under this part shall be placed, may petition the court requesting that the person from whom the animal is seized, or the owner of the seized animal, be ordered to post security. However, if the court determines that a person from whom the posting of security has been requested is indigent pursuant to title 40, chapter 14, part 2, the court may suspend the posting of any security pending the disposition of the criminal charges. Any such security shall be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the governmental animal control agency or the humane society in caring and providing for the animal pending disposition of the criminal charges. Such reasonable expenses shall include, but are not necessarily limited to, the estimated costs of veterinary care and treatment for the animal as well as the estimated costs of boarding and otherwise caring for the animal. The amount of security shall be determined by the court after taking into consideration all of the facts and circumstances of the case. If the posting of security is ordered pursuant to this subsection (g), then the governmental animal control agency or the humane society may draw from the security the actual costs incurred in caring and providing for the seized animal pending disposition of criminal charges. If the person from whom the animal is seized is the owner of the animal and such person has not posted the security ordered pursuant to this subsection within fifteen (15) business days following the issuance of a security order, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. However, if the person from whom the animal was seized is not the owner of the animal and such person has not posted the court-ordered security within fifteen (15) days, the court shall order the governmental animal control agency or the humane society to make all reasonable efforts to determine who the owner of the animal is and to notify such owner of the pending proceeding. No animal shall be deemed to have been abandoned and forfeited to the governmental animal control agency or humane society until reasonable attempts to determine and notify the owner have been made. If the owner of the animal cannot be located after reasonable efforts or the owner is located and notified but does not post, within ten (10) business days, the court-ordered security plus the costs reasonably incurred by the governmental animal control agency or humane society for housing and caring for the animal since its seizure, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices

for the humane treatment of animals. Nothing in this subsection (g) shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a governmental animal control agency or to a humane society, chartered by the state, in lieu of posting security. Any such voluntary relinquishment shall have no effect on the outcome of the criminal charges.

8. FORFEITURE / POSSESSION

TENN. CODE ANN. §39-14-202 (2012). Cruelty to animals.

(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks an animal;

(2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;

(3) Abandons unreasonably an animal in the person's custody;

(4) Transports or confines an animal in a cruel manner; or

(5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f)

(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)

(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subdivision (e) is a Class A misdemeanor.

TENN. CODE ANN. §39-14-210 (2012). Societies for prevention of cruelty to animals—Power of governmental agencies working with victimized animals.

(a) The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any county, may, within such county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.

(b) Any officers, agents, or members of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in such person's presence. Any person who interferes with or obstructs any such officer, agent, or member in the discharge of this duty commits a Class C misdemeanor.

(c) *Any agent or officer of such society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise:*

(1) Which is not properly cared for, appearing, in the judgment of two (2) reputable citizens, who are experts, called to view the same in the agent's or officer's presence, to be glandered, injured or diseased past humane recovery; or

(2) After a holding period of not less than seventy-two (72) hours and after having made a reasonable effort to locate and notify the owners, for the purpose of animal population control.

(d) All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to such society in aid of the purpose for which it was incorporated, and no injunction shall be granted against such society or attorney or its officers or agents, except upon motion, after due notice and hearing.

(e) Any humane society chartered by the state, into whose custody shall lawfully come any animal, shall have a lien on that animal for the reasonable value of the goods and services necessarily rendered by, or at the instance of, the society to that animal.

(f) Custody of any animal victimized under this part shall be placed with any humane society chartered by the state immediately upon arrest of the person alleged to have violated this part. The humane society shall assist the animal and preserve evidence for prosecution.

(g) Any governmental animal control agency or any humane society, chartered by this state, into whose custody any animal victimized under this part shall be placed, may petition the court requesting that the person from whom the animal is seized, or the owner of the seized animal, be ordered to post security. *However, if the court determines that a person from whom the posting of security has been requested is indigent pursuant to title 40, chapter 14, part 2, the court may suspend the posting of any security pending the disposition of the criminal charges.* Any such security shall be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the governmental animal control agency or the humane society in caring and providing for the animal pending disposition of the criminal charges. Such reasonable expenses shall include, but are not necessarily limited to, the estimated costs of veterinary care and treatment for the animal as well as the estimated costs of boarding and otherwise caring for the animal. The amount of security shall be determined by the court after taking into consideration all of the facts and circumstances of the case. If the posting of security is ordered pursuant to this subsection (g), then the governmental animal control agency or the humane society may draw from the security the actual costs incurred in caring and providing for the seized animal pending disposition of criminal charges. *If the person from whom the animal is seized is the owner of the animal and such person has not posted the security ordered pursuant to this subsection within fifteen (15) business days following the issuance of a security order, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. However, if the person from whom the animal was seized is not the owner of the animal and such person has not posted the court-ordered security within fifteen (15) days, the court shall order the governmental animal control agency or the humane society to make all reasonable efforts to determine who the owner of the animal is and to notify such owner of the pending proceeding. No animal shall be deemed to have been abandoned and forfeited to the governmental animal control agency or humane society until reasonable attempts to determine and notify the owner have been made. If the owner of the animal cannot be located after reasonable efforts or the owner is located and notified but does not post, within ten (10) business days, the court-ordered security plus the costs reasonably incurred by the governmental animal control agency or humane society for housing and caring for the animal since its seizure, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable*

practices for the humane treatment of animals. Nothing in this subsection (g) shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a governmental animal control agency or to a humane society, chartered by the state, in lieu of posting security. Any such voluntary relinquishment shall have no effect on the outcome of the criminal charges.

TENN. CODE ANN. § 39-14-212 (2012). Aggravated cruelty to animals; definitions; penalties.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) “Aggravated cruelty” means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) “Companion animal” means any non-livestock animal as defined in § 39-14-201(3);

(3) “Elderly” means any person sixty-five (65) years of age or older; and

(4) “Minor” means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

(1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;

(2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;

(3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;

(4) Dispatching an animal in any manner absent of aggravated cruelty;

(5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);

(6) Dispatching rabid or diseased animals;

(7) Dispatching animals posing a clear and immediate threat to human safety;

(8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(9) Performing accepted veterinary medical practices or treatments;

(10) Dispatching animals in accordance with § 44-17-403(e);

(11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;

(12) Dispatching wild or abandoned animals on a farm or residential real property; or

(13) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)

(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

9. CROSS ENFORCEMENT / REPORTING

TENN. CODE ANN. § 38-1-401 (2012). Definitions.

As used in this part, unless the context otherwise requires:

- (1) “Animal” means a domesticated living creature or a wild creature previously captured;*
- (2) “Cruelty”, “abuse”, and “neglect” mean every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted;*
- (3) “Reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts, that could cause a reasonable person in a like position, drawing, when appropriate, on the person’s training and experience, to suspect animal cruelty, abuse, or neglect; and*
- (4) “Owner” means any person who is the legal owner, keeper, harborer, possessor, or the actual custodian of an animal. “Owner” includes corporations as well as individuals.*

TENN. CODE ANN. § 38-1-402 (2012). Reports by protective services agency employees; confidentiality.

(a) Any state, county or municipal employee of a child or adult protective services agency, while acting in a professional capacity or within the scope of employment, who has knowledge of or observes an animal that the person knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, shall report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.

(b) The report required under subsection (a) may be made within two (2) working days of receiving the information concerning the animal, by facsimile transmission of a written report presented in the form described in § 38-1-403, or by telephone, if all of the information that is required to be provided pursuant to § 38-1-403 is furnished. In cases where an immediate response may be necessary in order to protect the health and safety of the animal or others, the report may be made by telephone as soon as possible.

(c) Unless a duty exists under current law, nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.

(d) Nothing in this part shall expand or limit confidentiality requirements under existing law relative to child or adult protective services. The name of any employee of a child or adult protective services agency who reports known or reasonably suspected animal cruelty, abuse or neglect shall remain confidential.

TENN. CODE ANN. § 38-1-403 (2012). Report forms; telephone reports; reporting exceptions.

(a) If not made by telephone, reports made pursuant to § 38-1-402(a) may be made on a preprinted form prepared by the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county, that includes the definitions contained in § 38-1-401 and a space for the reporter to include each of the following:

- (1) The reporter's name and title;*
- (2) The reporter's business address and telephone number;*
- (3) The name, if known, of the animal's owner or custodian;*
- (4) The location of the animal and the premises on which the known or reasonably suspected animal cruelty, abuse, or neglect took place;*
- (5) A description of the location of the animal and the premises;*
- (6) The type and numbers of animals involved;*
- (7) A description of the animal and its condition; and*
- (8) The date, time, and a description of the observation or incident that led the reporter to suspect animal cruelty, abuse, or neglect and any other information the reporter believes may be relevant.*

(b) Any employee making a report or telephone call pursuant to this part shall make all reasonable efforts to include the information delineated in subsection (a). Nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.

(c) When two (2) or more employees of a state, county or municipal child or adult protective services agency are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse, or neglect, and where there is agreement among them, by mutual agreement, a report may be made by one (1) person. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d)

(1) Nothing in this part shall be construed as prohibiting legal hunting and fishing activities.

(2) Nothing in this part shall be construed as prohibiting the owner of livestock as defined in § 39-14-201, or someone acting with the consent of the owner of livestock, from engaging in usual and customary practices that are accepted by colleges of agriculture or veterinary medicine with respect to livestock, nor shall any provision of this part be construed as requiring the reporting of those practices.

(3) Nothing in this part shall be construed to apply to a veterinarian or veterinary technician engaged in accepted veterinary practices.

TENN. CODE ANN. § 39-14-212 (2012). Aggravated cruelty to animals; definitions; penalties.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) “Aggravated cruelty” means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;

(2) “Companion animal” means any non-livestock animal as defined in § 39-14-201(3);

(3) “Elderly” means any person sixty-five (65) years of age or older; and

(4) “Minor” means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

(1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;

(2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;

(3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;

(4) Dispatching an animal in any manner absent of aggravated cruelty;

(5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);

(6) Dispatching rabid or diseased animals;

(7) Dispatching animals posing a clear and immediate threat to human safety;

(8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(9) Performing accepted veterinary medical practices or treatments;

(10) Dispatching animals in accordance with § 44-17-403(e);

(11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;

(12) Dispatching wild or abandoned animals on a farm or residential real property; or

(13) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)

(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

TENN. CODE ANN. §39-14-210 (2012). Societies for prevention of cruelty to animals— Power of governmental agencies working with victimized animals.

(a) The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any county, may, within such county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.

(b) Any officers, agents, or members of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in such person's presence. Any person who interferes with or obstructs any such officer, agent, or member in the discharge of this duty commits a Class C misdemeanor.

(c) Any agent or officer of such society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise:

(1) Which is not properly cared for, appearing, in the judgment of two (2) reputable citizens, who are experts, called to view the same in the agent's or officer's presence, to be glandered, injured or diseased past humane recovery; or

(2) After a holding period of not less than seventy-two (72) hours and after having made a reasonable effort to locate and notify the owners, for the purpose of animal population control.

(d) All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to such society in aid of the purpose for which it was incorporated, and no injunction shall be granted against such society or attorney or its officers or agents, except upon motion, after due notice and hearing.

(e) Any humane society chartered by the state, into whose custody shall lawfully come any animal, shall have a lien on that animal for the reasonable value of the goods and services necessarily rendered by, or at the instance of, the society to that animal.

(f) Custody of any animal victimized under this part shall be placed with any humane society chartered by the state immediately upon arrest of the person alleged to have violated this part. The humane society shall assist the animal and preserve evidence for prosecution.

(g) Any governmental animal control agency or any humane society, chartered by this state, into whose custody any animal victimized under this part shall be placed, may petition the court requesting that the person from whom the animal is seized, or the owner of the seized animal, be ordered to post security. However, if the court determines that a person from whom the posting of security has been requested is indigent pursuant to title 40, chapter 14, part 2, the court may suspend the posting of any security pending the disposition of the criminal charges. Any such security shall be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the governmental animal control agency or the humane society in caring and providing for the animal pending disposition of the criminal charges. Such reasonable expenses shall include, but are not necessarily limited to, the estimated costs of veterinary care and treatment for the animal as well as the estimated costs of boarding and otherwise caring for the animal. The amount of security shall be determined by the court after taking into consideration all of the facts and circumstances of the case. If the posting of security is ordered pursuant to this subsection (g), then the governmental animal control agency or the humane society may draw from the security the actual costs incurred in caring and providing for the seized animal pending disposition of criminal charges. If the person from whom the animal is seized is the owner of the animal and such person has not posted the security ordered pursuant to this subsection within fifteen (15) business days following the issuance of a security order, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. However, if the person from whom the animal was seized is not the owner of the animal and such person has not posted the court-ordered security within fifteen (15) days, the court shall order the governmental animal control agency or the humane society to make all reasonable efforts to determine who the owner of the animal is and to notify such owner of the pending proceeding. No animal shall be deemed to have been abandoned and forfeited to the governmental animal control agency or humane society until reasonable attempts to determine and notify the owner have been made. If the owner of the animal cannot be located after reasonable efforts or the owner is located and notified but does not post, within ten (10) business days, the court-ordered security plus the costs reasonably incurred by the governmental animal control agency or humane society for housing and caring for the animal since its seizure, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. Nothing in this subsection (g) shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a governmental animal control agency or to a humane society, chartered by the state, in lieu of posting security. Any such voluntary relinquishment shall have no effect on the outcome of the criminal charges.

12. SEXUAL ASSAULT

TENN. CODE ANN. § 39-14-214 (2012). Criminal offenses against animals.

(a) *A person commits an offense who knowingly:*

(1) *Engages in any sexual activity with an animal;*

(2) *Causes, aids, or abets another person to engage in any sexual activity with an animal;*

(3) *Permits any sexual activity with an animal to be conducted on any premises under the person's charge or control;*

(4) *Engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual activity with an animal for a commercial or recreational purpose; or*

(5) *Photographs or films, for purposes of sexual gratification, a person engaged in a sexual activity with an animal.*

(b) *A violation of this section is a Class E felony.*

(c) *In addition to the penalty imposed in subsection (b), the court may order that the convicted person do any of the following:*

(1) *Not harbor or own animals or reside in any household where animals are present;*

(2) *Participate in appropriate counseling at the defendant's expense; or*

(3) *Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (a).*

(d) *Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices.*

(e) *If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.*

(f) *For purposes of this section:*

(1) *"Animal" has the same meaning as the term is defined in § 63-12-103;*

(2) *“Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image; and*

(3) *“Sexual activity” means physical sexual contact between the person and the animal.*

13. FIGHTING

TENN. CODE ANN. §39-14-203(2012). Cock and animal fighting.

(a) It is unlawful for any person to:

(1) Own, possess, keep, use or train any bull, bear, dog, cock, swine or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;

(2) Cause, for amusement, sport or gain, any animal referenced in subdivision (a)(1) to fight, bait or injure another animal, or each other;

(3) Permit any acts stated in subdivisions (a)(1) and (2) to be done on any premises under the person's charge or control, or aid or abet those acts; or

(4) Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for the fighting, baiting or injuring of any animal, with the intent to be present at the exhibition, fighting, baiting or injuring.

(b) It is the legislative intent that the provisions of this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.

(c)

(1) Except for any offense involving a cock, an offense under subdivisions (a)(1)-(3) is a Class E felony.

(2) An offense involving a cock under subdivisions (a)(1)-(3) is a Class A misdemeanor.

(d)

(1) An offense under subdivision (a)(4) is a Class B misdemeanor if the person is a spectator at a dog fight.

(2) Any other violation of subdivision (a)(4) is a Class C misdemeanor.

(e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal.

14. REFERENCED STATUTES

TENN. CODE ANN. § 36-3-601(2012). Definitions.

As used in this part, unless the context otherwise requires:

(1) “Abuse” means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor;

(2) “Adult” means any person eighteen (18) years of age or older, or who is otherwise emancipated;

(3)

(A) “Court,” in counties having a population of not less than two hundred thousand (200,000) nor more than eight hundred thousand (800,000), according to the 1980 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters;

(B) Notwithstanding the provisions of subdivision (3)(A), “court,” in counties with a metropolitan form of government with a population of more than one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters and the general sessions court. In such county having a metropolitan form of government, a judicial commissioner may issue an ex parte order of protection. Nothing in this definition may be construed to grant jurisdiction to the general sessions court for matters relating to child custody, visitation, or support;

(C) “Court,” in all other counties, means any court of record with jurisdiction over domestic relation matters or the general sessions court;

(D) “Court” also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing ex parte orders of protection when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available;

(E) In counties having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, “court” means any court of record with jurisdiction over domestic relations matters or the general sessions criminal court. In such counties, “court” also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing any order of protection pursuant to this part when a judge of one (1) of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available. Nothing in this definition may be construed to grant jurisdiction to the general sessions court, both criminal and civil, for matters relating to child custody, visitation, or support;

(F) Any appeal from a final ruling on an order of protection by a general sessions court or by any official authorized to issue an order of protection under this subdivision (3) shall be to the circuit or chancery court of the county. Such appeal shall be filed within ten (10) days and shall be heard de novo;

(4) “Domestic abuse” means committing abuse against a victim, as defined in subdivision (5);

(5) “Domestic abuse victim” means any person who falls within the following categories:

(A) Adults or minors who are current or former spouses;

(B) Adults or minors who live together or who have lived together;

(C) Adults or minors who are dating or who have dated or who have or had a sexual relationship, as used herein “dating” and “dated” do not include fraternization between two (2) individuals in a business or social context;

(D) Adults or minors related by blood or adoption;

(E) Adults or minors who are related or were formerly related by marriage; or

(F) Adult or minor children of a person in a relationship that is described in subdivisions (5)(A)-(E);

(6) “Firearm” means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;

(7) “Petitioner” means the person alleging domestic abuse, sexual assault or stalking in a petition for an order for protection;

(8) “Preferred response” means law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest;

(9) “Respondent” means the person alleged to have abused, stalked or sexually assaulted another in a petition for an order for protection;

(10) “Sexual assault victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of any form of rape, as defined in §§ 39-13-502, 39-13-503, 39-13-506 or 39-13-522, or sexual battery, as defined in §§ 39-13-504, 39-13-505, or 39-13-527;

(11) “Stalking victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of the offense of stalking, as defined in § 39-17-315; and

(12) “Weapon” means a firearm or a device listed in § 39-17-1302(a)(1)-(7).

TENN. CODE ANN. § 36-3-606(2012). Protection orders; contents.

(a) A protection order granted under this part to protect the petitioner from domestic abuse, stalking or sexual assault may include, but is not limited to:

(1) Directing the respondent to refrain from committing domestic abuse, stalking or sexual assault or threatening to commit domestic abuse, stalking or sexual assault against the petitioner or the petitioner’s minor children;

(2) Prohibiting the respondent from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;

(3) Prohibiting the respondent from stalking the petitioner, as defined in § 39-17-315;

(4) Granting to the petitioner possession of the residence or household to the exclusion of the respondent by evicting the respondent, by restoring possession to the petitioner, or by both;

(5) Directing the respondent to provide suitable alternate housing for the petitioner when the respondent is the sole owner or lessee of the residence or household;

(6) Awarding temporary custody of, or establishing temporary visitation rights with regard to, any minor children born to or adopted by the parties;

(7) Awarding financial support to the petitioner and such persons as the respondent has a duty to support. Except in cases of paternity, the court shall not have the authority to order financial support unless the petitioner and respondent are legally married. Such order may be enforced pursuant to chapter 5 of this title;

(8) Directing the respondent to attend available counseling programs that address violence and control issues or substance abuse problems. A violation of a protection order or part of such order that directs counseling pursuant to this subpart may be punished as criminal or civil contempt. The provisions of § 36-3-610(a) apply with respect to a non-lawyer general sessions judge who holds a person in criminal contempt for violating this subdivision (a)(8); or

(9) Directing the care, custody, or control of any animal owned, possessed, leased, kept, or held by either party or a minor residing in the household. In no instance shall the animal be placed in the care, custody, or control of the respondent, but shall instead be placed in the care, custody or control of the petitioner or in an appropriate animal foster situation.

(10) Directing the respondent to immediately and temporarily vacate a residence shared with the petitioner, pending a hearing on the matter, notwithstanding any provision of this part to the contrary;

(11) Directing the respondent to pay the petitioner all costs, expenses and fees pertaining to the petitioner's breach of a lease or rental agreement for residential property if the petitioner is a party to the lease or rental agreement and if the court finds that continuing to reside in the rented or leased premises may jeopardize the life, health and safety of the petitioner or the petitioner's children. Nothing in this subdivision shall be construed as altering the terms of, liability for, or parties to such lease or rental agreement.

(b) Relief granted pursuant to subdivisions (a)(4)-(8) shall be ordered only after the petitioner and respondent have been given an opportunity to be heard by the court.

(c) Any order of protection issued under this part shall include the statement of the maximum penalty that may be imposed pursuant to § 36-3-610 for violating such order.

(d) No order of protection made under this part shall in any manner affect title to any real property.

(e) If the petitioner is a victim as defined in Section 36-3-601(10) or (11), the provisions of subdivisions (a)(4) and (5) shall not apply to such petitioner.

(f) An order of protection issued pursuant to this part shall be valid and enforceable in any county of this state.

(g) An order of protection issued pursuant to this part shall contain a provision:

(1) Stating that it is a criminal offense and a violation of an order of protection to own, possess, transport, carry or receive a firearm during the time an order of protection granted under this part to protect the petitioner from domestic abuse, stalking or sexual assault is in effect; and

(2) Directing the respondent to surrender all firearms that the respondent owns, possesses, or has control over pursuant to the procedure set out in § 36-3-625 and stating that it is a criminal offense to fail to surrender all firearms after being ordered to do so.

TENN. CODE ANN. § 38-1-401 (2012). Definitions.

As used in this part, unless the context otherwise requires:

- (1) “Animal” means a domesticated living creature or a wild creature previously captured;
- (2) “Cruelty”, “abuse”, and “neglect” mean every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted;
- (3) “Reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts, that could cause a reasonable person in a like position, drawing, when appropriate, on the person’s training and experience, to suspect animal cruelty, abuse, or neglect; and
- (4) “Owner” means any person who is the legal owner, keeper, harbinger, possessor, or the actual custodian of an animal. “Owner” includes corporations as well as individuals.

TENN. CODE ANN. § 38-1-402 (2012). Reports by protective services agency employees; confidentiality.

- (a) Any state, county or municipal employee of a child or adult protective services agency, while acting in a professional capacity or within the scope of employment, who has knowledge of or observes an animal that the person knows or reasonably suspects has been the victim of cruelty, abuse, or neglect, shall report the known or reasonably suspected animal cruelty, abuse, or neglect to the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county.
- (b) The report required under subsection (a) may be made within two (2) working days of receiving the information concerning the animal, by facsimile transmission of a written report presented in the form described in § 38-1-403, or by telephone, if all of the information that is required to be provided pursuant to § 38-1-403 is furnished. In cases where an immediate response may be necessary in order to protect the health and safety of the animal or others, the report may be made by telephone as soon as possible.
- (c) Unless a duty exists under current law, nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.

(d) Nothing in this part shall expand or limit confidentiality requirements under existing law relative to child or adult protective services. The name of any employee of a child or adult protective services agency who reports known or reasonably suspected animal cruelty, abuse or neglect shall remain confidential.

TENN. CODE ANN. § 38-1-403 (2012). Report forms; telephone reports; reporting exceptions.

(a) If not made by telephone, reports made pursuant to § 38-1-402(a) may be made on a preprinted form prepared by the entity or entities that investigate reports of animal cruelty, abuse, and neglect in that county, that includes the definitions contained in § 38-1-401 and a space for the reporter to include each of the following:

- (1) The reporter's name and title;
- (2) The reporter's business address and telephone number;
- (3) The name, if known, of the animal's owner or custodian;
- (4) The location of the animal and the premises on which the known or reasonably suspected animal cruelty, abuse, or neglect took place;
- (5) A description of the location of the animal and the premises;
- (6) The type and numbers of animals involved;
- (7) A description of the animal and its condition; and
- (8) The date, time, and a description of the observation or incident that led the reporter to suspect animal cruelty, abuse, or neglect and any other information the reporter believes may be relevant.

(b) Any employee making a report or telephone call pursuant to this part shall make all reasonable efforts to include the information delineated in subsection (a). Nothing in this section shall be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse, or neglect.

(c) When two (2) or more employees of a state, county or municipal child or adult protective services agency are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse, or neglect, and where there is agreement among them, by mutual agreement, a report may be made by one (1) person. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d)

(1) Nothing in this part shall be construed as prohibiting legal hunting and fishing activities.

(2) Nothing in this part shall be construed as prohibiting the owner of livestock as defined in § 39-14-201, or someone acting with the consent of the owner of livestock, from engaging in usual and customary practices that are accepted by colleges of agriculture or veterinary medicine with respect to livestock, nor shall any provision of this part be construed as requiring the reporting of those practices.

(3) Nothing in this part shall be construed to apply to a veterinarian or veterinary technician engaged in accepted veterinary practices.

TENN. CODE ANN. § 39-14-105 (2012). Grading of theft.

Theft of property or services is:

(1) A Class A misdemeanor if the value of the property or services obtained is five hundred dollars (\$500) or less;

(2) A Class E felony if the value of the property or services obtained is more than five hundred dollars (\$500) but less than one thousand dollars (\$1,000);

(3) A Class D felony if the value of the property or services obtained is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000);

(4) A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000); and

(5) A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more.

TENN. CODE ANN. § 39-14-201 (2012). Definitions for animal offenses.

As used in this part, unless the context otherwise requires:

(1) “Animal” means a domesticated living creature or a wild creature previously captured;

(2) “Livestock” means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry;

(3) “Non-livestock animal” means a pet normally maintained in or near the household(s) of its owner(s), other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as “livestock” pursuant to this part; and

(4) “Torture” means every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted, but nothing herein shall be construed as prohibiting the shooting of birds or game for the purpose of human food or the use of animate targets by incorporated gun clubs.

TENN. CODE ANN. §39-14-202 (2012). Cruelty to animals.

(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks an animal;

(2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person’s custody;

(3) Abandons unreasonably an animal in the person’s custody;

(4) Transports or confines an animal in a cruel manner; or

(5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury as defined in § 39-11-106.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner’s consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)(4), the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f)

(1) Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

(2) It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)(1).

(3) An offense under subdivision (f)(2) is a Class B misdemeanor.

(g)

(1) Cruelty to animals is a Class A misdemeanor.

(2) A second or subsequent conviction for cruelty to animals is a Class E felony.

(3) Violation of any prohibition or restriction imposed by the sentencing court pursuant to subdivision (e) is a Class A misdemeanor.

TENN. CODE ANN. §39-14-203(2012). Cock and animal fighting.

(a) It is unlawful for any person to:

(1) Own, possess, keep, use or train any bull, bear, dog, cock, swine or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;

(2) Cause, for amusement, sport or gain, any animal referenced in subdivision (a)(1) to fight, bait or injure another animal, or each other;

(3) Permit any acts stated in subdivisions (a)(1) and (2) to be done on any premises under the person's charge or control, or aid or abet those acts; or

(4) Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for the fighting, baiting or injuring of any animal, with the intent to be present at the exhibition, fighting, baiting or injuring.

(b) It is the legislative intent that the provisions of this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.

(c)

(1) Except for any offense involving a cock, an offense under subdivisions (a)(1)-(3) is a Class E felony.

(2) An offense involving a cock under subdivisions (a)(1)-(3) is a Class A misdemeanor.

(d)

(1) An offense under subdivision (a)(4) is a Class B misdemeanor if the person is a spectator at a dog fight.

(2) Any other violation of subdivision (a)(4) is a Class C misdemeanor.

(e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal.

TENN. CODE ANN. §39-14-205 (2012). Intentional killing of animal.

(a)

(1)

(A) It is an offense to knowingly and unlawfully kill the animal of another without the owner's effective consent.

(B) A violation of subdivision (a)(1)(A) is theft of property, graded according to the value of the animal, and punished in accordance with § 39-14-105.

(2) In determining the value of a police dog, fire dog, search and rescue dog, service animal or police horse under § 39-14-105, the court shall consider the value of the police dog, fire dog, search and rescue dog, service animal or police horse as both the cost of the animal and any specialized training the animal received.

(b) A person is justified in killing the animal of another if the person acted under a reasonable belief that the animal was creating an imminent danger of death or serious bodily injury to that person or another or an imminent danger of death to an animal owned by that person. A person is not justified in killing the animal of another if at the time of the killing the person is trespassing upon the property of the owner of the animal. The justification for killing the animal of another authorized by this subsection (b) shall not apply to a person who, while engaging in or attempting to escape from criminal conduct, kills a police dog that is acting in its official capacity. In that case the provisions of subsection (a) shall apply to the person.

TENN. CODE ANN. § 39-14-207 (2012). Feeding of impounded animals—Care provided by humane society—Recovery of expenses.

(a) In case any impounded animal is without necessary food and water for more than twelve (12) successive hours, it is lawful for any person, as often as necessary, to enter any place in which any animal is so confined, and to supply it with necessary food and water so long as it remains so confined. Such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected from the owner or keeper of the animal. The animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

(b) In case any animal is injured, diseased, suffering from the elements, or malnourished, and is found at large by any agent of any humane society chartered by the state, the agent may cause adequate veterinary treatment or shelter or nourishment to be furnished to the animal. The society shall have a right of action against the owner of the animal for all necessary and reasonable expenses so incurred. Within forty-eight (48) hours after taking custody of the animal, the society shall make reasonable efforts to notify the owner of the animal's whereabouts and condition. Nothing in this subsection shall affect the right of action of the veterinarian or furnisher of goods or services against the person or persons with whom such veterinarian or furnisher of goods or services contracted for payment of charges. Any such right of action by a humane society may be voided by an owner who elects to forfeit the animal to the society rather than pay for the goods or services rendered.

TENN. CODE ANN. § 39-14-210 (2012). Societies for prevention of cruelty to animals—Power of governmental agencies working with victimized animals.

(a) The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any county, may, within such county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.

(b) Any officers, agents, or members of such society may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in such person's presence. Any person who interferes with or obstructs any such officer, agent, or member in the discharge of this duty commits a Class C misdemeanor.

(c) Any agent or officer of such society may lawfully destroy, or cause to be destroyed, any animal found abandoned or otherwise:

(1) Which is not properly cared for, appearing, in the judgment of two (2) reputable citizens, who are experts, called to view the same in the agent's or officer's presence, to be glandered, injured or diseased past humane recovery; or

(2) After a holding period of not less than seventy-two (72) hours and after having made a reasonable effort to locate and notify the owners, for the purpose of animal population control.

(d) All fines, penalties and forfeitures imposed and collected in any county, under provisions relating to or in any way affecting animals, shall inure to such society in aid of the purpose for which it was incorporated, and no injunction shall be granted against such society or attorney or its officers or agents, except upon motion, after due notice and hearing.

(e) Any humane society chartered by the state, into whose custody shall lawfully come any animal, shall have a lien on that animal for the reasonable value of the goods and services necessarily rendered by, or at the instance of, the society to that animal.

(f) Custody of any animal victimized under this part shall be placed with any humane society chartered by the state immediately upon arrest of the person alleged to have violated this part. The humane society shall assist the animal and preserve evidence for prosecution.

(g) Any governmental animal control agency or any humane society, chartered by this state, into whose custody any animal victimized under this part shall be placed, may petition the court requesting that the person from whom the animal is seized, or the owner of the seized animal, be ordered to post security. However, if the court determines that a person from whom the posting of security has been requested is indigent pursuant to title 40, chapter 14, part 2, the court may suspend the posting of any security pending the disposition of the criminal charges. Any such security shall be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the governmental animal control agency or the humane society in caring and providing for the animal pending disposition of the criminal charges. Such reasonable expenses shall include, but are not necessarily limited to, the estimated costs of veterinary care and treatment for the animal as well as the estimated costs of boarding and otherwise caring for the animal. The amount of security shall be determined by the court after taking into consideration all of the facts and circumstances of the case. If the posting of security is ordered pursuant to this subsection (g), then the governmental animal control agency or the humane society may draw from the security the actual costs incurred in caring and providing for the seized animal pending disposition of criminal charges. If the person from whom the animal is seized is the owner of the animal and such person has not posted the security ordered pursuant to this subsection within fifteen (15) business days following the issuance of a security order, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. However, if the person from whom the animal was seized is not the owner of the animal and such person has not posted the court-ordered security within fifteen (15) days, the court shall order the governmental animal control agency or the humane society to make all reasonable efforts to determine who the owner of the animal is and to notify such owner of the pending proceeding. No animal shall be deemed to have been abandoned and forfeited to the governmental animal control agency or humane society until reasonable attempts to determine and notify the owner have been made. If the owner of the animal cannot be located after reasonable efforts or the owner is located and notified but does not post, within ten (10) business days, the court-ordered security plus the costs reasonably incurred by the governmental animal control agency or humane society for housing and caring for the animal since its seizure, the animal shall be deemed to have been abandoned and shall be forfeited to the governmental animal control agency or humane society for disposition in accordance with reasonable practices for the humane treatment of animals. Nothing in this subsection (g) shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a governmental animal control agency or to a humane society, chartered by the state, in lieu of posting security. Any such voluntary relinquishment shall have no effect on the outcome of the criminal charges.

TENN. CODE ANN. § 39-14-212 (2012). Aggravated cruelty to animals; definitions; penalties.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

- (1) “Aggravated cruelty” means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death;
- (2) “Companion animal” means any non-livestock animal as defined in § 39-14-201(3);
- (3) “Elderly” means any person sixty-five (65) years of age or older; and
- (4) “Minor” means any person under eighteen (18) years of age.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

- (1) The provisions of this section shall not be construed to change, modify, or amend any provision of title 70, involving fish and wildlife;
- (2) The provisions of this section do not apply to activities or conduct that are prohibited by § 39-14-203;
- (3) The provisions of this section do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201;
- (4) Dispatching an animal in any manner absent of aggravated cruelty;
- (5) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);
- (6) Dispatching rabid or diseased animals;
- (7) Dispatching animals posing a clear and immediate threat to human safety;
- (8) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;
- (9) Performing accepted veterinary medical practices or treatments;
- (10) Dispatching animals in accordance with § 44-17-403(e);
- (11) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;
- (12) Dispatching wild or abandoned animals on a farm or residential real property; or

(13) Applying methods and equipment used to train animals.

(d) Aggravated cruelty to animals is a Class E felony.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in subdivision (b)(2), and may award custody of such animals to the agency presenting the case. The court may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i)

(1) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(2) If an unlawful act resulted in the death or permanent disability of a person's guide dog, then the value of the guide dog shall include, but shall not necessarily be limited to, both the cost of the guide dog as well as the cost of any specialized training the guide dog received.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

TENN. CODE ANN. § 39-14-214 (2012). Criminal offenses against animals.

(a) A person commits an offense who knowingly:

- (1) Engages in any sexual activity with an animal;
- (2) Causes, aids, or abets another person to engage in any sexual activity with an animal;
- (3) Permits any sexual activity with an animal to be conducted on any premises under the person's charge or control;
- (4) Engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual activity with an animal for a commercial or recreational purpose; or
- (5) Photographs or films, for purposes of sexual gratification, a person engaged in a sexual activity with an animal.

(b) A violation of this section is a Class E felony.

(c) In addition to the penalty imposed in subsection (b), the court may order that the convicted person do any of the following:

- (1) Not harbor or own animals or reside in any household where animals are present;
- (2) Participate in appropriate counseling at the defendant's expense; or
- (3) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (a).

(d) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices.

(e) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(f) For purposes of this section:

- (1) "Animal" has the same meaning as the term is defined in § 63-12-103;
- (2) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image; and

(3) “Sexual activity” means physical sexual contact between the person and the animal.

TENN. CODE ANN. § 40-35-111 (2012). Authorized terms of imprisonment and fines for felonies and misdemeanors.

(a) A sentence for a felony is a determinate sentence.

(b) The authorized terms of imprisonment and fines for felonies are:

(1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;

(2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;

(3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;

(4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.

(c) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:

(1) Three hundred fifty thousand dollars (\$350,000) for a Class A felony;

(2) Three hundred thousand dollars (\$300,000) for a Class B felony;

(3) Two hundred fifty thousand dollars (\$250,000) for a Class C felony;

(4) One hundred twenty-five thousand dollars (\$125,000) for a Class D felony; and

(5) Fifty thousand dollars (\$50,000) for a Class E felony.

If a special fine for a corporation is expressly specified in the statute which defines an offense, the fine fixed shall be within the limits specified in the statute.

(d) A sentence for a misdemeanor is a determinate sentence.

(e) The authorized terms of imprisonment and fines for misdemeanors are:

(1) Class A misdemeanor, not greater than eleven (11) months twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;

(2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and

(3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.

(f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during such five-year period.

ANIMAL PROTECTION LAWS OF TEXAS

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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8. FORFEITURE / POSSESSION
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10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Texas's general animal protection and related statutes with an effective date of on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Texas may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

TEXAS

<p>1.GENERAL PROHIBITIONS*</p>	<p>(1), (2) Cruelty to livestock animals TEX. PENAL CODE ANN.§ 42.09(a)</p> <p>(3), (4) Cruelty to non-livestock animals: TEX. PENAL CODE ANN.§ 42.092(b)</p> <p>(5) Unlawful restraint of a dog TEX. HEALTH & SAFETY CODE ANN. §821.077</p>
<p><i>Animals Covered in Definition</i></p>	<p>“‘Animal’ means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured,” not including “an uncaptured wild living creature or a livestock animal.” TEX. PENAL CODE ANN.§ 42.092(a)(2)</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (3) [1st and 2nd offenses]: Class A misdemeanor</p> <p>[3rd and subsequent offenses (including both 42.09 & 42.092 offenses)]: State jail felony</p> <p>-----</p> <p>(2), (4) [1st and 2nd offenses]: State jail felony</p> <p>[3rd and subsequent offenses (including both 42.09 & 42.092 offenses)]: 3rd degree felony</p> <p>-----</p>

TEXAS*continued*

<p><i>Classification of Crimes</i><i>continued</i></p>	<p>(5) [1st offense]: Class C misdemeanor</p> <p>[Subsequent offenses]: Class B misdemeanor</p>
<p>2. MAXIMUM PENALTIES **</p>	<p>(1), (3) [1st and 2nd offenses]: 1 year jail <i>and/or</i> \$4,000 fine TEX. PENAL CODE ANN. § 12.21</p> <p>-----</p> <p>[3rd and subsequent offenses]: 2 years jail <i>and</i> \$10,000 fine TEX. PENAL CODE ANN. § 12.35</p> <p>-----</p> <p>(2), (4) [1st and 2nd offenses]: 2 years jail <i>and</i> \$10,000 fine (at court's discretion) TEX. PENAL CODE ANN. § 12.35</p> <p>-----</p> <p>[3rd and subsequent offenses]: 10 years imprisonment <i>and</i> \$10,000 fine TEX. PENAL CODE ANN. § 12.34</p> <p>-----</p>

TEXAS <i>continued</i>	
2. MAXIMUM PENALTIES ** <i>continued</i>	(5) [1 st offense]: \$500 fine TEX. PENAL CODE ANN. § 12.23 [Subsequent offenses]: 180 days jail <i>and</i> \$2,000 fine TEX. PENAL CODE ANN. § 12.22
3. EXEMPTIONS ***	2, 3, 4, 5, 9 TEX. PENAL CODE ANN. § 42.092 TEX. PENAL CODE ANN. § 42.09 9 TEX. HEALTH & SAFETY CODE ANN. §§821.078, 821.081 2, 4, 9 TEX. CODE OF CRIM. PROC. ANN. § 42.105
4. COUNSELING / EVALUATIONS ^H	If a judge grants community supervision to a person convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the person to attend a responsible pet owner course sponsored by a municipal animal shelter. TEX. CODE OF CRIM. PROC. ANN. § 42.12

	<p>Court shall order juvenile offenders to participate in psychological counseling. TEX. FAM. CODE ANN. § 54.0407</p>
5.PROTECTIVE ORDERS^H	<p>TEX. FAM. CODE ANN. §§ 85.021, 85.022</p>
<p>TEXAS<i>continued</i></p>	
6.RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>A court that finds an animal’s owner has cruelly treated an animal,during a hearing to determine the disposition or return of an impounded animal, shall order the owner to pay all court costs and costs of care during impoundment. TEX. HEALTH & SAFETY CODE ANN. § 821.023</p> <p>Proceeds from the sale of an impounded animal shall first be applied to paying the costs of its care. TEX. HEALTH & SAFETY CODE ANN. § 821.024</p> <p>As a condition of perfecting an appeal, the owner must file a bond to cover the estimated court costs and expenses incurred in housing and caring for the impounded animal during the appeal process. TEX. HEALTH & SAFETY CODE ANN. § 821.025</p>
7.SEIZURE / ON-SITE SUPERVISION	<p>Court may issue a warrant to seize cruelly treated animals for probable cause. TEX. HEALTH & SAFETY CODE ANN. § 821.022</p>

8.FORFEITURE / POSSESSION^H	<p>If a court finds that an animal's owner has cruelly treated the animal, the owner shall be divested of ownership.</p> <p>TEX. HEALTH & SAFETY CODE ANN. § 821.023(d)</p>
TEXAS <i>continued</i>	
8.FORFEITURE / POSSESSION^H<i>continued</i>	<p>If the officer conducting an auction of cruelly treated animals is unable to sell the animals, he may give them to a nonprofit animal shelter, pound, or society for the protection of animals.</p> <p>TEX. HEALTH & SAFETY CODE ANN. § 821.024</p> <p>During an appeal of an order allowing a public auction of cruelly treated animals, the animals may not be sold, destroyed or given away.</p> <p>TEX. HEALTH & SAFETY CODE ANN. § 821.025(h)</p>
9.CROSS ENFORCEMENT / REPORTING	-----
10.VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians are immune from civil or criminal liability for good faith reporting of suspected animal cruelty.</p> <p>TEX. OCC. CODE ANN. § 801.3585</p>
11.LAW ENFORCEMENT POLICIES	-----
12.SEXUAL ASSAULT	-----

<p>13.FIGHTING</p>	<p>Various cockfighting activities are Class A misdemeanors or state jail felonies; spectatorship is a Class C misdemeanor on 1st offense and Class A misdemeanor on subsequent offenses. TEX. PENAL CODE ANN. § 42.105</p> <p>Property used in the commission of dogfighting is contraband and may be seized and forfeited under contraband provisions. TEX. CODE OF CRIM. PROC. ANN. § 59.01(2)(B)(x)</p>
<p>TEXAS<i>continued</i></p>	
<p>13.FIGHTING <i>continued</i></p>	<p>Causing an animal fight is a state jail felony for the first two offenses, and a felony of the third degree for any subsequent convictions. TEX. PENAL CODE ANN. §§ 42.09(a)(6), 42.092(b)(7)</p> <p>Various dogfighting activities are Class A misdemeanors or state jail felonies; spectatorship is a Class A misdemeanor. TEX. PENAL CODE ANN. § 42.10</p> <p>Dogfighting qualifies as engaging in organized criminal activity. TEX. PENAL CODE ANN. § 71.02(a)(15)</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>Injuring or killing an assistance animal TEX. PENAL CODE ANN. § 42.091</p> <p>Note: Texas’s “puppy mill” law (HB 1451) takes effect September 1, 2012.</p>

*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

TEX. PENAL CODE ANN. § 42.09 (2012).Cruelty to Livestock Animals.

(a)A person commits an offense if the person intentionally or knowingly:

(1)tortures a livestock animal;

(2)fails unreasonably to provide necessary food, water, or care for a livestock animal in the person's custody;

(3)abandons unreasonably a livestock animal in the person's custody;

(4)transports or confines a livestock animal in a cruel and unusual manner;

(5)administers poison to a livestock animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;

(6)causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092;

(7)uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;

(8)trips a horse; or

(9)seriously overworks a livestock animal.

(b)In this section:

(1)"Abandon" includes abandoning a livestock animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2)"Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(3)"Custody" includes responsibility for the health, safety, and welfare of a livestock animal subject to the person's care and control, regardless of ownership of the livestock animal.

(4)"Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(5)“Livestock animal” means:

(A)cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption;

(B)a horse, pony, mule, donkey, or hinny;

(C)native or nonnative hoofstock raised under agriculture practices; or

(D)native or nonnative fowl commonly raised under agricultural practices.

(6)“Necessary food, water, or care” includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

(7)“Torture” includes any act that causes unjustifiable pain or suffering.

(8)“Trip” means to use an object to cause a horse to fall or lose its balance.

(c)An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092. An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1)form of conduct occurring solely for the purpose of or in support of:

(A)fishing, hunting, or trapping; or

(B)wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2)animal husbandry or agriculture practice involving livestock animals.

(g)This section does not create a civil cause of action for damages or enforcement of this section.

TEX. PENAL CODE ANN. § 42.092 (2012).Cruelty to Nonlivestock Animals.

(a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;

(4) abandons unreasonably an animal in the person's custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner's effective consent, causes bodily injury to an animal;

(7) causes one animal to fight with another animal, if either animal is not a dog;

(8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or

(9) seriously overworks an animal.

(c)An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d)It is a defense to prosecution under this section that:

- (1)the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or
- (2)the actor was engaged in bona fide experimentation for scientific research.

(e)It is a defense to prosecution under Subsection (b)(2) or (6) that:

- (1)the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or
- (2)the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f)It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

- (1)form of conduct occurring solely for the purpose of or in support of:
 - (A)fishing, hunting, or trapping; or
 - (B)wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or
- (2)animal husbandry or agriculture practice involving livestock animals.

(g)This section does not create a civil cause of action for damages or enforcement of the section.

TEX. HEALTH & SAFETY CODE ANN. §821.076 (2012). Definitions.

In this subchapter:

(1)“Collar” means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

(2)“Owner” means a person who owns or has custody or control of a dog.

(3)“Properly fitted” means, with respect to a collar, a collar that measures the circumference of a dog’s neck plus at least one inch.

(4)“Restraint” means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

TEX. HEALTH & SAFETY CODE ANN. §821.077 (2012). Unlawful Restraint of Dog.

(a)An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog’s movement:

(1)between the hours of 10 p.m. and 6 a.m.;

(2)within 500 feet of the premises of a school; or

(3)in the case of extreme weather conditions, including conditions in which:

(A)the actual or effective outdoor temperature is below 32 degrees Fahrenheit;

(B)a heat advisory has been issued by a local or state authority or jurisdiction; or

(C)a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

(b)In this section, a restraint unreasonably limits a dog’s movement if the restraint:

(1)uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;

(2)is a length shorter than the greater of:

(A)five times the length of the dog, as measured from the tip of the dog’s nose to the base of the dog’s tail; or

(B)10 feet;

(3)is in an unsafe condition; or

(4)causes injury to the dog.

TEX. HEALTH& SAFETY CODE ANN. §821.079 (2012). Penalty.

(a)A person commits an offense if the person knowingly violates this subchapter.

(b)A peace officer or animal control officer who has probable cause to believe that an owner is violating this subchapter shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.

(c)A person commits an offense if the person is provided a statement described by Subsection (b) and fails to comply with this subchapter within 24 hours of the time the owner is provided the statement.An offense under this subsection is a Class C misdemeanor.

(d)A person commits an offense if the person violates this subchapter and previously has been convicted of an offense under this subchapter.An offense under this subsection is a Class B misdemeanor.

(e)If a person fails to comply with this subchapter with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.

(f)If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

2. PENALTIES

TEX. HEALTH & SAFETY CODE ANN. §821.080 (2012). Disposition of Penalty.

Notwithstanding any other law, the clerk of a court that collects a penalty under this subchapter shall remit the penalty collected for deposit in the general fund of the county.

TEX. PENAL CODE ANN. § 12.21 (2012). Class A Misdemeanor.

An individual adjudged guilty of a Class A misdemeanor shall be punished by:

- (1) a fine not to exceed \$4,000;*
- (2) confinement in jail for a term not to exceed one year; or*
- (3) both such fine and confinement.*

TEX. PENAL CODE ANN. § 12.22 (2012). Class B Misdemeanor.

An individual adjudged guilty of a Class B misdemeanor shall be punished by:

- (1) a fine not to exceed \$2,000;*
- (2) confinement in jail for a term not to exceed 180 days; or*
- (3) both such fine and confinement.*

TEX. PENAL CODE ANN. § 12.23 (2012). Class C Misdemeanor.

An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed \$500.

TEX. PENAL CODE ANN. § 12.34 (2012). Third Degree Felony Punishment.

(a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed \$10,000.

TEX. PENAL CODE ANN. § 12.35 (2012).State Jail Felony Punishment.

(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed \$10,000.

(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that:

(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or

(2) the individual has previously been finally convicted of any felony:

(A) under Section 20A.03 or 21.02 or listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

(B) for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure.

3. EXEMPTIONS

TEX. PENAL CODE ANN. § 42.105 (2012). Cockfighting.

(a) In this section:

- (1) “Bridle” means a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.
- (2) “Cock” means the male of any type of domestic fowl.
- (3) “Cockfighting” means any situation in which one cock attacks or fights with another cock.
- (4) “Gaff” means an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock’s natural spur.
- (5) “Slasher” means a steel weapon resembling a curved knife blade designed to attach to the foot of a cock.

(b) A person commits an offense if the person knowingly:

- (1) causes a cock to fight with another cock;
- (2) participates in the earnings of a cockfight;
- (3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting;
- (4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting;
- (5) manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or
- (6) attends as a spectator an exhibition of cockfighting.

(c) It is an affirmative defense to prosecution under this section that the actor’s conduct:

- (1) occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock’s physical appearance; or
- (2) was incidental to collecting bridles, gaffs, or slashers.

(d) An affirmative defense to prosecution is not available under Subsection (c) if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

(e) It is a defense to prosecution for an offense under this section that:

(1) the actor was engaged in bona fide experimentation for scientific research; or

(2) the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or agriculture practice involving livestock animals.

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

(g) An offense under Subsection (b)(1) or (2) is a state jail felony. An offense under Subsection (b)(3), (4), or (5) is a Class A misdemeanor. An offense under Subsection (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subdivision.

TEX. HEALTH & SAFETY CODE ANN. §821.078 (2012). Exceptions.

Section 821.077 does not apply to:

(1) a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;

(2) a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

(3) a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;

(4) a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;

(5) a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or

(6) a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

TEX. HEALTH & SAFETY CODE ANN. §821.081 (2012). Hand-held Leashes.

This subchapter does not prohibit a person from walking a dog with a hand-held leash.

TEX. PENAL CODE ANN. § 42.09 (2012).Cruelty to Livestock Animals.

(a)A person commits an offense if the person intentionally or knowingly:

- (1)tortures a livestock animal;
- (2)fails unreasonably to provide necessary food, water, or care for a livestock animal in the person’s custody;
- (3)abandons unreasonably a livestock animal in the person’s custody;
- (4)transports or confines a livestock animal in a cruel and unusual manner;
- (5)administers poison to a livestock animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner’s effective consent;
- (6)causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092;
- (7)uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;
- (8)trips a horse; or
- (9)seriously overworks a livestock animal.

(b)In this section:

- (1)“Abandon” includes abandoning a livestock animal in the person’s custody without making reasonable arrangements for assumption of custody by another person.
- (2)“Cruel manner” includes a manner that causes or permits unjustified or unwarranted pain or suffering.
- (3)“Custody” includes responsibility for the health, safety, and welfare of a livestock animal subject to the person’s care and control, regardless of ownership of the livestock animal.
- (4)“Depredation” has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(5)“Livestock animal” means:

(A)cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption;

(B)a horse, pony, mule, donkey, or hinny;

(C)native or nonnative hoofstock raised under agriculture practices; or

(D)native or nonnative fowl commonly raised under agricultural practices.

(6)“Necessary food, water, or care” includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

(7)“Torture” includes any act that causes unjustifiable pain or suffering.

(8)“Trip” means to use an object to cause a horse to fall or lose its balance.

(c)An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092. An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1)form of conduct occurring solely for the purpose of or in support of:

(A)fishing, hunting, or trapping; or

(B)wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2)animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of this section.

TEX. PENAL CODE ANN. § 42.092 (2012). Cruelty to Nonlivestock Animals.

(a) In this section:

(1) “Abandon” includes abandoning an animal in the person’s custody without making reasonable arrangements for assumption of custody by another person.

(2) “Animal” means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) “Cruel manner” includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) “Custody” includes responsibility for the health, safety, and welfare of an animal subject to the person’s care and control, regardless of ownership of the animal.

(5) “Depredation” has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) “Livestock animal” has the meaning assigned by Section 42.09.

(7) “Necessary food, water, care, or shelter” includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) “Torture” includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner’s effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(4) abandons unreasonably an animal in the person’s custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner’s effective consent, causes bodily injury to an animal;

- (7)causes one animal to fight with another animal, if either animal is not a dog;
- (8)uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or
- (9)seriously overworks an animal.

(c)An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d)It is a defense to prosecution under this section that:

- (1)the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or*
- (2)the actor was engaged in bona fide experimentation for scientific research.*

(e)It is a defense to prosecution under Subsection (b)(2) or (6) that:

- (1)the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or*
- (2)the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.*

(f)It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1)form of conduct occurring solely for the purpose of or in support of:

- (A)fishing, hunting, or trapping; or*
- (B)wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or*

(2)animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of the section.

4. COUNSELING / EVALUATIONS

TEX. CODE OF CRIM. PROC. ANN. § 42.12 (2012). Community supervision.

* * * * *

(11)

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(m) *If a judge grants community supervision to a person convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the person to attend a responsible pet owner course sponsored by a municipal animal shelter, as defined by Section 823.001, Health and Safety Code, that:*

(1) receives federal, state, county, or municipal funds; and

(2) serves the county in which the court is located.

* * * * *

TEX. FAMILY CODE ANN. § 54.0407 (2012). Cruelty to Animals: Counseling Required.

If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09 or 42.092, Penal Code, the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.

5. PROTECTIVE ORDERS

TEX. FAM. CODE ANN. § 85.021 (2012). Requirements of Order Applying to Any Party.

In a protective order, the court may:

(1) prohibit a party from:

(A) removing a child who is a member of the family or household from:

(i) the possession of a person named in the order; or

(ii) the jurisdiction of the court;

(B) transferring, encumbering, or otherwise disposing of property, other than in the ordinary course of business, that is mutually owned or leased by the parties; or

(C) removing a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, from the possession of a person named in the order;

(2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more parties to vacate the residence if the residence:

(A) is jointly owned or leased by the party receiving exclusive possession and a party being denied possession;

(B) is owned or leased by the party retaining possession; or

(C) is owned or leased by the party being denied possession and that party has an obligation to support the party or a child of the party granted possession of the residence;

(3) provide for the possession of and access to a child of a party if the person receiving possession of or access to the child is a parent of the child;

(4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child; or

(5) award to a party the use and possession of specified property that is community property or jointly owned or leased property.

TEX. FAM. CODE ANN. § 85.022 (2012).Requirements of Order Applying to Person Who Committed Family Violence.

(a) In a protective order, the court may order the person found to have committed family violence to perform acts specified by the court that the court determines are necessary or appropriate to prevent or reduce the likelihood of family violence and may order that person to:

(1) complete a battering intervention and prevention program accredited under Article 42.141, Code of Criminal Procedure;

(2) beginning on September 1, 2008, if the referral option under Subdivision (1) is not available, complete a program or counsel with a provider that has begun the accreditation process described by Subsection (a-1); or

(3) if the referral option under Subdivision (1) or, beginning on September 1, 2008, the referral option under Subdivision (2) is not available, counsel with a social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor who has completed family violence intervention training that the community justice assistance division of the Texas Department of Criminal Justice has approved, after consultation with the licensing authorities described by Chapters 152, 501, 502, 503, and 505, Occupations Code, and experts in the field of family violence.

(a-1) Beginning on September 1, 2009, a program or provider serving as a referral option for the courts under Subsection (a)(1) or (2) must be accredited under Section 4A, Article 42.141, Code of Criminal Procedure, as conforming to program guidelines under that article.

(b) In a protective order, the court may prohibit the person found to have committed family violence from:

(1) committing family violence;

(2) communicating:

(A) directly with a person protected by an order or a member of the family or household of a person protected by an order, in a threatening or harassing manner;

(B) a threat through any person to a person protected by an order or a member of the family or household of a person protected by an order; and

(C) if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected by an order, except through the party's attorney or a person appointed by the court;

(3) going to or near the residence or place of employment or business of a person protected by an order or a member of the family or household of a person protected by an order;

(4) going to or near the residence, child-care facility, or school a child protected under the order normally attends or in which the child normally resides;

(5) engaging in conduct directed specifically toward a person who is a person protected by an order or a member of the family or household of a person protected by an order, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person;

(6) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision; and

(7) harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, that is possessed by a person protected by an order or by a member of the family or household of a person protected by an order.

(c) In an order under Subsection (b)(3) or (4), the court shall specifically describe each prohibited location and the minimum distances from the location, if any, that the party must maintain. This subsection does not apply to an order in which Section 85.007 applies.

(d) In a protective order, the court shall suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code, that is held by a person found to have committed family violence.

(e) In this section, "firearm" has the meaning assigned by Section 46.01, Penal Code.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

TEX. HEALTH & SAFETY CODE ANN. § 821.021 (2012). Definitions.

In this subchapter:

(1) *“Cruelly treated” includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.*

(2) *“Nonprofit animal welfare organization” means a nonprofit organization that has as its purpose:*

(A) the prevention of cruelty to animals; or

(B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

(3) *“Owner” includes a person who owns or has custody or control of an animal.*

TEX. HEALTH & SAFETY CODE ANN. § 821.023 (2012). Hearing; Order of Disposition or Return of Animal.

(a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092, Penal Code.

(c) Each interested party is entitled to an opportunity to present evidence at the hearing.

(d) If the court finds that the animal’s owner has cruelly treated the animal, the owner shall be divested of ownership of the animal, and the court shall:

(1) order a public sale of the animal by auction;

(2) order the animal given to a municipal or county animal shelter or a nonprofit animal welfare organization; or

(3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

(e) After a court finds that an animal's owner has cruelly treated the animal, the court shall order the owner to pay all court costs, including:

(1) the administrative costs of:

(A) investigation;

(B) expert witnesses; and

(C) conducting any public sale ordered by the court; and

(2) the costs incurred by a municipal or county animal shelter or a nonprofit animal welfare organization in:

(A) housing and caring for the animal during its impoundment; and

(B) humanely destroying the animal if destruction is ordered by the court.

(e-1) After a court finds that an animal's owner has cruelly treated the animal, the court shall determine the estimated costs likely to be incurred by a municipal or county animal shelter or a nonprofit animal welfare organization to house and care for the impounded animal during the appeal process.

(e-2) After making the determination under Subsection (e-1), the court at the time of entering the judgment shall set the amount of bond for an appeal equal to the sum of:

(1) the amount of the court costs ordered under Subsection (e); and

(2) the amount of the estimated costs determined under Subsection (e-1).

(e-3) A court may not require a person to provide a bond in an amount greater than or in addition to the amount determined by the court under Subsection (e-2) to perfect an appeal under Section 821.025.

(e-4) Notwithstanding any other law, the amount of court costs that a court may order under Subsection (e) and the amount of bond that a court determines under Subsection (e-2) are excluded in determining the court's jurisdiction under Subtitle A, Title 2, Government Code.

TEX. HEALTH & SAFETY CODE ANN. § 821.024 (2012). Sale or Disposition of Cruelly Treated Animal.

(a) Notice of an auction ordered under this subchapter must be posted on a public bulletin board where other public notices are posted for the county or municipality. At the auction, a bid by the former owner of a cruelly treated animal or the owner's representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to any costs owed by the former owner under Section 821.023(e). The officer conducting the auction shall pay any excess proceeds to the justice or municipal court ordering the auction. The court shall return the excess proceeds to the former owner of the animal.

(c) If the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a municipal or county animal shelter or a nonprofit animal welfare organization.

TEX. HEALTH & SAFETY CODE ANN. § 821.025 (2012). Appeal.

(a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located.

(b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and a cash bond or surety bond in an amount set by the court under Section 821.023(e-2).

(c) Not later than the fifth calendar day after the date the notice of appeal and bond is filed, the court from which the appeal is taken shall deliver a copy of the clerk's record to the clerk of the county court or county court at law to which the appeal is made.

(d) Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives a copy of the clerk's record, the court shall consider the matter de novo and dispose of the appeal. A party to the appeal is entitled to a jury trial on request.

(e) The decision of the county court or county court at law under this section is final and may not be further appealed.

(f) Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

(g) Notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

(h) While an appeal under this section is pending, the animal may not be:

- (1) sold or given away as provided by Sections 821.023 and 821.024; or
- (2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

7. SEIZURE / ON-SITE SUPERVISION

TEX. HEALTH & SAFETY CODE ANN. § 821.021 (2012). Definitions.

In this subchapter:

(1) *“Cruelly treated” includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.*

(2) *“Nonprofit animal welfare organization” means a nonprofit organization that has as its purpose:*

(A) the prevention of cruelty to animals; or

(B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

(3) *“Owner” includes a person who owns or has custody or control of an animal.*

TEX. HEALTH & SAFETY CODE ANN. §821.022 (2012). Seizure of Cruelly Treated Animal.

(a) If a peace officer or an officer who has responsibility for animal control in a county or municipality has reason to believe that an animal has been or is being cruelly treated, the officer may apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

(b) On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.

(c) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.

8. FORFEITURE / POSSESSION

TEX. HEALTH & SAFETY CODE ANN. § 821.021 (2012). Definitions.

In this subchapter:

(1) *“Cruelly treated” includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.*

(2) *“Nonprofit animal welfare organization” means a nonprofit organization that has as its purpose:*

(A) the prevention of cruelty to animals; or

(B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

(3) *“Owner” includes a person who owns or has custody or control of an animal.*

TEX. HEALTH & SAFETY CODE ANN. § 821.023 (2012). Hearing; Order of Disposition or Return of Animal.

(a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092, Penal Code.

(c) Each interested party is entitled to an opportunity to present evidence at the hearing.

(d) *If the court finds that the animal’s owner has cruelly treated the animal, the owner shall be divested of ownership of the animal, and the court shall:*

(1) order a public sale of the animal by auction;

(2) order the animal given to a municipal or county animal shelter or a nonprofit animal welfare organization; or

(3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

(e) After a court finds that an animal's owner has cruelly treated the animal, the court shall order the owner to pay all court costs, including:

(1) the administrative costs of:

(A) investigation;

(B) expert witnesses; and

(C) conducting any public sale ordered by the court; and

(2) the costs incurred by a municipal or county animal shelter or a nonprofit animal welfare organization in:

(A) housing and caring for the animal during its impoundment; and

(B) humanely destroying the animal if destruction is ordered by the court.

(e-1) After a court finds that an animal's owner has cruelly treated the animal, the court shall determine the estimated costs likely to be incurred by a municipal or county animal shelter or a nonprofit animal welfare organization to house and care for the impounded animal during the appeal process.

(e-2) After making the determination under Subsection (e-1), the court at the time of entering the judgment shall set the amount of bond for an appeal equal to the sum of:

(1) the amount of the court costs ordered under Subsection (e); and

(2) the amount of the estimated costs determined under Subsection (e-1).

(e-3) A court may not require a person to provide a bond in an amount greater than or in addition to the amount determined by the court under Subsection (e-2) to perfect an appeal under Section 821.025.

(e-4) Notwithstanding any other law, the amount of court costs that a court may order under Subsection (e) and the amount of bond that a court determines under Subsection (e-2) are excluded in determining the court's jurisdiction under Subtitle A, Title 2, Government Code.

TEX. HEALTH & SAFETY CODE ANN. § 821.024 (2012). Sale or Disposition of Cruelly Treated Animal.

(a) Notice of an auction ordered under this subchapter must be posted on a public bulletin board where other public notices are posted for the county or municipality. At the auction, a bid by the former owner of a cruelly treated animal or the owner's representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to any costs owed by the former owner under Section 821.023(e). The officer conducting the auction shall pay any excess proceeds to the justice or municipal court ordering the auction. The court shall return the excess proceeds to the former owner of the animal.

(c) If the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a municipal or county animal shelter or a nonprofit animal welfare organization.

TEX. HEALTH & SAFETY CODE ANN. § 821.025 (2012). Appeal.

(a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located.

(b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and a cash bond or surety bond in an amount set by the court under Section 821.023(e-2).

(c) Not later than the fifth calendar day after the date the notice of appeal and bond is filed, the court from which the appeal is taken shall deliver a copy of the clerk's record to the clerk of the county court or county court at law to which the appeal is made.

(d) Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives a copy of the clerk's record, the court shall consider the matter de novo and dispose of the appeal. A party to the appeal is entitled to a jury trial on request.

(e) The decision of the county court or county court at law under this section is final and may not be further appealed.

(f) Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

(g) Notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

(h) While an appeal under this section is pending, the animal may not be:

(1) sold or given away as provided by Sections 821.023 and 821.024; or

(2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

TEX. HEALTH & SAFETY CODE ANN. § 821.025 (2012). Appeal.

(a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located.

(b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and a cash bond or surety bond in an amount set by the court under Section 821.023(e-2).

(c) Not later than the fifth calendar day after the date the notice of appeal and bond is filed, the court from which the appeal is taken shall deliver a copy of the clerk's record to the clerk of the county court or county court at law to which the appeal is made.

(d) Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives a copy of the clerk's record, the court shall consider the matter de novo and dispose of the appeal. A party to the appeal is entitled to a jury trial on request.

(e) The decision of the county court or county court at law under this section is final and may not be further appealed.

(f) Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

(g) Notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

(h) While an appeal under this section is pending, the animal may not be:

(1) sold or given away as provided by Sections 821.023 and 821.024; or

(2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

TEX. OCC. CODE ANN. § 801.3585 (2012). Liability For Reporting Animal Cruelty; Immunity.

A veterinarian who in good faith and in the normal course of business reports to the appropriate governmental entity a suspected incident of animal cruelty under Section 42.09 or 42.092, Penal Code, is immune from liability in a civil or criminal action brought against the veterinarian for reporting the incident.

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

13. FIGHTING

TEX. PENAL CODE ANN. § 42.105 (2012). Cockfighting.

(a) In this section:

(1) “Bridle” means a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.

(2) “Cock” means the male of any type of domestic fowl.

(3) “Cockfighting” means any situation in which one cock attacks or fights with another cock.

(4) “Gaff” means an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock’s natural spur.

(5) “Slasher” means a steel weapon resembling a curved knife blade designed to attach to the foot of a cock.

(b) A person commits an offense if the person knowingly:

(1) causes a cock to fight with another cock;

(2) participates in the earnings of a cockfight;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting;

(4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting;

(5) manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or

(6) attends as a spectator an exhibition of cockfighting.

(c) It is an affirmative defense to prosecution under this section that the actor’s conduct:

(1) occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock’s physical appearance; or

(2) was incidental to collecting bridles, gaffs, or slashers.

(d) An affirmative defense to prosecution is not available under Subsection (c) if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

(e) It is a defense to prosecution for an offense under this section that:

(1) the actor was engaged in bona fide experimentation for scientific research; or

(2) the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or agriculture practice involving livestock animals.

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

(g) An offense under Subsection (b)(1) or (2) is a state jail felony. An offense under Subsection (b)(3), (4), or (5) is a Class A misdemeanor. An offense under Subsection (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subdivision.

TEX. CODE OF CRIM. PROC. ANN. § 59.01 (2012). Definitions.

In this chapter:

(1) “Attorney representing the state” means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter or, in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(v) of this article, the city attorney of a municipality if the property is seized in that municipality by a peace officer employed by that municipality and the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding. In a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(vii) of this article, the term includes the attorney general.

(2) “*Contraband*” means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon’s Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code;

(vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;

(viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;

(ix) a Class A misdemeanor under Section 306.051, Business & Commerce Code;

(x) any offense under Section 42.10, Penal Code;

(xi) any offense under Section 46.06(a)(1) or 46.14, Penal Code;

(xii) any offense under Chapter 71, Penal Code; or

(xiii) any offense under Section 20.05, Penal Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), (xi), or (xii) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), (xi), or (xii) of this subdivision, or a crime of violence; or

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code; or

(F) used to facilitate or intended to be used to facilitate the commission of a felony under Section 20A.02 or Chapter 43, Penal Code.

(3) “Crime of violence” means:

(A) any criminal offense defined in the Penal Code or in a federal criminal law that results in a personal injury to a victim; or

(B) an act that is not an offense under the Penal Code involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death sustained in an accident caused by a driver in violation of Section 550.021, Transportation Code.

(4) “Interest holder” means the bona fide holder of a perfected lien or a perfected security interest in property.

(5) “Law enforcement agency” means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(6) “Owner” means a person who claims an equitable or legal ownership interest in property.

(7) “Proceeds” includes income a person accused or convicted of a crime or the person’s representative or assignee receives from:

(A) a movie, book, magazine article, tape recording, phonographic record, radio or television presentation, telephone service, electronic media format, including an Internet website, or live entertainment in which the crime was reenacted; or

(B) the sale of tangible property the value of which is increased by the notoriety gained from the conviction of an offense by the person accused or convicted of the crime.

(8) “Seizure” means the restraint of property by a peace officer under Article 59.03(a) or (b) of this code, whether the officer restrains the property by physical force or by a display of the officer’s authority, and includes the collection of property or the act of taking possession of property.

(9) “Depository account” means the obligation of a regulated financial institution to pay the account owner under a written agreement, including a checking account, savings account, money market account, time deposit, NOW account, or certificate of deposit.

(10) “Primary state or federal financial institution regulator” means the state or federal regulatory agency that chartered and comprehensively regulates a regulated financial institution.

(11) “Regulated financial institution” means a depository institution chartered by a state or federal government, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TEX. PENAL CODE ANN. § 42.09 (2012).Cruelty to Livestock Animals.

(a)A person commits an offense if the person intentionally or knowingly:

- (1)tortures a livestock animal;
- (2)fails unreasonably to provide necessary food, water, or care for a livestock animal in the person’s custody;
- (3)abandons unreasonably a livestock animal in the person’s custody;
- (4)transports or confines a livestock animal in a cruel and unusual manner;
- (5)administers poison to a livestock animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner’s effective consent;
- (6)causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092;*
- (7)uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;
- (8)trips a horse; or
- (9)seriously overworks a livestock animal.

(b)In this section:

- (1)“Abandon” includes abandoning a livestock animal in the person’s custody without making reasonable arrangements for assumption of custody by another person.
- (2)“Cruel manner” includes a manner that causes or permits unjustified or unwarranted pain or suffering.
- (3)“Custody” includes responsibility for the health, safety, and welfare of a livestock animal subject to the person’s care and control, regardless of ownership of the livestock animal.
- (4)“Depredation” has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(5)“Livestock animal” means:

(A)cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption;

(B)a horse, pony, mule, donkey, or hinny;

(C)native or nonnative hoofstock raised under agriculture practices; or

(D)native or nonnative fowl commonly raised under agricultural practices.

(6)“Necessary food, water, or care” includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

(7)“Torture” includes any act that causes unjustifiable pain or suffering.

(8)“Trip” means to use an object to cause a horse to fall or lose its balance.

(c)An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092. *An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.*

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1)form of conduct occurring solely for the purpose of or in support of:

(A)fishing, hunting, or trapping; or

(B)wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2)animal husbandry or agriculture practice involving livestock animals.

(g)This section does not create a civil cause of action for damages or enforcement of this section.

TEX. PENAL CODE ANN. § 42.092 (2012).Cruelty to Nonlivestock Animals.

(a)In this section:

(1)“Abandon” includes abandoning an animal in the person’s custody without making reasonable arrangements for assumption of custody by another person.

(2)“Animal” means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured.The term does not include an uncaptured wild living creature or a livestock animal.

(3)“Cruel manner” includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4)“Custody” includes responsibility for the health, safety, and welfare of an animal subject to the person’s care and control, regardless of ownership of the animal.

(5)“Depredation” has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6)“Livestock animal” has the meaning assigned by Section 42.09.

(7)“Necessary food, water, care, or shelter” includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8)“Torture” includes any act that causes unjustifiable pain or suffering.

(b)A person commits an offense if the person intentionally, knowingly, or recklessly:

(1)tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2)without the owner’s effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3)fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(4)abandons unreasonably an animal in the person’s custody;

(5)transports or confines an animal in a cruel manner;

(6)without the owner’s effective consent, causes bodily injury to an animal;

(7)causes one animal to fight with another animal, if either animal is not a dog;

(8)uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or

(9)seriously overworks an animal.

(c)An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d)It is a defense to prosecution under this section that:

(1)the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2)the actor was engaged in bona fide experimentation for scientific research.

(e)It is a defense to prosecution under Subsection (b)(2) or (6) that:

(1)the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2)the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f)It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1)form of conduct occurring solely for the purpose of or in support of:

(A)fishing, hunting, or trapping; or

(B)wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2)animal husbandry or agriculture practice involving livestock animals.

(g)This section does not create a civil cause of action for damages or enforcement of the section.

TEX. PENAL CODE ANN. §42.10 (2012). Dog Fighting.

(a) A person commits an offense if the person intentionally or knowingly:

(1) causes a dog to fight with another dog;

(2) participates in the earnings of or operates a facility used for dog fighting;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;

(4) owns or possesses dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting;

(5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or

(6) attends as a spectator an exhibition of dog fighting.

(b) In this section;

(1) "Dog fighting" means any situation in which one dog attacks or fights with another dog.

(2) "Dog-fighting equipment" has the meaning assigned by Article 18.18(g), Code of Criminal Procedure.

(c) A conviction under Subsection (a)(2) or (3) may be had upon the uncorroborated testimony of a party to the offense.

(d) It is a defense to prosecution under Subsection (a)(1) that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(e) An offense under Subsection (a)(4), (5), or (6) is a Class A misdemeanor. An offense under Subsection (a)(1), (2), or (3) is a state jail felony.

TEX. PENAL CODE ANN. § 71.02 (2012).Engaging in Organized Criminal Activity.

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:

- (1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- (2) any gambling offense punishable as a Class A misdemeanor;
- (3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- (4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- (5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- (5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;
- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;
- (8) any felony offense under Chapter 32;
- (9) any offense under Chapter 36;
- (10) any offense under Chapter 34, 35, or 35A;
- (11) any offense under Section 37.11(a);
- (12) any offense under Chapter 20A;
- (13) any offense under Section 37.10;
- (14) any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15) any offense under Section 42.10; or

(16) any offense under Section 46.06(a)(1) or 46.14.

(17) any offense classified as a felony under the Tax Code. [Text of subsec. (a)(17), as added by Acts 2011, 82nd Leg., ch. 68 (S.B. 934), § 8]

(17) any offense under Section 20.05. [Text of subsec. (a)(17), as added by Acts 2011, 82nd Leg., ch. 223 (H.B. 260), § 3]

(b) Except as provided in Subsections (c) and (d), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree.

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense he withdrew from the combination before commission of an offense listed in Subsection (a) and made substantial effort to prevent the commission of the offense. If the defendant proves the issue in the affirmative by a preponderance of the evidence the offense is the same category of offense as the most serious offense listed in Subsection (a) that is committed, unless the defendant is convicted of conspiring to commit the offense, in which event the offense is one category lower than the most serious offense that the defendant conspired to commit.

14. REFERENCED STATUTES

TEX. CODE OF CRIM. PROC. ANN. § 42.12 (2012). Community supervision.

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(11)

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(m) *If a judge grants community supervision to a person convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the person to attend a responsible pet owner course sponsored by a municipal animal shelter, as defined by Section 823.001, Health and Safety Code, that:*

(1) receives federal, state, county, or municipal funds; and

(2) serves the county in which the court is located.

* * * * *

TEX. CODE OF CRIM. PROC. ANN. § 42.105 (2012). Cockfighting.

(a) In this section:

(1) “Bridle” means a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.

(2) “Cock” means the male of any type of domestic fowl.

(3) “Cockfighting” means any situation in which one cock attacks or fights with another cock.

(4) “Gaff” means an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock’s natural spur.

(5) “Slasher” means a steel weapon resembling a curved knife blade designed to attach to the foot of a cock.

(b) A person commits an offense if the person knowingly:

(1) causes a cock to fight with another cock;

(2) participates in the earnings of a cockfight;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting;

(4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting;

(5) manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or

(6) attends as a spectator an exhibition of cockfighting.

(c) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock's physical appearance; or

(2) was incidental to collecting bridles, gaffs, or slashers.

(d) An affirmative defense to prosecution is not available under Subsection (c) if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

(e) It is a defense to prosecution for an offense under this section that:

(1) the actor was engaged in bona fide experimentation for scientific research; or

(2) the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or agriculture practice involving livestock animals.

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

(g) An offense under Subsection (b)(1) or (2) is a state jail felony. An offense under Subsection (b)(3), (4), or (5) is a Class A misdemeanor. An offense under Subsection (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subdivision.

TEX. CODE OF CRIM. PROC. ANN. § 59.01 (2012). Definitions.

In this chapter:

(1) “Attorney representing the state” means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter or, in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(v) of this article, the city attorney of a municipality if the property is seized in that municipality by a peace officer employed by that municipality and the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding. In a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(vii) of this article, the term includes the attorney general.

(2) “Contraband” means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

- (i) any first or second degree felony under the Penal Code;
- (ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;
- (iii) any felony under The Securities Act (Article 581-1 et seq., Vernon’s Texas Civil Statutes); or
- (iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

- (i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);
- (ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33, 33A, or 35, Penal Code;
- (iii) a felony under Chapter 153, Finance Code;
- (iv) any felony under Chapter 34, Penal Code;
- (v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

- (vi) any felony under Chapter 152, Finance Code;
- (vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;
- (viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;
- (ix) a Class A misdemeanor under Section 306.051, Business & Commerce Code;
- (x) any offense under Section 42.10, Penal Code;
- (xi) any offense under Section 46.06(a)(1) or 46.14, Penal Code;
- (xii) any offense under Chapter 71, Penal Code; or
- (xiii) any offense under Section 20.05, Penal Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), (xi), or (xii) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), (xi), or (xii) of this subdivision, or a crime of violence; or

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code; or

(F) used to facilitate or intended to be used to facilitate the commission of a felony under Section 20A.02 or Chapter 43, Penal Code.

(3) “Crime of violence” means:

(A) any criminal offense defined in the Penal Code or in a federal criminal law that results in a personal injury to a victim; or

(B) an act that is not an offense under the Penal Code involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death sustained in an accident caused by a driver in violation of Section 550.021, Transportation Code.

(4) “Interest holder” means the bona fide holder of a perfected lien or a perfected security interest in property.

(5) “Law enforcement agency” means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(6) “Owner” means a person who claims an equitable or legal ownership interest in property.

(7) “Proceeds” includes income a person accused or convicted of a crime or the person’s representative or assignee receives from:

(A) a movie, book, magazine article, tape recording, phonographic record, radio or television presentation, telephone service, electronic media format, including an Internet website, or live entertainment in which the crime was reenacted; or

(B) the sale of tangible property the value of which is increased by the notoriety gained from the conviction of an offense by the person accused or convicted of the crime.

(8) “Seizure” means the restraint of property by a peace officer under Article 59.03(a) or (b) of this code, whether the officer restrains the property by physical force or by a display of the officer’s authority, and includes the collection of property or the act of taking possession of property.

(9) “Depository account” means the obligation of a regulated financial institution to pay the account owner under a written agreement, including a checking account, savings account, money market account, time deposit, NOW account, or certificate of deposit.

(10) “Primary state or federal financial institution regulator” means the state or federal regulatory agency that chartered and comprehensively regulates a regulated financial institution.

(11) “Regulated financial institution” means a depository institution chartered by a state or federal government, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TEX. FAM. CODE ANN. § 54.0407 (2012). Cruelty to Animals: Counseling Required.

If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09 or 42.092, Penal Code, the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.

TEX. FAM. CODE ANN. § 85.021 (2012).Requirements of Order Applying to Any Party.

In a protective order, the court may:

(1) prohibit a party from:

(A) removing a child who is a member of the family or household from:

(i) the possession of a person named in the order; or

(ii) the jurisdiction of the court;

(B) transferring, encumbering, or otherwise disposing of property, other than in the ordinary course of business, that is mutually owned or leased by the parties; or

(C) removing a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, from the possession of a person named in the order;

(2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more parties to vacate the residence if the residence:

(A) is jointly owned or leased by the party receiving exclusive possession and a party being denied possession;

(B) is owned or leased by the party retaining possession; or

(C) is owned or leased by the party being denied possession and that party has an obligation to support the party or a child of the party granted possession of the residence;

(3) provide for the possession of and access to a child of a party if the person receiving possession of or access to the child is a parent of the child;

(4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child; or

(5) award to a party the use and possession of specified property that is community property or jointly owned or leased property.

TEX. FAM. CODE ANN. § 85.022 (2012).Requirements of Order Applying to Person Who Committed Family Violence.

(a) In a protective order, the court may order the person found to have committed family violence to perform acts specified by the court that the court determines are necessary or appropriate to prevent or reduce the likelihood of family violence and may order that person to:

(1) complete a battering intervention and prevention program accredited under Article 42.141, Code of Criminal Procedure;

(2) beginning on September 1, 2008, if the referral option under Subdivision (1) is not available, complete a program or counsel with a provider that has begun the accreditation process described by Subsection (a-1); or

(3) if the referral option under Subdivision (1) or, beginning on September 1, 2008, the referral option under Subdivision (2) is not available, counsel with a social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor who has completed family violence intervention training that the community justice assistance division of the Texas Department of Criminal Justice has approved, after consultation with the licensing authorities described by Chapters 152, 501, 502, 503, and 505, Occupations Code, and experts in the field of family violence.

(a-1) Beginning on September 1, 2009, a program or provider serving as a referral option for the courts under Subsection (a)(1) or (2) must be accredited under Section 4A, Article 42.141, Code of Criminal Procedure, as conforming to program guidelines under that article.

(b) In a protective order, the court may prohibit the person found to have committed family violence from:

(1) committing family violence;

(2) communicating:

(A) directly with a person protected by an order or a member of the family or household of a person protected by an order, in a threatening or harassing manner;

(B) a threat through any person to a person protected by an order or a member of the family or household of a person protected by an order; and

(C) if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected by an order, except through the party's attorney or a person appointed by the court;

(3) going to or near the residence or place of employment or business of a person protected by an order or a member of the family or household of a person protected by an order;

(4) going to or near the residence, child-care facility, or school a child protected under the order normally attends or in which the child normally resides;

(5) engaging in conduct directed specifically toward a person who is a person protected by an order or a member of the family or household of a person protected by an order, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person;

(6) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision; and

(7) harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, that is possessed by a person protected by an order or by a member of the family or household of a person protected by an order.

(c) In an order under Subsection (b)(3) or (4), the court shall specifically describe each prohibited location and the minimum distances from the location, if any, that the party must maintain. This subsection does not apply to an order in which Section 85.007 applies.

(d) In a protective order, the court shall suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code, that is held by a person found to have committed family violence.

(e) In this section, "firearm" has the meaning assigned by Section 46.01, Penal Code.

TEX. HEALTH & SAFETY CODE ANN. § 821.021 (2012). Definitions.

In this subchapter:

- (1) “Cruelly treated” includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.
- (2) “Nonprofit animal welfare organization” means a nonprofit organization that has as its purpose:
 - (A) the prevention of cruelty to animals; or
 - (B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.
- (3) “Owner” includes a person who owns or has custody or control of an animal.

TEX. HEALTH & SAFETY CODE ANN. §821.022 (2012). Seizure of Cruelly Treated Animal.

- (a) If a peace officer or an officer who has responsibility for animal control in a county or municipality has reason to believe that an animal has been or is being cruelly treated, the officer may apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.
- (b) On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.
- (c) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.

TEX. HEALTH & SAFETY CODE ANN. § 821.023 (2012). Hearing; Order of Disposition or Return of Animal.

- (a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.
- (b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092, Penal Code.
- (c) Each interested party is entitled to an opportunity to present evidence at the hearing.

(d) If the court finds that the animal's owner has cruelly treated the animal, the owner shall be divested of ownership of the animal, and the court shall:

- (1) order a public sale of the animal by auction;
- (2) order the animal given to a municipal or county animal shelter or a nonprofit animal welfare organization; or
- (3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

(e) After a court finds that an animal's owner has cruelly treated the animal, the court shall order the owner to pay all court costs, including:

- (1) the administrative costs of:
 - (A) investigation;
 - (B) expert witnesses; and
 - (C) conducting any public sale ordered by the court; and
- (2) the costs incurred by a municipal or county animal shelter or a nonprofit animal welfare organization in:
 - (A) housing and caring for the animal during its impoundment; and
 - (B) humanely destroying the animal if destruction is ordered by the court.

(e-1) After a court finds that an animal's owner has cruelly treated the animal, the court shall determine the estimated costs likely to be incurred by a municipal or county animal shelter or a nonprofit animal welfare organization to house and care for the impounded animal during the appeal process.

(e-2) After making the determination under Subsection (e-1), the court at the time of entering the judgment shall set the amount of bond for an appeal equal to the sum of:

- (1) the amount of the court costs ordered under Subsection (e); and
- (2) the amount of the estimated costs determined under Subsection (e-1).

(e-3) A court may not require a person to provide a bond in an amount greater than or in addition to the amount determined by the court under Subsection (e-2) to perfect an appeal under Section 821.025.

(e-4) Notwithstanding any other law, the amount of court costs that a court may order under Subsection (e) and the amount of bond that a court determines under Subsection (e-2) are excluded in determining the court's jurisdiction under Subtitle A, Title 2, Government Code.

TEX. HEALTH & SAFETY CODE ANN. §821.024 (2012). Sale or Disposition of Cruelly Treated Animal.

(a) Notice of an auction ordered under this subchapter must be posted on a public bulletin board where other public notices are posted for the county or municipality. At the auction, a bid by the former owner of a cruelly treated animal or the owner's representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to any costs owed by the former owner under Section 821.023(e). The officer conducting the auction shall pay any excess proceeds to the justice or municipal court ordering the auction. The court shall return the excess proceeds to the former owner of the animal.

(c) If the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

TEX. HEALTH & SAFETY CODE ANN. § 821.025 (2012). Appeal.

(a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located.

(b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and a cash bond or surety bond in an amount set by the court under Section 821.023(e-2).

(c) Not later than the fifth calendar day after the date the notice of appeal and bond is filed, the court from which the appeal is taken shall deliver a copy of the clerk's record to the clerk of the county court or county court at law to which the appeal is made.

(d) Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives a copy of the clerk's record, the court shall consider the matter de novo and dispose of the appeal. A party to the appeal is entitled to a jury trial on request.

(e) The decision of the county court or county court at law under this section is final and may not be further appealed.

(f) Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial

to perfect an appeal.

(g) Notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

(h) While an appeal under this section is pending, the animal may not be:

(1) sold or given away as provided by Sections 821.023 and 821.024; or

(2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

TEX. HEALTH & SAFETY CODE ANN. §821.076 (2012). Definitions.

In this subchapter:

(1)“Collar” means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

(2)“Owner” means a person who owns or has custody or control of a dog.

(3)“Properly fitted” means, with respect to a collar, a collar that measures the circumference of a dog’s neck plus at least one inch.

(4)“Restraint” means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

TEX. HEALTH & SAFETY CODE ANN. §821.077 (2012). Unlawful Restraint Of Dog.

(a)An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog’s movement:

(1)between the hours of 10 p.m. and 6 a.m.;

(2)within 500 feet of the premises of a school; or

(3)in the case of extreme weather conditions, including conditions in which:

(A)the actual or effective outdoor temperature is below 32 degrees Fahrenheit;

(B)a heat advisory has been issued by a local or state authority or jurisdiction; or

(C)a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

(b) In this section, a restraint unreasonably limits a dog's movement if the restraint:

(1) uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;

(2) is a length shorter than the greater of:

(A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) 10 feet;

(3) is in an unsafe condition; or

(4) causes injury to the dog.

TEX. HEALTH & SAFETY CODE ANN. §821.078 (2012). Exceptions.

Section 821.077 does not apply to:

(1) a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;

(2) a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

(3) a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;

(4) a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;

(5) a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or

(6) a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

TEX. HEALTH & SAFETY CODE ANN. §821.079 (2012). Penalty.

(a) A person commits an offense if the person knowingly violates this subchapter.

(b) A peace officer or animal control officer who has probable cause to believe that an owner is violating this subchapter shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.

(c) A person commits an offense if the person is provided a statement described by Subsection (b) and fails to comply with this subchapter within 24 hours of the time the owner is provided the statement. An offense under this subsection is a Class C misdemeanor.

(d) A person commits an offense if the person violates this subchapter and previously has been convicted of an offense under this subchapter. An offense under this subsection is a Class B misdemeanor.

(e) If a person fails to comply with this subchapter with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.

(f) If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

TEX. HEALTH & SAFETY CODE ANN. §821.080 (2012). Disposition of Penalty.

Notwithstanding any other law, the clerk of a court that collects a penalty under this subchapter shall remit the penalty collected for deposit in the general fund of the county.

TEX. HEALTH & SAFETY CODE ANN. §821.081 (2012). Hand-held Leashes.

This subchapter does not prohibit a person from walking a dog with a hand-held leash.

TEX. OCC. CODE ANN. § 801.3585 (2012). Liability For Reporting Animal Cruelty; Immunity.

A veterinarian who in good faith and in the normal course of business reports to the appropriate governmental entity a suspected incident of animal cruelty under Section 42.09 or 42.092, Penal Code, is immune from liability in a civil or criminal action brought against the veterinarian for reporting the incident.

TEX. PENAL CODE ANN. § 12.21 (2012). Class A Misdemeanor.

An individual adjudged guilty of a Class A misdemeanor shall be punished by:

- (1) a fine not to exceed \$4,000;
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and confinement.

TEX. PENAL CODE ANN. § 12.22 (2012). Class B Misdemeanor.

An individual adjudged guilty of a Class B misdemeanor shall be punished by:

- (1) a fine not to exceed \$2,000;
- (2) confinement in jail for a term not to exceed 180 days; or
- (3) both such fine and confinement.

TEX. PENAL CODE ANN. § 12.23 (2012). Class C Misdemeanor.

An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed \$500.

TEX. PENAL CODE ANN. § 12.34 (2012). Third Degree Felony Punishment.

(a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed \$10,000.

TEX. PENAL CODE ANN. § 12.35 (2012). State Jail Felony Punishment.

(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed \$10,000.

(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that:

(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or

(2) the individual has previously been finally convicted of any felony:

(A) under Section 20A.03 or 21.02 or listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

(B) for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure.

TEX. PENAL CODE ANN. § 42.09 (2012). Cruelty to Livestock Animals.

(a) A person commits an offense if the person intentionally or knowingly:

(1) tortures a livestock animal;

(2) fails unreasonably to provide necessary food, water, or care for a livestock animal in the person's custody;

(3) abandons unreasonably a livestock animal in the person's custody;

(4) transports or confines a livestock animal in a cruel and unusual manner;

(5) administers poison to a livestock animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;

(6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092;

(7) uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;

(8) trips a horse; or

(9)seriously overworks a livestock animal.

(b)In this section:

(1)“Abandon” includes abandoning a livestock animal in the person’s custody without making reasonable arrangements for assumption of custody by another person.

(2)“Cruel manner” includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(3)“Custody” includes responsibility for the health, safety, and welfare of a livestock animal subject to the person’s care and control, regardless of ownership of the livestock animal.

(4)“Depredation” has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(5)“Livestock animal” means:

(A)cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption;

(B)a horse, pony, mule, donkey, or hinny;

(C)native or nonnative hoofstock raised under agriculture practices; or

(D)native or nonnative fowl commonly raised under agricultural practices.

(6)“Necessary food, water, or care” includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

(7)“Torture” includes any act that causes unjustifiable pain or suffering.

(8)“Trip” means to use an object to cause a horse to fall or lose its balance.

(c)An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of this section.

TEX. PENAL CODE ANN. § 42.092 (2012). Cruelty to Nonlivestock Animals.

(a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

- (1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;
- (2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;
- (3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;
- (4) abandons unreasonably an animal in the person's custody;
- (5) transports or confines an animal in a cruel manner;
- (6) without the owner's effective consent, causes bodily injury to an animal;
- (7) causes one animal to fight with another animal, if either animal is not a dog;
- (8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or
- (9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d) It is a defense to prosecution under this section that:

- (1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or
- (2) the actor was engaged in bona fide experimentation for scientific research.

(e) It is a defense to prosecution under Subsection (b)(2) or (6) that:

- (1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2)the person killed or injured the animal within the scope of the person’s employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f)It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1)form of conduct occurring solely for the purpose of or in support of:

(A)fishing, hunting, or trapping; or

(B)wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2)animal husbandry or agriculture practice involving livestock animals.

(g)This section does not create a civil cause of action for damages or enforcement of the section.

TEX. PENAL CODE ANN.§42.10 (2012). Dog Fighting.

(a) A person commits an offense if the person intentionally or knowingly:

(1) causes a dog to fight with another dog;

(2) participates in the earnings of or operates a facility used for dog fighting;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;

(4) owns or possesses dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting;

(5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or

(6) attends as a spectator an exhibition of dog fighting.

(b) In this section;

(1) “Dog fighting” means any situation in which one dog attacks or fights with another dog.

(2) “Dog-fighting equipment” has the meaning assigned by Article 18.18(g), Code of

Criminal Procedure.

(c) A conviction under Subsection (a)(2) or (3) may be had upon the uncorroborated testimony of a party to the offense.

(d) It is a defense to prosecution under Subsection (a)(1) that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(e) An offense under Subsection (a)(4), (5), or (6) is a Class A misdemeanor. An offense under Subsection (a)(1), (2), or (3) is a state jail felony.

TEX. PENAL CODE ANN. § 71.02 (2012).Engaging in Organized Criminal Activity.

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:

- (1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- (2) any gambling offense punishable as a Class A misdemeanor;
- (3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- (4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- (5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- (5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;
- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

- (8) any felony offense under Chapter 32;
- (9) any offense under Chapter 36;
- (10) any offense under Chapter 34, 35, or 35A;
- (11) any offense under Section 37.11(a);
- (12) any offense under Chapter 20A;
- (13) any offense under Section 37.10;
- (14) any offense under Section 38.06, 38.07, 38.09, or 38.11;
- (15) any offense under Section 42.10; or
- (16) any offense under Section 46.06(a)(1) or 46.14.
- (17) any offense classified as a felony under the Tax Code. [Text of subsec. (a)(17), as added by Acts 2011, 82nd Leg., ch. 68 (S.B. 934), § 8]
- (17) any offense under Section 20.05. [Text of subsec. (a)(17), as added by Acts 2011, 82nd Leg., ch. 223 (H.B. 260), § 3]

(b) Except as provided in Subsections (c) and (d), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree.

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense he withdrew from the combination before commission of an offense listed in Subsection (a) and made substantial effort to prevent the commission of the offense. If the defendant proves the issue in the affirmative by a preponderance of the evidence the offense is the same category of offense as the most serious offense listed in Subsection (a) that is committed, unless the defendant is convicted of conspiring to commit the offense, in which event the offense is one category lower than the most serious offense that the defendant conspired to commit.

ANIMAL PROTECTION LAWS OF UTAH

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Utah's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Utah may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

UTAH

1. GENERAL PROHIBITIONS*

- (1)
Cruelty to animals (intentionally/knowingly)
UTAH CODE ANN. § 76-9-301(3)(a)
- (2)
Cruelty to animals (recklessly/criminally negligent)
UTAH CODE ANN. § 76-9-301(3)(b)
- (3)
Aggravated cruelty to animals (intentionally/knowingly)
UTAH CODE ANN. § 76-9-301(5)(a)
- (4)
Aggravated cruelty to animals (recklessly)
UTAH CODE ANN. § 76-9-301(5)(b)
- (5)
Aggravated cruelty to animals (criminally negligent)
UTAH CODE ANN. § 76-9-301(5)(c)
- (6)
Torture of a companion animal
UTAH CODE ANN. § 76-9-301(6)

Animals Covered in Definition

“[L]ive, nonhuman vertebrate creature”
UTAH CODE ANN. § 76-9-301(1)(b)(i)

“Animal” does not include animals kept or owned for agricultural, zoological, hunting, circus, rodeo or wildlife purposes.
UTAH CODE ANN. § 76-9-301(1)(b)(ii)

UTAH*continued*

<p><i>Classification of Crimes</i></p>	<p>Subsequent offenses enhance B and C misdemeanors by one level. UTAH CODE ANN. § 76-9-301.7</p> <p>(1), (4) Class B misdemeanor</p> <p>(2), (5) Class C misdemeanor</p> <p>(3) Class A misdemeanor</p> <p>(6) 3rd degree felony</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1), (4) 6 months imprisonment UTAH CODE ANN. § 76-3-204(2) <i>and/or</i> \$1,000 fine UTAH CODE ANN. § 76-3-301(1)(d)</p> <p>(2), (5) 90 days imprisonment UTAH CODE ANN. § 76-3-204(3) <i>and/or</i> \$750 fine UTAH CODE ANN. § 76-3-301(1)(e)</p> <p>(3) 1 year imprisonment UTAH CODE ANN. § 76-3-204(1) <i>and/or</i> \$2,500 fine UTAH CODE ANN. § 76-3-301(1)(c)</p> <p>(6) 5 years imprisonment UTAH CODE ANN. § 76-3-203(3) <i>and/or</i> \$5,000 fine UTAH CODE ANN. § 76-3-301(1)(b)</p>

UTAH*continued*

<p>3.EXEMPTIONS^{***}</p>	<p>1, 2, 3, 4, 7, 9 UTAH CODE ANN.§ 76-9-301</p> <p>9 UTAH CODE ANN.§ 18-1-3</p>
<p>4.COUNSELING / EVALUATIONS^H</p>	<p>Upon conviction, court may order counseling at defendant's expense. UTAH CODE ANN.§ 76-9-301(11)</p>
<p>5.PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6.RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Court may require defendant to repay reasonable costs incurred for care. UTAH CODE ANN.§ 76-9-301(11)</p> <p>Officer seizing animals has a lien on them for the reasonable costs of the care. UTAH CODE ANN.§ 76-9-305(2)</p>
<p>7.SEIZURE / ON-SITE SUPERVISION</p>	<p>Any law enforcement officer may seize animals being cruelly treated. UTAH CODE ANN.§ 76-9-305(1)</p>
<p>8.FORFEITURE / POSSESSION^H</p>	<p>Upon conviction, court may order cruelly treated animals forfeited and prohibit the defendant from possessing or retaining custody of any animal for any designated period. UTAH CODE ANN.§ 76-9-301(11)</p>
<p>9.CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10.VETERINARIAN REPORTING/ IMMUNITY</p>	<p>Veterinarians may report suspected animal cruelty and are immune from civil or criminal liability for such actions taken in good faith. UTAH CODE ANN.§§ 58-28-602; 76-9-301(13)</p>

UTAH*continued*

11.LAW ENFORCEMENT POLICIES	-----
12.SEXUAL ASSAULT	The crime of bestiality is a Class B misdemeanor. UTAH CODE ANN.§76-9-301.8
13.FIGHTING	<p>Causing non-dog animal fighting, or dogs to fight other animals, is a Class B or Class C misdemeanor UTAH CODE ANN. § 76-9-301(2),(3)</p> <p>Various dogfighting activities are 3rd degree felonies; knowing and intentional spectatorship is a Class B misdemeanor. UTAH CODE ANN.§76-9-301.1</p> <p>Knowing spectatorship at an organized animal fight is a Class B misdemeanor. UTAH CODE ANN.§76-9-301.5</p> <p>A peace officer may enter any place where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present; animals and property may be seized, and upon conviction forfeited. UTAH CODE ANN.§76-9-301.6</p> <p>Animal fighting laws are qualifying offenses under state RICO laws. UTAH CODE ANN.§76-10-1602(4)(ggg)</p>
<i>Other Felony Provisions Affecting Animals</i> ¹	Cause, or engage in conduct likely to cause, injury or death to a police service animal UTAH CODE ANN. § 76-9-306

*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

UTAH CODE ANN. § 76-9-301 (2012). Cruelty to animals.

(1) As used in this section:

(a)

(i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b)

(i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) “Companion animal” means an animal that is a domestic dog or a domestic cat.

(d) “Custody” means ownership, possession, or control over an animal.

(e) “Legal privilege” means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(b) abandons an animal in the person’s custody;

(c) injures an animal;

(d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

UTAH CODE ANN. § 76-9-301.7 (2012). Cruelty to animals—Enhanced penalties.

(1) As used in this section, “conviction” means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(2) Except as provided in Subsection (4), a person who commits any violation of Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) within the state and on at least one previous occasion has been convicted of violating Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) shall be subject to an enhanced penalty as provided in Subsection (3).

(3) The enhanced degree of offense for offenses committed under this section are:

(a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and

(b) if the offense is a class B misdemeanor, it is a class A misdemeanor.

(4) The penalty enhancements described in this section do not apply to a conviction for the offense described in Subsection 76-9-301(6).

2. PENALTIES

UTAH CODE ANN. § 76-3-203 (2012).Felony conviction—Indeterminate term of imprisonment.

A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:

- (1) In the case of a felony of the first degree, unless the statute provides otherwise, for a term of not less than five years and which may be for life.
- (2) In the case of a felony of the second degree, unless the statute provides otherwise, for a term of not less than one year nor more than 15 years.
- (3) *In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed five years.*

UTAH CODE ANN.§ 76-3-204 (2012).Misdemeanor conviction—Term of imprisonment.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- (1) *In the case of a class A misdemeanor, for a term not exceeding one year;*
- (2) *In the case of a class B misdemeanor, for a term not exceeding six months;*
- (3) *In the case of a class C misdemeanor, for a term not exceeding ninety days.*

UTAH CODE ANN.§ 76-3-301 (2012).Fines of persons.

(1) *A person convicted of an offense may be sentenced to pay a fine, not exceeding:*

- (a) \$10,000 for a felony conviction of the first degree or second degree;
- (b) \$5,000 for a felony conviction of the third degree;
- (c) \$2,500 for a class A misdemeanor conviction;
- (d) \$1,000 for a class B misdemeanor conviction;
- (e) \$750 for a class C misdemeanor conviction or infraction conviction; and

(f) any greater amounts specifically authorized by statute.

(2) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

UTAH CODE ANN. § 76-9-301.7 (2012). Cruelty to animals—Enhanced penalties.

(1) As used in this section, “conviction” means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(2) Except as provided in Subsection (4), a person who commits any violation of Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) within the state and on at least one previous occasion has been convicted of violating Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) shall be subject to an enhanced penalty as provided in Subsection (3).

(3) The enhanced degree of offense for offenses committed under this section are:

(a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and

(b) if the offense is a class B misdemeanor, it is a class A misdemeanor.

(4) The penalty enhancements described in this section do not apply to a conviction for the offense described in Subsection 76-9-301(6).

3. EXEMPTIONS

UTAH CODE ANN.§ 18-1-3 (2012).Dogs attacking domestic animals, service animals, hoofed protected wildlife, or domestic fowls.

Any person may injure or kill a dog while:

(1) the dog is attacking, chasing, or worrying:

(a) a domestic animal having a commercial value;

(b) a service animal, as defined in Section 62A-5b-102; or

(c) any species of hoofed protected wildlife;

(2) the dog is attacking domestic fowls; or

(3) the dog is being pursued for committing an act described in Subsection (1) or (2).

UTAH CODE ANN.§ 76-9-301 (2012).Cruelty to animals.

(1) As used in this section:

(a)

(i) “Abandon” means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) “Abandon” does not include returning wildlife to its natural habitat.

(b)

(i) “Animal” means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) “Animal” does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) “Companion animal” means an animal that is a domestic dog or a domestic cat.

(d) “Custody” means ownership, possession, or control over an animal.

(e) “*Legal privilege*” means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

- (B) sheep;
- (C) goats;
- (D) turkeys;
- (E) swine;
- (F) equines;
- (G) camelidae;
- (H) ratites; or
- (I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, *without legal privilege to do so*, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(b) abandons an animal in the person’s custody;

(c) injures an animal;

(d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

4. COUNSELING / EVALUATIONS

UTAH CODE ANN. § 76-9-301 (2012). Cruelty to animals.

(1) As used in this section:

(a)

(i) “Abandon” means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) “Abandon” does not include returning wildlife to its natural habitat.

(b)

(i) “Animal” means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) “Animal” does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) “Companion animal” means an animal that is a domestic dog or a domestic cat.

(d) “Custody” means ownership, possession, or control over an animal.

(e) “Legal privilege” means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(b) abandons an animal in the person’s custody;

(c) injures an animal;

(d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

UTAH CODE ANN. § 76-9-301 (2012). Cruelty to animals.

(1) As used in this section:

(a)

(i) “Abandon” means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) “Abandon” does not include returning wildlife to its natural habitat.

(b)

(i) “Animal” means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) “Animal” does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) “Companion animal” means an animal that is a domestic dog or a domestic cat.

(d) “Custody” means ownership, possession, or control over an animal.

(e) “Legal privilege” means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(b) abandons an animal in the person’s custody;

(c) injures an animal;

(d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

UTAH CODE ANN. § 76-9-305 (2012). Officer's authority to take possession of animals—Lien for care.

(1) Any law enforcement officer may take possession of any animals being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for them or upon permission from the owner may destroy them.

(2) Officers caring for animals pursuant to this section have a lien for the reasonable value of the care and/or destruction. Any court upon proof that the owner has been notified of the lien and amount due, at least five days prior, shall order the animal sold at public auction or destroyed.

(3) Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal the officer shall obtain the judgment to the effect of a veterinarian, or of two reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

7. SEIZURE / ON-SITE SUPERVISION

UTAH CODE ANN. § 76-9-305 (2012). Officer's authority to take possession of animals—Lien for care

(1) Any law enforcement officer may take possession of any animals being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for them or upon permission from the owner may destroy them.

(2) Officers caring for animals pursuant to this section have a lien for the reasonable value of the care and/or destruction. Any court upon proof that the owner has been notified of the lien and amount due, at least five days prior, shall order the animal sold at public auction or destroyed.

(3) Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal the officer shall obtain the judgment to the effect of a veterinarian, or of two reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

8. FORFEITURE / POSSESSION

UTAH CODE ANN. § 76-9-301 (2012). Cruelty to animals.

(1) As used in this section:

(a)

(i) “Abandon” means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) “Abandon” does not include returning wildlife to its natural habitat.

(b)

(i) “Animal” means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) “Animal” does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) “Companion animal” means an animal that is a domestic dog or a domestic cat.

(d) “Custody” means ownership, possession, or control over an animal.

(e) “Legal privilege” means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(b) abandons an animal in the person’s custody;

(c) injures an animal;

(d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

UTAH CODE ANN. § 58-28-602 (2012). Cruelty to animals—Immunity for reporting.

A licensed veterinarian who in good faith and in the normal course of business, reports a suspected case of animal cruelty to law enforcement or the proper authorities is immune from liability in any civil or criminal action brought against the veterinarian for reporting the suspected cruelty.

UTAH CODE ANN. § 76-9-301 (2012). Cruelty to animals.

(1) As used in this section:

(a)

(i) “Abandon” means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) “Abandon” does not include returning wildlife to its natural habitat.

(b)

(i) “Animal” means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) “Animal” does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) “Companion animal” means an animal that is a domestic dog or a domestic cat.

(d) “Custody” means ownership, possession, or control over an animal.

(e) “Legal privilege” means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(b) abandons an animal in the person’s custody;

(c) injures an animal;

(d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

UTAH CODE ANN. §76-9-301.8 (2012). Bestiality—Definitions—Penalty.

(1) A person commits the crime of bestiality if the actor engages in any sexual activity with an animal with the intent of sexual gratification of the actor.

(2) For purposes of this section only:

(a) “Animal” means any live, nonhuman vertebrate creature, including fowl.

(b) “Sexual activity” means physical sexual contact:

(i) between the actor and the animal involving the genitals of the actor and the genitals of the animal;

(ii) the genitals of the actor or the animal and the mouth or anus of the actor or the animal; or

(iii) through the actor’s use of an object in contact with the genitals or anus of the animal.

(3) A crime of bestiality is a class B misdemeanor.

13. FIGHTING

UTAH CODE ANN. § 76-9-301 (2012). Cruelty to animals.

(1) As used in this section:

(a)

(i) “Abandon” means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) “Abandon” does not include returning wildlife to its natural habitat.

(b)

(i) “Animal” means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) “Animal” does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) “Companion animal” means an animal that is a domestic dog or a domestic cat.

(d) “Custody” means ownership, possession, or control over an animal.

(e) “Legal privilege” means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person’s custody;

(b) abandons an animal in the person’s custody;

(c) injures an animal;

(d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

UTAH CODE ANN. §76-9-301.1 (2012). Dog fighting—Training dogs for fighting—Dog fighting exhibitions.

(1) It is unlawful for any person to:

(a) own, possess, keep, or train a dog with the intent to engage it in an exhibition of fighting with another dog;

(b) cause a dog to fight with another dog or cause a dog to injure another dog for amusement or gain;

(c) tie, attach, or fasten any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog; or

(d) permit or allow any act which violates Subsection (1)(a), (b), or (c) on any premises under his charge; or to control, aid, or abet any such act.

(2) Possession of any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of Subsections (1)(b) and (c).

(3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine imposed may not exceed \$25,000.

(4) It is unlawful for a person to knowingly and intentionally be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this section. A person who violates this subsection is guilty of a class B misdemeanor.

(5) Nothing in this section prohibits any of the following:

(a) the use of dogs for management of livestock by the owner, his employees or agents, or any other person in the lawful custody of livestock;

(b) the use of dogs for hunting; or

(c) the training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

UTAH CODE ANN.§76-9-301.5 (2012).Spectator at organized animal fighting exhibitions.

It is unlawful for a person to knowingly be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by Subsections 76-9-301(2)(d) and (e), or to be present at such exhibition, regardless of whether any entrance fee has been charged. A person who violates this section is guilty of a class B misdemeanor.

UTAH CODE ANN.§76-9-301.6 (2012).Dog fighting exhibition—Authority to arrest and take possession of dogs and property.

(1) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.

(2)

(a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection 76-9-301(2)(e) or Section 76-9-301.1.

(b) The officer, at the time of the taking of property pursuant to Subsection (2)(a), shall state his name and provide other identifying information to the person in charge of the dogs or property taken.

(3)

(a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.

(b) The affidavit shall include:

(i) the name of the person charged in the complaint;

(ii) a description of all property taken;

(iii) the time and place of the taking of the property;

(iv) the name of the person from whom the property was taken;

(v) the name of the person who claims to own the property, if known; and

(vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section 76-9-301 or 76-9-301.1, and the grounds for the belief.

(4)

(a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.

(b) The person designated in Subsection (4)(a) shall assume immediate custody of the property, and retain the property until further order of the court.

(c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.

(d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

UTAH CODE ANN. § 76-9-301.7 (2012). Cruelty to animals—Enhanced penalties.

(1) As used in this section, “conviction” means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(2) Except as provided in Subsection (4), a person who commits any violation of Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) within the state and on at least one previous occasion has been convicted of violating Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) shall be subject to an enhanced penalty as provided in Subsection (3).

(3) The enhanced degree of offense for offenses committed under this section are:

(a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and

(b) if the offense is a class B misdemeanor, it is a class A misdemeanor.

(4) The penalty enhancements described in this section do not apply to a conviction for the offense described in Subsection 76-9-301(6).

UTAH CODE ANN. § 76-10-1602 (2012). Definitions.

As used in this part:

(1) “Enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) “Pattern of unlawful activity” means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) “Person” includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) “Unlawful activity” means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(ggg) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

14. REFERENCED STATUTES

UTAH CODE ANN. § 18-1-3 (2012). Dogs attacking domestic animals, service animals, hoofed protected wildlife, or domestic fowls.

Any person may injure or kill a dog while:

- (1) the dog is attacking, chasing, or worrying:
 - (a) a domestic animal having a commercial value;
 - (b) a service animal, as defined in Section 62A-5b-102; or
 - (c) any species of hoofed protected wildlife;
- (2) the dog is attacking domestic fowls; or
- (3) the dog is being pursued for committing an act described in Subsection (1) or (2).

UTAH CODE ANN. § 58-28-602 (2012). Cruelty to animals—Immunity for reporting

A licensed veterinarian who in good faith and in the normal course of business, reports a suspected case of animal cruelty to law enforcement or the proper authorities is immune from liability in any civil or criminal action brought against the veterinarian for reporting the suspected cruelty.

UTAH CODE ANN. § 76-3-203 (2012). Felony conviction—Indeterminate term of imprisonment.

A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:

- (1) In the case of a felony of the first degree, unless the statute provides otherwise, for a term of not less than five years and which may be for life.
- (2) In the case of a felony of the second degree, unless the statute provides otherwise, for a term of not less than one year nor more than 15 years.
- (3) In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed five years.

UTAH CODE ANN. § 76-3-204 (2012). Misdemeanor conviction—Term of imprisonment.

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- (1) In the case of a class A misdemeanor, for a term not exceeding one year;
- (2) In the case of a class B misdemeanor, for a term not exceeding six months;
- (3) In the case of a class C misdemeanor, for a term not exceeding ninety days.

UTAH CODE ANN. § 76-3-301 (2012). Fines of persons.

(1) A person convicted of an offense may be sentenced to pay a fine, not exceeding:

- (a) \$10,000 for a felony conviction of the first degree or second degree;
- (b) \$5,000 for a felony conviction of the third degree;
- (c) \$2,500 for a class A misdemeanor conviction;
- (d) \$1,000 for a class B misdemeanor conviction;
- (e) \$750 for a class C misdemeanor conviction or infraction conviction; and
- (f) any greater amounts specifically authorized by statute.

(2) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

UTAH CODE ANN. § 76-9-301 (2012). Cruelty to animals.

(1) As used in this section:

- (a)
 - (i) “Abandon” means to intentionally deposit, leave, or drop off any live animal:
 - (A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or
 - (B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.
 - (ii) “Abandon” does not include returning wildlife to its natural habitat.

- (b)
- (i) “Animal” means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.
 - (ii) “Animal” does not include:
 - (A) a live, nonhuman vertebrate creature, if:
 - (I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and
 - (II) the creature is:
 - (Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;
 - (Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or
 - (Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;
 - (B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;
 - (C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or
 - (D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.
- (c) “Companion animal” means an animal that is a domestic dog or a domestic cat.
- (d) “Custody” means ownership, possession, or control over an animal.
- (e) “Legal privilege” means an act that:
- (i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) “Livestock” means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) “Necessary food, water, care, or shelter” means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) “Torture” means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

- (a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;
- (b) abandons an animal in the person's custody;
- (c) injures an animal;
- (d) causes any animal, not including a dog, to fight with another animal of like kind for amusement or gain; or
- (e) causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

- (a) a class B misdemeanor if committed intentionally or knowingly; and
- (b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

- (a) tortures an animal;
- (b) administers, or causes to be administered, poison or a poisonous substance to an animal; or
- (c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

- (a) a class A misdemeanor if committed intentionally or knowingly;
- (b) a class B misdemeanor if committed recklessly; and
- (c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

- (a) by a licensed veterinarian using accepted veterinary practice;
- (b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;
- (c) permitted under Section 18-1-3;
- (d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or
- (e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

- (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
- (b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;
- (c) the consent from the owner of the animal to the destruction of the animal; or
- (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

- (a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;
- (b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or
- (c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

- (a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;
- (b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;
- (c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and
- (d) order the animal to be placed for the purpose of adoption or care in the custody of a county and municipal animal control agency, an animal welfare agency registered with the state, sold at public auction, or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

UTAH CODE ANN. §76-9-301.1 (2012). Dog fighting—Training dogs for fighting—Dog fighting exhibitions.

(1) It is unlawful for any person to:

- (a) own, possess, keep, or train a dog with the intent to engage it in an exhibition of fighting with another dog;
- (b) cause a dog to fight with another dog or cause a dog to injure another dog for amusement or gain;
- (c) tie, attach, or fasten any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog; or
- (d) permit or allow any act which violates Subsection (1)(a), (b), or (c) on any premises under his charge; or to control, aid, or abet any such act.

(2) Possession of any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of Subsections (1)(b) and (c).

(3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine imposed may not exceed \$25,000.

(4) It is unlawful for a person to knowingly and intentionally be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this section. A person who violates this subsection is guilty of a class B misdemeanor.

(5) Nothing in this section prohibits any of the following:

(a) the use of dogs for management of livestock by the owner, his employees or agents, or any other person in the lawful custody of livestock;

(b) the use of dogs for hunting; or

(c) the training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

UTAH CODE ANN. §76-9-301.5 (2012). Spectator at organized animal fighting exhibitions.

It is unlawful for a person to knowingly be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by Subsections 76-9-301(2)(d) and (e), or to be present at such exhibition, regardless of whether any entrance fee has been charged. A person who violates this section is guilty of a class B misdemeanor.

UTAH CODE ANN. §76-9-301.6 (2012). Dog fighting exhibition—Authority to arrest and take possession of dogs and property.

(1) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.

- (2)
- (a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection 76-9-301(2)(e) or Section 76-9-301.1.
- (b) The officer, at the time of the taking of property pursuant to Subsection (2)(a), shall state his name and provide other identifying information to the person in charge of the dogs or property taken.
- (3)
- (a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.
- (b) The affidavit shall include:
- (i) the name of the person charged in the complaint;
 - (ii) a description of all property taken;
 - (iii) the time and place of the taking of the property;
 - (iv) the name of the person from whom the property was taken;
 - (v) the name of the person who claims to own the property, if known; and
 - (vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section 76-9-301 or 76-9-301.1, and the grounds for the belief.
- (4)
- (a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.
- (b) The person designated in Subsection (4)(a) shall assume immediate custody of the property, and retain the property until further order of the court.
- (c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.
- (d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

UTAH CODE ANN. § 76-9-301.7 (2012). Cruelty to animals—Enhanced penalties.

(1) As used in this section, “conviction” means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(2) Except as provided in Subsection (4), a person who commits any violation of Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) within the state and on at least one previous occasion has been convicted of violating Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) shall be subject to an enhanced penalty as provided in Subsection (3).

(3) The enhanced degree of offense for offenses committed under this section are:

(a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and

(b) if the offense is a class B misdemeanor, it is a class A misdemeanor.

(4) The penalty enhancements described in this section do not apply to a conviction for the offense described in Subsection 76-9-301(6).

UTAH CODE ANN. § 76-9-301.8 (2012). Bestiality—Definitions—Penalty.

(1) A person commits the crime of bestiality if the actor engages in any sexual activity with an animal with the intent of sexual gratification of the actor.

(2) For purposes of this section only:

(a) “Animal” means any live, nonhuman vertebrate creature, including fowl.

(b) “Sexual activity” means physical sexual contact:

(i) between the actor and the animal involving the genitals of the actor and the genitals of the animal;

(ii) the genitals of the actor or the animal and the mouth or anus of the actor or the animal; or

(iii) through the actor’s use of an object in contact with the genitals or anus of the animal.

(3) A crime of bestiality is a class B misdemeanor.

UTAH CODE ANN.§ 76-9-305 (2012).Officer’s authority to take possession of animals—Lien for care.

(1) Any law enforcement officer may take possession of any animals being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for them or upon permission from the owner may destroy them.

(2) Officers caring for animals pursuant to this section have a lien for the reasonable value of the care and/or destruction. Any court upon proof that the owner has been notified of the lien and amount due, at least five days prior, shall order the animal sold at public auction or destroyed.

(3) Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal the officer shall obtain the judgment to the effect of a veterinarian, or of two reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

UTAH CODE ANN.§ 76-10-1602 (2012). Definitions.

As used in this part:

(1) “Enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) “Pattern of unlawful activity” means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) “Person” includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) “Unlawful activity” means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(ggg) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

ANIMAL PROTECTION LAWS OF VERMONT

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Vermont's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Vermont may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

VERMONT

1. GENERAL PROHIBITIONS*

- (1)
Cruelty to animals
VT. STAT. ANN. tit. 13, § 352

- (2)
Aggravated animal cruelty
VT. STAT. ANN. tit. 13, § 352a

- (3)
Poisoning animals
VT. STAT. ANN. tit. 13, § 362

- (4)
Shelter of animals
VT. STAT. ANN. tit. 13, § 365

Animals Covered in Definition

“[A]ll living sentient creatures, not human beings”
VT. STAT. ANN. tit. 13, § 351(1)

Classification of Crimes

- (1)
Civil violation (select first-time offenses)
or
Misdemeanor

- (2)
Felony

- (3), (4)
Misdemeanor

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VERMONT*continued*

2. MAXIMUM PENALTIES **	<p>(1) <i>Civil violation:</i> \$500 fine VT. STAT. ANN. tit. 13, § 353(a)(4)</p> <p><i>Criminal:</i> [1st offense]: 1 year imprisonment <i>and/or</i> \$2,000 fine VT. STAT. ANN. tit. 13, § 353(a)(4)</p> <p>[Subsequent offenses]: 2 years imprisonment <i>and/or</i> \$5,000 fine VT. STAT. ANN. tit. 13, § 353(a)(4)</p> <p>-----</p> <p>(2) [1st offense]: 3 years imprisonment <i>and/or</i> \$5,000 fine VT. STAT. ANN. tit. 13, § 353(a)(2)</p> <p>[Subsequent offenses]: 5 years imprisonment <i>and/or</i> \$7,500 fine VT. STAT. ANN. tit. 13, § 353(a)(2)</p>
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VERMONT <i>continued</i>	
2. MAXIMUM PENALTIES ^{**} <i>continued</i>	<p>(3), (4) [1st offense]: 1 year imprisonment <i>and/or</i> \$2,000 fine VT. STAT. ANN. tit. 13, § 353(a)(1)</p> <p>[Subsequent offenses]: 2 years imprisonment <i>and/or</i> \$5,000 fine VT. STAT. ANN. tit. 13, § 353(a)(1)</p>
3. EXEMPTIONS ^{***}	<p>1, 2, 3, 4, 9 VT. STAT. ANN. tit. 13, § 351b</p> <p>4, 9 VT. STAT. ANN. tit. 13, § 352</p> <p>1, 2, 6, 9 VT. STAT. ANN. tit. 13, § 352b</p> <p>3, 6 VT. STAT. ANN. tit. 13, § 362</p>
4. COUNSELING / EVALUATIONS ^H	<p>Court may order counseling upon conviction; may order juvenile offenders to undergo mental health evaluation and counseling; costs to be imposed upon defendant when appropriate. VT. STAT. ANN. tit. 13, § 353(b)(4)</p>
5. PROTECTIVE ORDERS ^H	<p>VT. STAT. ANN. tit. 15, § 1103(c)(7)</p>

VERMONT <i>continued</i>	
<p>6.RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Court may order defendant to repay reasonable costs of care upon conviction. VT. STAT. ANN. tit. 13, § 353(b)(2)</p> <p>Humane officer has a lien for all reasonable costs of care for seized animal. VT. STAT. ANN. tit. 13, § 354(c)</p> <p>Defendant shall be ordered to pay reasonable costs of care upon conviction. VT. STAT. ANN. tit. 13, § 354(g)</p>
<p>7.SEIZURE / ON-SITE SUPERVISION</p>	<p>Special procedures for seizure of livestock VT. STAT. ANN. tit. 13, § 354(a)</p> <p>Search warrant may be issued for probable cause and cruelly treated animals seized; a veterinarian must accompany the officer for warrant execution. VT. STAT. ANN. tit. 13, § 354(b)(2)</p> <p>Humane officer may seize an animal being cruelly treated without a warrant if animal's life is in danger. VT. STAT. ANN. tit. 13, § 354(b)(3)</p>

VERMONT <i>continued</i>	
8.FORFEITURE / POSSESSION^H	<p>Upon conviction court may require forfeiture of any animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant, and may prohibit future ownership, possession or care of any animal. VT. STAT. ANN. tit. 13, §§ 353(b)(1),(3)</p> <p>Court may permit periodic unannounced visits by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. VT. STAT. ANN. tit. 13, § 353(b)(5)</p> <p>Court shall order forfeiture of seized animals prior to conviction if the state convinces the court by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment. VT. STAT. ANN. tit. 13, §§ 354(c)-(f)</p>
9.CROSS ENFORCEMENT / REPORTING	-----
10.VETERINARIAN REPORTING/ IMMUNITY	<p>No civil liability for a veterinarian who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals; or who assists a humane officer in the execution of a warrant. VT. STAT. ANN. tit. 26, § 2404</p>
11.LAW ENFORCEMENT POLICIES	<p>Any humane officer may enforce animal protection statutes. VT. STAT. ANN. tit. 13, § 354(b)</p>

12.SEXUAL ASSAULT	-----
VERMONT <i>continued</i>	
13.FIGHTING	Various animal fighting activities are felonies punishable by 5 years imprisonment and a \$5,000 fine; seizure and forfeiture of animals used for fighting and related property is authorized. VT. STAT. ANN. tit. 13, §§ 352(5),(6), 364
<i>Other Felony Provisions Affecting Animals</i> ¹	-----

*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter,6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

VT. STAT. ANN. tit.13, §351(2012). Definitions.

As used in this chapter:

- (1) *“Animal” means all living sentient creatures, not human beings.*
- (2) *“Secretary” means the secretary of agriculture, food and markets.*
- (3) *“Horse” means the entire family of equidae.*
- (4) *“Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. §4(11), auxiliary state police officers, deputy game wardens, humane society officer, animal control officer elected or appointed by the legislative body of a municipality, employee or agent, elected animal control officer, animal control officer appointed by the legislative body of a municipality, local board of health officer or agent, or any officer authorized to serve criminal process.*
- (5) *“Humane society” or “society for prevention of cruelty to animals” means the Vermont Humane Federation, Inc., or its successor, or any incorporated humane society which, through its agents has the lawful authority to interfere with acts of cruelty to animals.*
- (6) *“Local board of health” means the town or city health officer and the boards of selectmen or aldermen.*
- (7) *“Necessary medical attention” shall include but not be limited to medical treatment for illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.*
- (8) *“Person” means any individual, firm, partnership or corporation, or authorized agent or representative of a person, partnership or corporation.*
- (9) *“Sanitation” means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt and trash.*
- (10) *“Torture” or “torment” means omission, neglect, or an act by an animal owner or other person, whereby physical pain, suffering or death is caused or permitted to be caused to an animal.*
- (11) *“Livestock” means cattle, bison, horses, sheep, goats, swine, cervidae, ratites and camelids.*
- (12) *“Poultry” means meat and egg producing chickens, exhibition (fancy) chickens, turkeys, domestic ducks, geese, pheasants, chicken partridge and cotarnix quail.*

(13) “Livestock and poultry husbandry practices” means the raising, management and using of animals to provide humans with food, fiber or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

(14) “Agricultural or sporting association” means an organization or association determined by the secretary.

(15) “Living space” means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) “Adequate food” means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted agricultural or veterinarian practices.

(17) “Adequate water” means fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water.

(18) “Adequate shelter” means shelter which protects the animal from injury and environmental hazards.

VT. STAT. ANN. tit.13, § 351a (2012).Purpose of subchapter.

The purpose of this subchapter is to prevent cruelty to animals. In implementing this subchapter, enforcement officers are encouraged to educate the public on requirements of the subchapter and, when appropriate, to seek voluntary resolution of violations.

VT. STAT. ANN. tit.13, §352(2012).Cruelty to animals.

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;

(3) ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;

(4) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;

(5) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;

(6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;

(7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;

(8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

VT. STAT. ANN. tit.13, §352a(2012).Aggravated cruelty to animals.

A person commits the crime of aggravated cruelty to animals if the person:

- (1) kills an animal by intentionally causing the animal undue pain or suffering; or*
- (2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal.*

VT. STAT. ANN. tit.13, § 362 (2012).Exposing poison on the land.

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(a)(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals.

VT. STAT. ANN. tit.13, §365(2012).Shelter of animals.

(a) All livestock and animals which are to be predominantly maintained out-of-doors must be provided with adequate shelter to prevent direct exposure to the elements.

(b) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained out-of-doors shall be provided. The building opening size and height must, at a minimum, extend one foot above the withers of the largest animal housed and must be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall or stanchion ties, or other housing under control of the department of agriculture, food and markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(c)

(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs.

(2) The specifications required by subdivision (c)(1) of this section shall apply to each dog, regardless of whether the dog is housed individually or with other animals.

(d) A dog or cat confined in a living space shall be permitted outside the cage, crate, or structure for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) A dog maintained out-of-doors must be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards throughout the year.

(f) A dog chained to a shelter must be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(g) A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation.

(i) Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out-of-doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices.

2. PENALTIES

VT. STAT. ANN. tit.13, § 1 (2012).Felonies and misdemeanors defined.

Any other provision of law notwithstanding any offense whose maximum term of imprisonment is more than two years, for life or which may be punished by death is a felony. Any other offense is a misdemeanor.

VT. STAT. ANN. tit.13, §353(2012).Degree of offense; sentencing upon conviction.

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

(3) An offense committed under subdivisions 352(5) or (6) of this title shall be punishable by a sentence of imprisonment of not more than 5 years, or a fine of not more than \$5,000.00, or both.

(4)

(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in criminal division of the superior court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

(1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.

(2) Repay the reasonable costs incurred by any person, municipality or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(c) Upon an order of forfeiture of an animal under this section or section 354 of this title, the court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the court, for further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity, to whom rights are granted to dispose of the animal.

3. EXEMPTIONS

VT. STAT. ANN. tit.13, § 351b (2012).Scope of subchapter.

This subchapter shall not apply to:

- (1)activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10;*
- (2)scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;*
- (3)livestock and poultry husbandry practices for raising, management and use of animals;*
- (4)veterinary medical and surgical procedures; and*
- (5)the killing of an animal as provided by sections 3809 and 3545 of Title 20.*

VT. STAT. ANN. tit.13, §352(2012).Cruelty to animals.

A person commits the crime of cruelty to animals if the person:

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;*
- (2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;*
- (3) ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;*
- (4) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;*
- (5) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;*

- (6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;
- (7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;
- (8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
- (9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;
- (10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

VT. STAT. ANN. tit.13, §352b(2012).Rules; affirmative defense.

(a) An enforcement officer implementing the provisions of section 352 or 352a of this title shall be guided by rules established by the secretary.

(b) Except as provided in subsection (c) of this section, an affirmative defense to prosecution under section 352 or 352a of this title may be raised when:

(1) except for vivisection or research under section 352(7) of this title, the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area, or was a scientist whose conduct was a part of scientific research governed by accepted procedural standards subject to review by an institutional care and use committee;

(2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

(3) the defendant was a person appropriately licensed to utilize pesticides under chapter 87 of Title 6;

(4) the defendant humanely euthanized any animal as a representative of a duly organized humane society, animal shelter or town pound according to rules of this subchapter, or as a veterinarian destroying animals under chapter 193 or sections 3511 and 3513 of Title 20; or

(5) a state agency was implementing a rabies control program.

(c) An affirmative defense to a charge of abandonment under section 352 of this title shall not be recognized where a person abandons an animal at or near an animal shelter or veterinary clinic, farm or other place of shelter, without making reasonable arrangements for the care of the animal.

(d) The authority to enforce this chapter shall not be construed in a manner inconsistent with the animal control or disease control eradication programs in Title 6, or chapters 191, 193, 194 and 195 of Title 20 or the provisions of part 4 of Title 10, or the rules adopted thereunder.

VT. STAT. ANN. tit.13, § 362 (2012).Exposing poison on the land.

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(a)(2) of this title. *This section shall not apply to control of wild pests, protection of crops from insects, mice and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals.*

4. COUNSELING / EVALUATIONS

VT. STAT. ANN. tit.13, §353(2012).Degree of offense; sentencing upon conviction.

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

(3) An offense committed under subdivisions 352(5) or (6) of this title shall be punishable by a sentence of imprisonment of not more than 5 years, or a fine of not more than \$5,000.00, or both.

(4)

(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in criminal division of the superior court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

(1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.

(2) Repay the reasonable costs incurred by any person, municipality or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(c) Upon an order of forfeiture of an animal under this section or section 354 of this title, the court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the court, for further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity, to whom rights are granted to dispose of the animal.

5. PROTECTIVE ORDERS

VT. STAT. ANN. tit.15, § 1103 (2012).Requests for relief.

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c) If the court finds that the defendant has abused the plaintiff and that there is a danger of further abuse, the court shall make such orders as it deems necessary to protect the plaintiff, the children, or both, which may include the following:

(1) an order that the defendant refrain from abusing the plaintiff, his or her children or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(2) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(3) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(4) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(5) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(6) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(7) an order concerning the possession, care and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household.

(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(1) Evidence of the plaintiff's past sexual conduct with the defendant.

(2) Evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease.

(3) Evidence of specific instances of the plaintiff's past false allegations of violations of chapter 59 or 72 of Title 13.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(h) Form complaints and form orders shall be provided by the court administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(k) Affidavit forms required pursuant to this section shall bear the following language: "MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904."

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

VT. STAT. ANN. tit.13, §353(2012).Degree of offense; sentencing upon conviction.

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

(3) An offense committed under subdivisions 352(5) or (6) of this title shall be punishable by a sentence of imprisonment of not more than 5 years, or a fine of not more than \$5,000.00, or both.

(4)

(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in criminal division of the superior court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

(1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.

(2) Repay the reasonable costs incurred by any person, municipality or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(c) Upon an order of forfeiture of an animal under this section or section 354 of this title, the court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the court, for further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity, to whom rights are granted to dispose of the animal.

VT. STAT. ANN. tit.13, §354(2012).Enforcement; possession of abused animal; searches and seizures; forfeiture.

(a) The secretary of agriculture, food and markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the state of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the state when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the state may institute a civil proceeding for forfeiture of the animal in the territorial unit of the criminal division of the superior court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the court and served upon the animal's owner.

(e) The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section. Time limits under this subsection shall not be construed as jurisdictional.

(f) At the hearing on the motion for forfeiture, the state shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)

(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the state institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the state files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the district court under this section may be appealed as a matter of right to the supreme court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the secretary of agriculture, food and markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

7. SEIZURE / ON-SITE SUPERVISION

VT. STAT. ANN. tit.13, §354(2012).Enforcement; possession of abused animal; searches and seizures; forfeiture.

(a) The secretary of agriculture, food and markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the state of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the state when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the state may institute a civil proceeding for forfeiture of the animal in the territorial unit of the criminal division of the superior court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the court and served upon the animal's owner.

(e) The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section. Time limits under this subsection shall not be construed as jurisdictional.

(f) At the hearing on the motion for forfeiture, the state shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)

(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the state institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the state files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the district court under this section may be appealed as a matter of right to the supreme court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the secretary of agriculture, food and markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

8. FORFEITURE / POSSESSION

VT. STAT. ANN. tit.13, §353(2012).Degree of offense; sentencing upon conviction.

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

(3) An offense committed under subdivisions 352(5) or (6) of this title shall be punishable by a sentence of imprisonment of not more than 5 years, or a fine of not more than \$5,000.00, or both.

(4)

(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in criminal division of the superior court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

(1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.

(2) Repay the reasonable costs incurred by any person, municipality or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(c) Upon an order of forfeiture of an animal under this section or section 354 of this title, the court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the court, for further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity, to whom rights are granted to dispose of the animal.

VT. STAT. ANN. tit.13, §354(2012).Enforcement; possession of abused animal; searches and seizures; forfeiture.

(a) The secretary of agriculture, food and markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the state of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the state when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. *A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions.* An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the state may institute a civil proceeding for forfeiture of the animal in the territorial unit of the criminal division of the superior court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the court and served upon the animal's owner.

(e) The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section. Time limits under this subsection shall not be construed as jurisdictional.

(f) At the hearing on the motion for forfeiture, the state shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)

(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the state institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the state files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the district court under this section may be appealed as a matter of right to the supreme court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the secretary of agriculture, food and markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

VT. STAT. ANN. tit.26, § 2404(2012). Immunity from liability for reporting suspected cases of animal cruelty.

(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a veterinarian licensed to practice in this state who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals, as defined in sections 352 and 352a of Title 13, to any humane officer or officer as defined in subdivision 351(4) of Title 13 or local board of health officer or agent.

(b) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who accompanies a humane officer during the execution of a warrant pursuant to section 354 of Title 13, or evaluates the health of and provides medical attention to, including a decision for euthanasia, an animal brought to that veterinarian for health assessment, pursuant to section 354.

(c) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who inspects premises or orders a quarantine pursuant to section 3682 or 3683 of Title 20.

11. LAW ENFORCEMENT POLICIES

VT. STAT. ANN. tit.13, §354(2012).Enforcement; possession of abused animal; searches and seizures; forfeiture.

(a) The secretary of agriculture, food and markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the state of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the state when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the state may institute a civil proceeding for forfeiture of the animal in the territorial unit of the criminal division of the superior court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the court and served upon the animal's owner.

(e) The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section. Time limits under this subsection shall not be construed as jurisdictional.

(f) At the hearing on the motion for forfeiture, the state shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)

(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the state institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the state files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the district court under this section may be appealed as a matter of right to the supreme court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the secretary of agriculture, food and markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

12. SEXUAL ASSAULT

13. FIGHTING

VT. STAT. ANN. tit.13, §352(2012).Cruelty to animals.

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;

(3) ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;

(4) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;

(5) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;

(6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;

(7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;

(8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

VT. STAT. ANN. tit.13, §364(2012).Animal fights.

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) In addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize any equipment associated with that activity.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals and equipment. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

14. REFERENCED STATUTES

VT. STAT. ANN. tit.13, §351(2012). Definitions.

As used in this chapter:

- (1) “Animal” means all living sentient creatures, not human beings.
- (2) “Secretary” means the secretary of agriculture, food and markets.
- (3) “Horse” means the entire family of equidae.
- (4) “Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. §4(11), auxiliary state police officers, deputy game wardens, humane society officer, animal control officer elected or appointed by the legislative body of a municipality, employee or agent, elected animal control officer, animal control officer appointed by the legislative body of a municipality, local board of health officer or agent, or any officer authorized to serve criminal process.
- (5) “Humane society” or “society for prevention of cruelty to animals” means the Vermont Humane Federation, Inc., or its successor, or any incorporated humane society which, through its agents has the lawful authority to interfere with acts of cruelty to animals.
- (6) “Local board of health” means the town or city health officer and the boards of selectmen or aldermen.
- (7) “Necessary medical attention” shall include but not be limited to medical treatment for illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.
- (8) “Person” means any individual, firm, partnership or corporation, or authorized agent or representative of a person, partnership or corporation.
- (9) “Sanitation” means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt and trash.
- (10) “Torture” or “torment” means omission, neglect, or an act by an animal owner or other person, whereby physical pain, suffering or death is caused or permitted to be caused to an animal.
- (11) “Livestock” means cattle, bison, horses, sheep, goats, swine, cervidae, ratites and camelids.
- (12) “Poultry” means meat and egg producing chickens, exhibition (fancy) chickens, turkeys, domestic ducks, geese, pheasants, chicken partridge and cotarnix quail.

(13) “Livestock and poultry husbandry practices” means the raising, management and using of animals to provide humans with food, fiber or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

(14) “Agricultural or sporting association” means an organization or association determined by the secretary.

(15) “Living space” means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) “Adequate food” means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted agricultural or veterinarian practices.

(17) “Adequate water” means fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water.

(18) “Adequate shelter” means shelter which protects the animal from injury and environmental hazards.

VT. STAT. ANN. tit.13, § 351a (2012).Purpose of subchapter.

The purpose of this subchapter is to prevent cruelty to animals. In implementing this subchapter, enforcement officers are encouraged to educate the public on requirements of the subchapter and, when appropriate, to seek voluntary resolution of violations.

VT. STAT. ANN. tit.13, § 351b (2012).Scope of subchapter.

This subchapter shall not apply to:

- (1) activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10;
- (2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;
- (3) livestock and poultry husbandry practices for raising, management and use of animals;
- (4) veterinary medical and surgical procedures; and
- (5) the killing of an animal as provided by sections 3809 and 3545 of Title 20.

VT. STAT. ANN. tit.13, §352(2012).Cruelty to animals.

A person commits the crime of cruelty to animals if the person:

- (1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;
- (2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;
- (3) ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;
- (4) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;
- (5) owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;
- (6) acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;

(7) as poundkeeper, officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;

(8) intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;

(9) knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

(10) uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

VT. STAT. ANN. tit.13, §352a(2012). Aggravated cruelty to animals.

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering; or

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal.

VT. STAT. ANN. tit.13, §352b(2012). Rules; affirmative defense

(a) An enforcement officer implementing the provisions of section 352 or 352a of this title shall be guided by rules established by the secretary.

(b) Except as provided in subsection (c) of this section, an affirmative defense to prosecution under section 352 or 352a of this title may be raised when:

(1) except for vivisection or research under section 352(7) of this title, the defendant was a veterinarian whose conduct conformed to accepted veterinary practice for the area, or was a scientist whose conduct was a part of scientific research governed by accepted procedural standards subject to review by an institutional care and use committee;

(2) the defendant's conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property;

(3) the defendant was a person appropriately licensed to utilize pesticides under chapter 87 of Title 6;

(4) the defendant humanely euthanized any animal as a representative of a duly organized humane society, animal shelter or town pound according to rules of this subchapter, or as a veterinarian destroying animals under chapter 193 or sections 3511 and 3513 of Title 20; or

(5) a state agency was implementing a rabies control program.

(c) An affirmative defense to a charge of abandonment under section 352 of this title shall not be recognized where a person abandons an animal at or near an animal shelter or veterinary clinic, farm or other place of shelter, without making reasonable arrangements for the care of the animal.

(d) The authority to enforce this chapter shall not be construed in a manner inconsistent with the animal control or disease control eradication programs in Title 6, or chapters 191, 193, 194 and 195 of Title 20 or the provisions of part 4 of Title 10, or the rules adopted thereunder.

VT. STAT. ANN. tit.13, §353(2012).Degree of offense; sentencing upon conviction.

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

(3) An offense committed under subdivisions 352(5) or (6) of this title shall be punishable by a sentence of imprisonment of not more than 5 years, or a fine of not more than \$5,000.00, or both.

(4)

(A) Except as provided in subdivision (B) of this subdivision (4), a person found in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be imprisoned not more than one year or fined not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(B) A law enforcement officer shall issue a civil citation to a person who violates subdivision 352(3), (4), or (9) of this title if the person has not been previously adjudicated in violation of this chapter. A person adjudicated in violation of subdivision 352(3), (4), or (9) of this title pursuant to this subdivision shall be assessed a civil penalty of not more than \$500.00. At any time prior to the person admitting the violation and paying the assessed penalty, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of subdivision 352(3), (4), or (9) of this title in criminal division of the superior court.

(b) In addition to any other sentence the court may impose, the court may require a defendant convicted of a violation under section 352 or 352a of this title to:

(1) Forfeit any rights to the animal subjected to cruelty, and to any other animal, except livestock or poultry owned, possessed, or in the custody of the defendant.

(2) Repay the reasonable costs incurred by any person, municipality or agency for providing care for the animal prior to judgment. If the court does not order a defendant to pay all the applicable costs incurred or orders only partial payment, it shall state on the record the reasons for that action.

(3) Forfeit any future right to own, possess, or care for any animal for a period which the court deems appropriate.

(4) Participate in available animal cruelty prevention programs or educational programs, or both, or obtain psychiatric or psychological counseling, within a reasonable distance from the defendant's residence. If a juvenile is adjudicated delinquent under section 352 or 352a of this title, the court may order the juvenile to undergo a psychiatric or psychological evaluation and to participate in treatment that the court determines to be appropriate after due consideration of the evaluation. The court may impose the costs of such programs or counseling upon the defendant when appropriate.

(5) Permit periodic unannounced visits for a period up to one year by a humane officer to inspect the care and condition of any animal permitted by the court to remain in the care, custody, or possession of the defendant. Such period may be extended by the court upon motion made by the state.

(c) Upon an order of forfeiture of an animal under this section or section 354 of this title, the court shall order custody of the animal remanded to a humane society or other individual deemed appropriate by the court, for further disposition in accordance with accepted practices for humane treatment of animals. A transfer of rights under this section constitutes a transfer of ownership, and shall not constitute or authorize any limitation upon the right of the humane society, individual, or other entity, to whom rights are granted to dispose of the animal.

VT. STAT. ANN. tit.13, §354(2012).Enforcement; possession of abused animal; searches and seizures; forfeiture.

(a) The secretary of agriculture, food and markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry.

(b) Any humane officer as defined in section 351 of this title may enforce this chapter. As part of an enforcement action, a humane officer may seize an animal being cruelly treated in violation of this chapter.

(1) Voluntary surrender. A humane officer may accept animals voluntarily surrendered by the owner anytime during the cruelty investigation. The humane officer shall have a surrendered animal examined and assessed within 72 hours by a veterinarian licensed to practice in the state of Vermont.

(2) Search and seizure using a search warrant. A humane officer having probable cause to believe an animal is being subjected to cruel treatment in violation of this subchapter may apply for a search warrant pursuant to the Rules of Criminal Procedure to authorize the officer to enter the premises where the animal is kept and seize the animal. The application and affidavit for the search warrant shall be reviewed and authorized by an attorney for the state when sought by an officer other than an enforcement officer defined in 23 V.S.A. § 4(11). A veterinarian licensed to practice in Vermont must accompany the humane officer during the execution of the search warrant.

(3) Seizure without a search warrant. If the humane officer witnesses a situation in which the humane officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the officer may seize the animal without a warrant. The humane officer shall immediately take an animal seized under this subdivision to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

(c) A humane officer shall provide suitable care at a reasonable cost for an animal seized under this section, and have a lien on the animal for all expenses incurred. A humane officer may arrange for the euthanasia of a severely injured, diseased, or suffering animal upon the recommendation of a licensed veterinarian. A humane officer may arrange for euthanasia of an animal seized under this section when the owner is unwilling or unable to provide necessary medical attention required while the animal is in custodial care or when the animal cannot be safely confined under standard housing conditions. An animal not destroyed by euthanasia shall be kept in custodial care until final disposition of the criminal charges except as provided in subsections (d) through (h) of this section. The custodial caregiver shall be responsible for maintaining the records applicable to all animals seized, including identification, residence, location, medical treatment, and disposition of the animals.

(d) If an animal is seized under this section, the state may institute a civil proceeding for forfeiture of the animal in the territorial unit of the criminal division of the superior court where the offense is alleged to have occurred. The proceeding shall be instituted by a motion for forfeiture, which shall be filed with the court and served upon the animal's owner.

(e) The court shall set a hearing to be held within 21 days after institution of a forfeiture proceeding under this section. Time limits under this subsection shall not be construed as jurisdictional.

(f) At the hearing on the motion for forfeiture, the state shall have the burden of establishing by clear and convincing evidence that the animal was subjected to cruelty, neglect or abandonment in violation of section 352 or 352a of this title. The court shall make findings of fact and conclusions of law and shall issue a final order. If the state meets its burden of proof, the motion shall be granted and the court shall order the immediate forfeiture of the animal in accordance with the provisions of subsection 353(c) of this title.

(g)

(1) If the defendant is convicted of criminal charges under this chapter or if an order of forfeiture is entered against an owner under this section, the defendant or owner shall be required to repay all reasonable costs incurred by the custodial caregiver for caring for the animal, including veterinary expenses.

(2)

(A) If the defendant is acquitted of criminal charges under this chapter and a civil forfeiture proceeding under this section is not pending, an animal that has been taken into custodial care shall be returned to the defendant unless the state institutes a civil forfeiture proceeding under this section within seven days of the acquittal.

(B) If the court rules in favor of the owner in a civil forfeiture proceeding under this section and criminal charges against the owner under this chapter are not pending, an animal that has been taken into custodial care shall be returned to the owner unless the state files criminal charges under this section within seven days after the entry of final judgment.

(C) If an animal is returned to a defendant or owner under this subdivision, the defendant or owner shall not be responsible for the costs of caring for the animal.

(h) An order of the district court under this section may be appealed as a matter of right to the supreme court. The order shall not be stayed pending appeal.

(i) The provisions of this section are in addition to and not in lieu of the provisions of section 353 of this title.

(j) It is unlawful for a person to interfere with a humane officer or the secretary of agriculture, food and markets engaged in official duties under this chapter. A person who violates this subsection shall be prosecuted under section 3001 of this title.

VT. STAT. ANN. tit.13, § 362 (2012).Exposing poison on the land.

A person who deposits any poison or substance poisonous to animals on his or her premises or on the premise or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(a)(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice and plant diseases, or the department of fish and wildlife and employees and agents of the state forest service in control of destructive wild animals.

VT. STAT. ANN. tit.13, §364(2012).Animal fights.

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) In addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize any equipment associated with that activity.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals and equipment. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

VT. STAT. ANN. tit.13, §365(2012).Shelter of animals.

(a) All livestock and animals which are to be predominantly maintained out-of-doors must be provided with adequate shelter to prevent direct exposure to the elements.

(b) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained out-of-doors shall be provided. The building opening size and height must, at a minimum, extend one foot above the withers of the largest animal housed and must be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall or stanchion ties, or other housing under control of the department of agriculture, food and markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(c)

(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs.

(2) The specifications required by subdivision (c)(1) of this section shall apply to each dog, regardless of whether the dog is housed individually or with other animals.

(d) A dog or cat confined in a living space shall be permitted outside the cage, crate, or structure for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) A dog maintained out-of-doors must be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards throughout the year.

(f) A dog chained to a shelter must be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(g) A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation.

(i) Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out-of-doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices.

VT. STAT. ANN. tit.15, § 1103 (2012).Requests for relief.

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.

(c) If the court finds that the defendant has abused the plaintiff and that there is a danger of further abuse, the court shall make such orders as it deems necessary to protect the plaintiff, the children, or both, which may include the following:

(1) an order that the defendant refrain from abusing the plaintiff, his or her children or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(2) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(3) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(4) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(5) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(6) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(7) an order concerning the possession, care and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household.

(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(1) Evidence of the plaintiff's past sexual conduct with the defendant.

(2) Evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease.

(3) Evidence of specific instances of the plaintiff's past false allegations of violations of chapter 59 or 72 of Title 13.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(h) Form complaints and form orders shall be provided by the court administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(k) Affidavit forms required pursuant to this section shall bear the following language: "MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904."

VT. STAT. ANN. tit.26, § 2404(2012). Immunity from liability for reporting suspected cases of animal cruelty.

(a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, a veterinarian licensed to practice in this state who, in good faith and in the normal course of practice, reports suspected cases of cruelty to animals, as defined in sections 352 and 352a of Title 13, to any humane officer or officer as defined in subdivision 351(4) of Title 13 or local board of health officer or agent.

(b) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who accompanies a humane officer during the execution of a warrant pursuant to section 354 of Title 13, or evaluates the health of and provides medical attention to, including a decision for euthanasia, an animal brought to that veterinarian for health assessment, pursuant to section 354.

(c) There shall be no monetary liability on the part of, and no cause of action for damages against, a veterinarian licensed to practice in this state who inspects premises or orders a quarantine pursuant to section 3682 or 3683 of Title 20.

ANIMAL PROTECTION LAWS OF THE VIRGIN ISLANDS

1. GENERAL PROHIBITIONS
2. PENALTIES
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6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
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9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains the Virgin Island's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

The Virgin Islands may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

1. GENERAL PROHIBITIONS*	(1) Animal abuse in the first degree 14 V.I. CODE ANN. § 181 (2) Animal abuse in the second degree 14 V.I. CODE ANN. § 182 (3) Animal neglect in the first degree 14 V.I. CODE ANN. § 183 (4) Animal neglect in the second degree 14 V.I. CODE ANN. § 184
<i>Animals Covered in Definition</i>	“[A]ny non-human mammal, bird, reptile or amphibian but does not include any pest that might be exterminated” 14 V.I. CODE ANN. § 180(c)
<i>Classification of Crimes</i>	(1) Felony (2), (3),(4) Misdemeanor

VIRGIN ISLANDS*continued*

<p>2. MAXIMUM PENALTIES **</p>	<p>(1) 2 years imprisonment <i>and</i> \$5,000 fine 14 V.I. CODE ANN. § 181(f)</p> <p>(2) 1 year imprisonment <i>or</i> \$500 fine 14 V.I. CODE ANN. § 182(d)</p> <p>(3) \$3,000 fine <i>and</i> 500 hours community service 14 V.I. CODE ANN. § 183(f)</p> <p>(4) \$500 fine <i>and</i> 100 hours of community service 14 V.I. CODE ANN. § 184(a)</p>
<p>3. EXEMPTIONS ***</p>	<p>6 14 V.I. CODE ANN. § 180(c)</p> <p>1, 9 14 V.I. CODE ANN. § 181</p> <p>9 14 V.I. CODE ANN. § 183</p>
<p>4. COUNSELING / EVALUATIONS †</p>	<p>The court shall order counseling as a condition of probation. 14 V.I. CODE ANN. § 185(b)(1)</p>
<p>5. PROTECTIVE ORDERS †</p>	<p>-----</p>

VIRGIN ISLANDS*continued*

VIRGIN ISLANDS <i>continued</i>	
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS[†]</p>	<p>Owner is liable for the reasonable cost of food and water for neglected animals. 14 V.I. CODE ANN. § 184(b)</p> <p>Cost of caring for and treating any animal properly seized under this section is a lien on the animal. 14 V.I. CODE ANN. § 187(d)(2)(E)</p> <p>Owner or custodian is liable for costs of care and medical attention for impounded animals. 14 V.I. CODE ANN. § 187(i)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Any person may enter an area to provide food and water to a domestic animal confined without such for more than 24 consecutive hours. 14 V.I. CODE ANN. § 184(b)</p> <p>Any appropriately designated officer, warden or agent may seize abused or neglected animals. 14 V.I. CODE ANN. § 187(a)</p>
<p>8. FORFEITURE / POSSESSION[†]</p>	<p>Upon conviction, an offender shall be enjoined from being a custodian of any animal for up to 20 years. 14 V.I. CODE ANN. § 185(a)</p> <p>Failure to respond to a post-seizure hearing notice, or answer the complaint, results in automatic relinquishment of all rights in the impounded animal. 14 V.I. CODE ANN. § 187(e)</p> <p>If a court finds by a preponderance of the evidence at a post-seizure hearing that a seized animal was mistreated and that the owner or custodian was responsible, or had knowledge of the mistreatment, all owner's or</p>

	custodian's rights to the animal are forfeited. 14 V.I. CODE ANN. § 187(h)
VIRGIN ISLANDS <i>continued</i>	
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	Veterinarians must report suspected animal abandonment, neglect or abuse; and are immune from civil or criminal liability for such reporting done in good faith. 14 V.I. CODE ANN. § 187(c)
11. LAW ENFORCEMENT POLICIES	-----
12. SEXUAL ASSAULT	Bestiality is punishable by imprisonment for up to 5 years. 14 V.I. CODE ANN. § 2062
13. FIGHTING	Various dogfighting activities, including spectatorship, are felonies. 19 V.I. CODE ANN. § 2613a
<i>Other Felony Provisions Affecting Animals</i> [‡]	-----

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states and territories may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

† This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

‡ This list is not exhaustive; states and territories may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

14 V.I. CODE ANN. § 180 (2012). Definitions.

The following terms, wherever used or referenced in this chapter, shall have the following meanings, unless a different meaning clearly appears from the context:

(a) 'Adequate care' means the provision of adequate food, clean water, shelter, sanitary conditions, exercise, rest, and veterinary medical attention in order to maintain the animal in a state of good health.

(b) 'Adequate food' means the provision, at suitable intervals, of wholesome foodstuff, suitable for the species and age of the animal and adequate to maintain a reasonable level of nutrition to allow for proper growth and weight in the animal, all of which foodstuff is served in a safe clean dish or container.

(c) 'Animal' means any non-human mammal, bird, reptile or amphibian but does not include any pest that might be exterminated.

(d) 'Animal impound' means any premises designated by the Commissioner of Agriculture, or his designated agent, for the purpose of impounding and caring for animals.

(e) 'To cause or permit unjustifiable pain' includes overloading, overworking, overdriving, over exercising, tormenting, unjustifiably beating or cruelly whipping an animal, using a disabled animal, maliciously abandoning or restraining an animal.

(f) 'Humane society' and 'animal shelter' mean a non-profit corporation organized under the laws of the Virgin Islands as a humane society or shelter, or as a society or shelter for the prevention of cruelty to animals.

(g) 'Maliciously' means intentionally acting with a depravity of mind or reckless and wanton disregard for life.

(h) 'Neglect' means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

(i) 'Owner' means any person that (1) has a right of property in an animal, (2) keeps or harbors an animal, (3) has an animal in his care, or (4) acts as a custodian of an animal.

(j) 'Person' includes any individual, partnership, corporation or association.

(k) 'Serious physical injury' means any injury that results in a serious or permanent impairment of a bodily function, leaves the animal disfigured or causes prolonged pain or impairment of health.

(l) 'Shelter' means continuous and adequate protection from the elements, suitable for the age and species of animal and weather conditions, to maintain the animal in a state of good health, including appropriate space or provisions for adequate exercise.

(m) 'State of good health' means freedom from disease and illness and in a condition of proper cleanliness, body weight, and temperature for the age and species of the animal, unless the animal is undergoing appropriate medical treatment.

(n) 'Unnecessarily kills an animal' means an act that is not reasonably necessary to terminate an animal's suffering, to protect the life of the actor or another person or animal, or if other means of disposing of an animal exist which would not impair the health or well being of the animal.

(o) 'Provision of adequate water' means provision of potable water made continuously available in a safe, clean dish, receptacle or container.

14 V.I. CODE ANN. § 181 (2012). Animal Abuse in the First Degree.

Any person who maliciously or unnecessarily:

(a) kills any animal; or

(b) tortures, maims, mutilates, disfigures, wounds, or inflicts unjustifiable pain on any animal; or

(c) forces, causes or induces a minor to maliciously or unnecessarily kill, torture, maim, mutilate; maliciously disfigure, wound or inflict unjustifiable pain on any animal; or

(d) causes or permits the cropping of any animal's ears or the docking of any animal's tail by a person other than a licensed veterinarian; or

(e) uses or traps to use domestic dogs, cats or any other animal as bait, prey or target or other malicious activities, including for the purpose of, but not limited to, training dogs or other animals to fight, excluding adult, male fowl used for the sport of cockfighting; or

(f) administers any poison to an animal or exposes any poisonous substance with the intent that the substance be taken or swallowed by the animal shall, for each offense, be guilty of a felony punishable by imprisonment not exceeding two (2) years and fined not less than \$2,000, but not exceeding \$5,000.

14 V.I. CODE ANN. § 182 (2012). Animal Abuse in the Second Degree.

Any person who intentionally or knowingly:

(a) causes, permits or inflicts unjustifiable or repeated physical pain, suffering or injury to any animal; or

(b) leads any animal from any vehicle or from a trailer drawn by a motor vehicle in a malicious or negligent manner; or

(c) transports an animal in a malicious manner or causes an animal to be transported in a malicious manner that results in unreasonable pain and suffering; or

(d) maliciously kills, wounds or traps any bird; destroys any bird's nest; or removes any eggs or young birds from any nest shall, for every such offense, be guilty of a misdemeanor punishable by imprisonment not exceeding one (1) year or a fine of \$500.

14 V.I. CODE ANN. § 183 (2012). Animal Neglect in the First Degree.

Any person who intentionally, knowingly, recklessly or negligently:

(a) fails to provide an animal in such person's custody or control with adequate care, and such failure causes serious physical injury or death to the animal; or

(b) abandons an animal or causes an animal to be abandoned in any place without making provisions for the animal's adequate care, unless the premises are temporarily vacated for the protection of human life during disaster; or

(c) disposes of any live animal at or into a dumpster or at any garbage disposal site; or

(d) allows an animal, including one who is aged, diseased, maimed, hopelessly sick, disabled or nonambulatory to suffer torture or unnecessary neglect or pain; or

(e) while operating a motor vehicle, hits or injures any animal and fails to make all reasonable efforts to contact the owner of the animal and otherwise attend to the animal's medical well-being; or

(f) confines an animal in a motor vehicle or other enclosed space in which the temperature is so high as to cause or threaten serious harm to the animal; shall, for every such offense, be guilty of a misdemeanor punishable by a fine not exceeding \$3,000 and up to 500 hours of community service.

14 V.I. CODE ANN. § 184 (2012). Animal Neglect in the Second Degree.

(a) Any person who intentionally, knowingly, recklessly or negligently fails to provide adequate care for an animal in such person's custody and such failure causes the animal needless suffering shall, for every such offense, be guilty of a misdemeanor punishable by a fine of up to \$500 and up to one hundred (100) hours of community service.

(b) If any domestic animal is at any time confined and continues to be confined without necessary food and water for more than 24 consecutive hours, it is lawful for any person designated by the Department of Agriculture, or any peace officer from time to time, as may be considered necessary, to enter into and upon any pound or area in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such a person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the owner is subject to enforcement of a money judgment for the reasonable cost of such food and water.

2. PENALTIES

14 V.I. CODE ANN. § 181 (2012). Animal Abuse in the First Degree.

Any person who maliciously or unnecessarily:

- (a) kills any animal; or
- (b) tortures, maims, mutilates, disfigures, wounds, or inflicts unjustifiable pain on any animal; or
- (c) forces, causes or induces a minor to maliciously or unnecessarily kill, torture, maim, mutilate; maliciously disfigure, wound or inflict unjustifiable pain on any animal; or
- (d) causes or permits the cropping of any animal's ears or the docking of any animal's tail by a person other than a licensed veterinarian; or
- (e) uses or traps to use domestic dogs, cats or any other animal as bait, prey or target or other malicious activities, including for the purpose of, but not limited to, training dogs or other animals to fight, excluding adult, male fowl used for the sport of cockfighting; or
- (f) administers any poison to an animal or exposes any poisonous substance with the intent that the substance be taken or swallowed by the animal shall, for each offense, be guilty of a felony *punishable by imprisonment not exceeding two (2) years and fined not less than \$2,000, but not exceeding \$5,000.*

14 V.I. CODE ANN. § 182 (2012). Animal Abuse in the Second Degree.

Any person who intentionally or knowingly:

- (a) causes, permits or inflicts unjustifiable or repeated physical pain, suffering or injury to any animal; or
- (b) leads any animal from any vehicle or from a trailer drawn by a motor vehicle in a malicious or negligent manner; or
- (c) transports an animal in a malicious manner or causes an animal to be transported in a malicious manner that results in unreasonable pain and suffering; or
- (d) maliciously kills, wounds or traps any bird; destroys any bird's nest; or removes any eggs or young birds from any nest shall, for every such offense, be guilty of a misdemeanor punishable *by imprisonment not exceeding one (1) year or a fine of \$500.*

14 V.I. CODE ANN.§ 183 (2012).Animal Neglect in the First Degree.

Any person who intentionally, knowingly, recklessly or negligently:

(a) fails to provide an animal in such person's custody or control with adequate care, and such failure causes serious physical injury or death to the animal; or

(b) abandons an animal or causes an animal to be abandoned in any place without making provisions for the animal's adequate care, unless the premises are temporarily vacated for the protection of human life during disaster; or

(c) disposes of any live animal at or into a dumpster or at any garbage disposal site; or

(d) allows an animal, including one who is aged, diseased, maimed, hopelessly sick, disabled or nonambulatory to suffer torture or unnecessary neglect or pain; or

(e) while operating a motor vehicle, hits or injures any animal and fails to make all reasonable efforts to contact the owner of the animal and otherwise attend to the animal's medical well-being; or

(f) confines an animal in a motor vehicle or other enclosed space in which the temperature is so high as to cause or threaten serious harm to the animal; shall, for every such offense, be guilty of a misdemeanor *punishable by a fine not exceeding \$3,000 and up to 500 hours of community service.*

14 V.I. CODE ANN.§ 184 (2012).Animal Neglect in the Second Degree.

(a) Any person who intentionally, knowingly, recklessly or negligently fails to provide adequate care for an animal in such person's custody and such failure causes the animal needless suffering shall, for every such offense, be guilty of a misdemeanor *punishable by a fine of up to \$500 and up to one hundred (100) hours of community service.*

(b) If any domestic animal is at any time confined and continues to be confined without necessary food and water for more than 24 consecutive hours, it is lawful for any person designated by the Department of Agriculture, or any peace officer from time to time, as may be considered necessary, to enter into and upon any pound or area in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such a person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the owner is subject to enforcement of a money judgment for the reasonable cost of such food and water.

3. EXEMPTIONS

14 V.I. CODE ANN. § 180 (2012). Definitions.

The following terms, wherever used or referenced in this chapter, shall have the following meanings, unless a different meaning clearly appears from the context:

- (a) 'Adequate care' means the provision of adequate food, clean water, shelter, sanitary conditions, exercise, rest, and veterinary medical attention in order to maintain the animal in a state of good health.
- (b) 'Adequate food' means the provision, at suitable intervals, of wholesome foodstuff, suitable for the species and age of the animal and adequate to maintain a reasonable level of nutrition to allow for proper growth and weight in the animal, all of which foodstuff is served in a safe clean dish or container.
- (c) 'Animal' means any non-human mammal, bird, reptile or amphibian but *does not include any pest that might be exterminated.*
- (d) 'Animal impound' means any premises designated by the Commissioner of Agriculture, or his designated agent, for the purpose of impounding and caring for animals.
- (e) 'To cause or permit unjustifiable pain' includes overloading, overworking, overdriving, over exercising, tormenting, unjustifiably beating or cruelly whipping an animal, using a disabled animal, maliciously abandoning or restraining an animal.
- (f) 'Humane society' and 'animal shelter' mean a non-profit corporation organized under the laws of the Virgin Islands as a humane society or shelter, or as a society or shelter for the prevention of cruelty to animals.
- (g) 'Maliciously' means intentionally acting with a depravity of mind or reckless and wanton disregard for life.
- (h) 'Neglect' means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.
- (i) 'Owner' means any person that (1) has a right of property in an animal, (2) keeps or harbors an animal, (3) has an animal in his care, or (4) acts as a custodian of an animal.
- (j) 'Person' includes any individual, partnership, corporation or association.
- (k) 'Serious physical injury' means any injury that results in a serious or permanent impairment of a bodily function, leaves the animal disfigured or causes prolonged pain or impairment of health.

(l) 'Shelter' means continuous and adequate protection from the elements, suitable for the age and species of animal and weather conditions, to maintain the animal in a state of good health, including appropriate space or provisions for adequate exercise.

(m) 'State of good health' means freedom from disease and illness and in a condition of proper cleanliness, body weight, and temperature for the age and species of the animal, unless the animal is undergoing appropriate medical treatment.

(n) 'Unnecessarily kills an animal' means an act that is not reasonably necessary to terminate an animal's suffering, to protect the life of the actor or another person or animal, or if other means of disposing of an animal exist which would not impair the health or well being of the animal.

(o) 'Provision of adequate water' means provision of potable water made continuously available in a safe, clean dish, receptacle or container.

14 V.I. CODE ANN. § 181 (2012). Animal Abuse in the First Degree.

Any person who maliciously or unnecessarily:

(a) kills any animal; or

(b) tortures, maims, mutilates, disfigures, wounds, or inflicts unjustifiable pain on any animal; or

(c) forces, causes or induces a minor to maliciously or unnecessarily kill, torture, maim, mutilate; maliciously disfigure, wound or inflict unjustifiable pain on any animal; or

(d) causes or permits the cropping of any animal's ears or the docking of any animal's tail by a person *other than a licensed veterinarian*; or

(e) uses or traps to use domestic dogs, cats or any other animal as bait, prey or target or other malicious activities, including for the purpose of, but not limited to, training dogs or other animals to fight, *excluding adult, male fowl used for the sport of cockfighting*; or

(f) administers any poison to an animal or exposes any poisonous substance with the intent that the substance be taken or swallowed by the animal shall, for each offense, be guilty of a felony punishable by imprisonment not exceeding two (2) years and fined not less than \$2,000, but not exceeding \$5,000.

14 V.I. CODE ANN. § 183 (2012). Animal Neglect in the First Degree.

Any person who intentionally, knowingly, recklessly or negligently:

(a) fails to provide an animal in such person's custody or control with adequate care, and such failure causes serious physical injury or death to the animal; or

(b) abandons an animal or causes an animal to be abandoned in any place without making provisions for the animal's adequate care, *unless the premises are temporarily vacated for the protection of human life during disaster; or*

(c) disposes of any live animal at or into a dumpster or at any garbage disposal site; or

(d) allows an animal, including one who is aged, diseased, maimed, hopelessly sick, disabled or nonambulatory to suffer torture or unnecessary neglect or pain; or

(e) while operating a motor vehicle, hits or injures any animal and fails to make all reasonable efforts to contact the owner of the animal and otherwise attend to the animal's medical well-being; or

(f) confines an animal in a motor vehicle or other enclosed space in which the temperature is so high as to cause or threaten serious harm to the animal; shall, for every such offense, be guilty of a misdemeanor punishable by a fine not exceeding \$3,000 and up to 500 hours of community service.

4. COUNSELING / EVALUATIONS

14 V.I. CODE ANN. § 185 (2012). Future Animal Custody and Counseling.

(a) If a person is convicted of any offense defined in sections 181, 182, 183 and 184 of this chapter, the court shall, in addition to any other sentence or penalty imposed, enter an order enjoining the person from acting as a custodian of any animal for a period of not less than five years from the date of sentence, or from the person's release from custody, if a term of custody is imposed, or for a greater period, up to twenty years, in the discretion of the court. To the extent that the duration of an order coincides with the term of, probation imposed, as a result of such conviction, a violation of an order shall be treated as a violation of probation, and punished as such; otherwise, any violation of an order shall be treated as criminal contempt of court and punished as such.

(b)

(1) If a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for the counseling, the court may develop a sliding fee schedule based on the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee.

(2) The counseling specified in paragraph (1) of this subsection shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

14 V.I. CODE ANN. § 184 (2012). Animal Neglect in the Second Degree.

(a) Any person who intentionally, knowingly, recklessly or negligently fails to provide adequate care for an animal in such person's custody and such failure causes the animal needless suffering shall, for every such offense, be guilty of a misdemeanor punishable by a fine of up to \$500 and up to one hundred (100) hours of community service.

(b) If any domestic animal is at any time confined and continues to be confined without necessary food and water for more than 24 consecutive hours, it is lawful for any person designated by the Department of Agriculture, or any peace officer from time to time, as may be considered necessary, to enter into and upon any pound or area in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such a person is not liable for the entry and *may collect the reasonable cost of the food and water from the owner of the animal, and the owner is subject to enforcement of a money judgment for the reasonable cost of such food and water.*

14 V.I. CODE ANN. § 187 (2012). Seizure.

(a) Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, any peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, who becomes aware of any animal that the officer, warden or agent determines, in his sole discretion, to be an apparent victim of animal abuse or neglect as defined under this chapter, shall take possession of the animal and shall deliver the animal to a Humane Society, Animal Shelter, Animal Impound or licensed veterinarian to be sheltered, cared for and given medical attention, if necessary. If the animal is taken to a licensed veterinarian, the officer, warden or agent shall notify the appropriate Animal Shelter or Humane Society of that fact. Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, acting pursuant to this section may take any action that such officer, warden or agent considers, in his sole discretion, reasonably necessary to seize such animal so endangered and to remove the threat of further harm to the animal, and no such officer, warden, veterinarian or agent, or his employers, or the Government of the Virgin Islands shall be liable for any harm or damages of whatever nature caused by such action or for any other action taken pursuant to this chapter.

(b) The veterinarian, animal warden or agent of a Humane Society, Animal Shelter, or animal impound receiving an animal from the Department of Agriculture pursuant to this section may humanely euthanize the animal, if such veterinarian, warden or agent, in his sole discretion, determines that the animal is injured or diseased past recovery, or that the animal's continued existence is inhumane and that euthanizing the animal is necessary to relieve pain or suffering.

(c) It is the duty of any veterinarian licensed in the Virgin Islands to report to the Police Department, Department of Justice, Department of Agriculture, any peace officer or other appropriate enforcement agency, any animal found, reasonably known or believed to be abandoned, neglected or abused as defined in this chapter, and such veterinarian is not subject to any civil or criminal liability for such reporting or for participating in an investigation of animal abuse or neglect, if done in good faith.

(d) If an animal seized under subsection (a) of this section is not euthanized pursuant to subsection (b), the Animal Shelter, Humane Society or animal impound in possession of the animal, or notified of a veterinarian's possession of the animal, shall make reasonable efforts to notify the owner or custodian of the animal of such seizure pursuant to the terms of paragraphs (1) and (2) of this subsection.

(1) If the identity and the mailing address of the custodian or owner are known, written notice of seizure shall be given and shall be deposited in the postal service, postage pre-paid and certified.

(2) The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice and the date of the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his agent, shall request the hearing pursuant to the procedures set forth in subsection (e) of this section.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(F) Notice is deemed accomplished three days after the mailing of the notice, and in no event may proof of receipt of such notice be required.

(G) If the identity of the custodian or owner is known, but the custodian or owner's mailing address is unknown, notice of seizure shall be given either by delivery of written notice to the custodian or owner, in which case, notice shall be deemed accomplished upon delivery or by the procedures set forth in subparagraph (H) of this paragraph.

(H) If the identity of the custodian or owner is unknown, notice of seizure shall be given either by posting for written notice thereof at the physical location of such seizure or by publishing written notice thereof in a newspaper of general circulation on the island of seizure, and notice shall be deemed accomplished three days after such posting or publication.

(e) The owner or custodian of the seized animal must deliver to the Animal Shelter, Humane Society or animal impound written notice of the owner's or custodian's desire to contest the seizure of the animal and to regain custody of the animal within three days after delivery of such notice. To be considered effective, the notice of the owner or custodian of the seized animal must set forth the owner's or custodian's physical address and mailing address. If the owner or custodian of the animal fails to deliver such notice within the specified period, then the owner or custodian shall be deemed to have relinquished all legal and custodial rights to such animal and to have delivered such animal to the ownership and custody of the Department of Agriculture.

(f) If the owner or custodian of the animal delivers the notice set forth in subsection (e) within the stated period, the Commissioner of Agriculture, within five days after receipt of such notice shall hold an administrative hearing to make a determination as to whether the animal should have been removed. After a determination that the animal should have been removed, the Commissioner shall file a complaint in the Superior Court setting forth the facts and circumstances relating to the seizure of the animal and such facts as he has been able to determine relating to the animal's care, custody, and condition and requesting that legal and custodial rights to such animal be transferred to the Animal Shelter or Humane Society. A copy of such a complaint shall be served on the owner or custodian of the animal.

(g) If the owner or custodian of the animal wishes to dispute the allegations of the complaint or the requested relief, he shall file an answer to the complaint within 10 days after service, setting forth his response to the allegations of the complaint. If no such answer is filed within the ten-day time limit, the legal and custodial rights to the animal shall be deemed transferred to the Animal Shelter or Humane Society, and the court shall, on application of the Department of Agriculture and the consent of the Animal Shelter or Humane Society, enter an order to that effect. If an answer is filed, the court shall hold a hearing on the merits of the matter within 30 days thereafter. Neither party shall have the right to trial by jury at such a hearing.

(h) At the adjudicatory hearing, the Department of Agriculture shall bear the burden of proving by preponderance of evidence that the seized animal was neglected or abused as defined in this chapter, and that the owner or custodian was either responsible for or had or should have had knowledge of the abuse or neglect. If the court so finds, the court shall enter an order transferring legal and custodial rights to the animal to the Department of Agriculture and shall enter judgment against the owner or custodian for an amount pursuant to subsection (i) of this section.

(i) The owner or custodian of such animal shall be liable to the Department of Agriculture, Humane Society, Animal Shelter, or licensed veterinarian for the payment of such care keeping and medical attention provided to the animal from the date of its delivery to the date of its release.

7. SEIZURE / ON-SITE SUPERVISION

14 V.I. CODE ANN. § 184 (2012). Animal Neglect in the Second Degree.

(a) Any person who intentionally, knowingly, recklessly or negligently fails to provide adequate care for an animal in such person's custody and such failure causes the animal needless suffering shall, for every such offense, be guilty of a misdemeanor punishable by a fine of up to \$500 and up to one hundred (100) hours of community service.

(b) If any domestic animal is at any time confined and continues to be confined without necessary food and water for more than 24 consecutive hours, it is lawful for any person designated by the Department of Agriculture, or any peace officer from time to time, as may be considered necessary, to enter into and upon any pound or area in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such a person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the owner is subject to enforcement of a money judgment for the reasonable cost of such food and water.

14 V.I. CODE ANN. § 187 (2012). Seizure.

(a) Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, any peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, who becomes aware of any animal that the officer, warden or agent determines, in his sole discretion, to be an apparent victim of animal abuse or neglect as defined under this chapter, shall take possession of the animal and shall deliver the animal to a Humane Society, Animal Shelter, Animal Impound or licensed veterinarian to be sheltered, cared for and given medical attention, if necessary. If the animal is taken to a licensed veterinarian, the officer, warden or agent shall notify the appropriate Animal Shelter or Humane Society of that fact. Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, acting pursuant to this section may take any action that such officer, warden or agent considers, in his sole discretion, reasonably necessary to seize such animal so endangered and to remove the threat of further harm to the animal, and no such officer, warden, veterinarian or agent, or his employers, or the Government of the Virgin Islands shall be liable for any harm or damages of whatever nature caused by such action or for any other action taken pursuant to this chapter.

(b) The veterinarian, animal warden or agent of a Humane Society, Animal Shelter, or animal impound receiving an animal from the Department of Agriculture pursuant to this section may humanely euthanize the animal, if such veterinarian, warden or agent, in his sole discretion, determines that the animal is injured or diseased past recovery, or that the animal's continued existence is inhumane and that euthanizing the animal is necessary to relieve pain or suffering.

(c) It is the duty of any veterinarian licensed in the Virgin Islands to report to the Police Department, Department of Justice, Department of Agriculture, any peace officer or other appropriate enforcement agency, any animal found, reasonably known or believed to be abandoned, neglected or abused as defined in this chapter, and such veterinarian is not subject to any civil or criminal liability for such reporting or for participating in an investigation of animal abuse or neglect, if done in good faith.

(d) If an animal seized under subsection (a) of this section is not euthanized pursuant to subsection (b), the Animal Shelter, Humane Society or animal impound in possession of the animal, or notified of a veterinarian's possession of the animal, shall make reasonable efforts to notify the owner or custodian of the animal of such seizure pursuant to the terms of paragraphs (1) and (2) of this subsection.

(1) If the identity and the mailing address of the custodian or owner are known, written notice of seizure shall be given and shall be deposited in the postal service, postage pre-paid and certified.

(2) The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice and the date of the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his agent, shall request the hearing pursuant to the procedures set forth in subsection (e) of this section.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(F) Notice is deemed accomplished three days after the mailing of the notice, and in no event may proof of receipt of such notice be required.

(G) If the identity of the custodian or owner is known, but the custodian or owner's mailing address is unknown, notice of seizure shall be given either by delivery of written notice to the custodian or owner, in which case, notice shall be deemed accomplished upon delivery or by the procedures set forth in subparagraph (H) of this paragraph.

(H) If the identity of the custodian or owner is unknown, notice of seizure shall be given either by posting for written notice thereof at the physical location of such seizure or by publishing written notice thereof in a newspaper of general circulation on the island of seizure, and notice shall be deemed accomplished three days after such posting or publication.

(e) The owner or custodian of the seized animal must deliver to the Animal Shelter, Humane Society or animal impound written notice of the owner's or custodian's desire to contest the seizure of the animal and to regain custody of the animal within three days after delivery of such notice. To be considered effective, the notice of the owner or custodian of the seized animal must set forth the owner's or custodian's physical address and mailing address. If the owner or custodian of the animal fails to deliver such notice within the specified period, then the owner or custodian shall be deemed to have relinquished all legal and custodial rights to such animal and to have delivered such animal to the ownership and custody of the Department of Agriculture.

(f) If the owner or custodian of the animal delivers the notice set forth in subsection (e) within the stated period, the Commissioner of Agriculture, within five days after receipt of such notice shall hold an administrative hearing to make a determination as to whether the animal should have been removed. After a determination that the animal should have been removed, the Commissioner shall file a complaint in the Superior Court setting forth the facts and circumstances relating to the seizure of the animal and such facts as he has been able to determine relating to the animal's care, custody, and condition and requesting that legal and custodial rights to such animal be transferred to the Animal Shelter or Humane Society. A copy of such a complaint shall be served on the owner or custodian of the animal.

(g) If the owner or custodian of the animal wishes to dispute the allegations of the complaint or the requested relief, he shall file an answer to the complaint within 10 days after service, setting forth his response to the allegations of the complaint. If no such answer is filed within the ten-day time limit, the legal and custodial rights to the animal shall be deemed transferred to the Animal Shelter or Humane Society, and the court shall, on application of the Department of Agriculture and the consent of the Animal Shelter or Humane Society, enter an order to that effect. If an answer is filed, the court shall hold a hearing on the merits of the matter within 30 days thereafter. Neither party shall have the right to trial by jury at such a hearing.

(h) At the adjudicatory hearing, the Department of Agriculture shall bear the burden of proving by preponderance of evidence that the seized animal was neglected or abused as defined in this chapter, and that the owner or custodian was either responsible for or had or should have had knowledge of the abuse or neglect. If the court so finds, the court shall enter an order transferring legal and custodial rights to the animal to the Department of Agriculture and shall enter judgment against the owner or custodian for an amount pursuant to subsection (i) of this section.

(i) The owner or custodian of such animal shall be liable to the Department of Agriculture, Humane Society, Animal Shelter, or licensed veterinarian for the payment of such care keeping and medical attention provided to the animal from the date of its delivery to the date of its release.

8. FORFEITURE / POSSESSION

14 V.I. CODE ANN. § 185 (2012). Future Animal Custody and Counseling.

(a) If a person is convicted of any offense defined in sections 181, 182, 183 and 184 of this chapter, the court shall, in addition to any other sentence or penalty imposed, enter an order enjoining the person from acting as a custodian of any animal for a period of not less than five years from the date of sentence, or from the person's release from custody, if a term of custody is imposed, or for a greater period, up to twenty years, in the discretion of the court. To the extent that the duration of an order coincides with the term of, probation imposed, as a result of such conviction, a violation of an order shall be treated as a violation of probation, and punished as such; otherwise, any violation of an order shall be treated as criminal contempt of court and punished as such.

(b)

(1) If a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for the counseling, the court may develop a sliding fee schedule based on the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee.

(2) The counseling specified in paragraph (1) of this subsection shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine.

14 V.I. CODE ANN. § 187 (2012). Seizure.

(a) Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, any peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, who becomes aware of any animal that the officer, warden or agent determines, in his sole discretion, to be an apparent victim of animal abuse or neglect as defined under this chapter, shall take possession of the animal and shall deliver the animal to a Humane Society, Animal Shelter, Animal Impound or licensed veterinarian to be sheltered, cared for and given medical attention, if necessary. If the animal is taken to a licensed veterinarian, the officer, warden or agent shall notify the appropriate Animal Shelter or Humane Society of that fact. Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, acting pursuant to this section may take any action that such officer, warden or agent considers, in his sole discretion, reasonably necessary to seize such animal so endangered and to remove the threat of further harm to the animal, and no such officer, warden, veterinarian or agent, or his employers, or the Government of the Virgin Islands shall be liable for any harm or damages of whatever nature caused by such action or for any other action taken pursuant to this chapter.

(b) The veterinarian, animal warden or agent of a Humane Society, Animal Shelter, or animal impound receiving an animal from the Department of Agriculture pursuant to this section may humanely euthanize the animal, if such veterinarian, warden or agent, in his sole discretion, determines that the animal is injured or diseased past recovery, or that the animal's continued existence is inhumane and that euthanizing the animal is necessary to relieve pain or suffering.

(c) It is the duty of any veterinarian licensed in the Virgin Islands to report to the Police Department, Department of Justice, Department of Agriculture, any peace officer or other appropriate enforcement agency, any animal found, reasonably known or believed to be abandoned, neglected or abused as defined in this chapter, and such veterinarian is not subject to any civil or criminal liability for such reporting or for participating in an investigation of animal abuse or neglect, if done in good faith.

(d) If an animal seized under subsection (a) of this section is not euthanized pursuant to subsection (b), the Animal Shelter, Humane Society or animal impound in possession of the animal, or notified of a veterinarian's possession of the animal, shall make reasonable efforts to notify the owner or custodian of the animal of such seizure pursuant to the terms of paragraphs (1) and (2) of this subsection.

(1) If the identity and the mailing address of the custodian or owner are known, written notice of seizure shall be given and shall be deposited in the postal service, postage pre-paid and certified.

(2) The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice and the date of the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his agent, shall request the hearing pursuant to the procedures set forth in subsection (e) of this section.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(F) Notice is deemed accomplished three days after the mailing of the notice, and in no event may proof of receipt of such notice be required.

(G) If the identity of the custodian or owner is known, but the custodian or owner's mailing address is unknown, notice of seizure shall be given either by delivery of written notice to the custodian or owner, in which case, notice shall be deemed accomplished upon delivery or by the procedures set forth in subparagraph (H) of this paragraph.

(H) If the identity of the custodian or owner is unknown, notice of seizure shall be given either by posting for written notice thereof at the physical location of such seizure or by publishing written notice thereof in a newspaper of general circulation on the island of seizure, and notice shall be deemed accomplished three days after such posting or publication.

(e) The owner or custodian of the seized animal must deliver to the Animal Shelter, Humane Society or animal impound written notice of the owner's or custodian's desire to contest the seizure of the animal and to regain custody of the animal within three days after delivery of such notice. To be considered effective, the notice of the owner or custodian of the seized animal must set forth the owner's or custodian's physical address and mailing address. If the owner or custodian of the animal fails to deliver such notice within the specified period, then the owner or custodian shall be deemed to have relinquished all legal and custodial rights to such animal and to have delivered such animal to the ownership and custody of the Department of Agriculture.

(f) If the owner or custodian of the animal delivers the notice set forth in subsection (e) within the stated period, the Commissioner of Agriculture, within five days after receipt of such notice

shall hold an administrative hearing to make a determination as to whether the animal should have been removed. After a determination that the animal should have been removed, the Commissioner shall file a complaint in the Superior Court setting forth the facts and circumstances relating to the seizure of the animal and such facts as he has been able to determine relating to the animal's care, custody, and condition and requesting that legal and custodial rights to such animal be transferred to the Animal Shelter or Humane Society. A copy of such a complaint shall be served on the owner or custodian of the animal.

(g) If the owner or custodian of the animal wishes to dispute the allegations of the complaint or the requested relief, he shall file an answer to the complaint within 10 days after service, setting forth his response to the allegations of the complaint. If no such answer is filed within the ten-day time limit, the legal and custodial rights to the animal shall be deemed transferred to the Animal Shelter or Humane Society, and the court shall, on application of the Department of Agriculture and the consent of the Animal Shelter or Humane Society, enter an order to that effect. If an answer is filed, the court shall hold a hearing on the merits of the matter within 30 days thereafter. Neither party shall have the right to trial by jury at such a hearing.

(h) At the adjudicatory hearing, the Department of Agriculture shall bear the burden of proving by preponderance of evidence that the seized animal was neglected or abused as defined in this chapter, and that the owner or custodian was either responsible for or had or should have had knowledge of the abuse or neglect. If the court so finds, the court shall enter an order transferring legal and custodial rights to the animal to the Department of Agriculture and shall enter judgment against the owner or custodian for an amount pursuant to subsection (i) of this section.

(i) The owner or custodian of such animal shall be liable to the Department of Agriculture, Humane Society, Animal Shelter, or licensed veterinarian for the payment of such care keeping and medical attention provided to the animal from the date of its delivery to the date of its release.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

14 V.I. CODE ANN. § 187 (2012). Seizure.

(a) Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, any peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, who becomes aware of any animal that the officer, warden or agent determines, in his sole discretion, to be an apparent victim of animal abuse or neglect as defined under this chapter, shall take possession of the animal and shall deliver the animal to a Humane Society, Animal Shelter, Animal Impound or licensed veterinarian to be sheltered, cared for and given medical attention, if necessary. If the animal is taken to a licensed veterinarian, the officer, warden or agent shall notify the appropriate Animal Shelter or Humane Society of that fact. Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, acting pursuant to this section may take any action that such officer, warden or agent considers, in his sole discretion, reasonably necessary to seize such animal so endangered and to remove the threat of further harm to the animal, and no such officer, warden, veterinarian or agent, or his employers, or the Government of the Virgin Islands shall be liable for any harm or damages of whatever nature caused by such action or for any other action taken pursuant to this chapter.

(b) The veterinarian, animal warden or agent of a Humane Society, Animal Shelter, or animal impound receiving an animal from the Department of Agriculture pursuant to this section may humanely euthanize the animal, if such veterinarian, warden or agent, in his sole discretion, determines that the animal is injured or diseased past recovery, or that the animal's continued existence is inhumane and that euthanizing the animal is necessary to relieve pain or suffering.

(c) It is the duty of any veterinarian licensed in the Virgin Islands to report to the Police Department, Department of Justice, Department of Agriculture, any peace officer or other appropriate enforcement agency, any animal found, reasonably known or believed to be abandoned, neglected or abused as defined in this chapter, and such veterinarian is not subject to any civil or criminal liability for such reporting or for participating in an investigation of animal abuse or neglect, if done in good faith.

(d) If an animal seized under subsection (a) of this section is not euthanized pursuant to subsection (b), the Animal Shelter, Humane Society or animal impound in possession of the animal, or notified of a veterinarian's possession of the animal, shall make reasonable efforts to notify the owner or custodian of the animal of such seizure pursuant to the terms of paragraphs (1) and (2) of this subsection.

(1) If the identity and the mailing address of the custodian or owner are known, written notice of seizure shall be given and shall be deposited in the postal service, postage pre-paid and certified.

(2) The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice and the date of the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his agent, shall request the hearing pursuant to the procedures set forth in subsection (e) of this section.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(F) Notice is deemed accomplished three days after the mailing of the notice, and in no event may proof of receipt of such notice be required.

(G) If the identity of the custodian or owner is known, but the custodian or owner's mailing address is unknown, notice of seizure shall be given either by delivery of written notice to the custodian or owner, in which case, notice shall be deemed accomplished upon delivery or by the procedures set forth in subparagraph (H) of this paragraph.

(H) If the identity of the custodian or owner is unknown, notice of seizure shall be given either by posting for written notice thereof at the physical location of such seizure or by publishing written notice thereof in a newspaper of general circulation on the island of seizure, and notice shall be deemed accomplished three days after such posting or publication.

(e) The owner or custodian of the seized animal must deliver to the Animal Shelter, Humane Society or animal impound written notice of the owner's or custodian's desire to contest the seizure of the animal and to regain custody of the animal within three days after delivery of such notice. To be considered effective, the notice of the owner or custodian of the seized animal must set forth the owner's or custodian's physical address and mailing address. If the owner or custodian of the animal fails to deliver such notice within the specified period, then the owner or custodian shall be deemed to have relinquished all legal and custodial rights to such animal and to have delivered such animal to the ownership and custody of the Department of Agriculture.

(f) If the owner or custodian of the animal delivers the notice set forth in subsection (e) within the stated period, the Commissioner of Agriculture, within five days after receipt of such notice shall hold an administrative hearing to make a determination as to whether the animal should have been removed. After a determination that the animal should have been removed, the Commissioner shall file a complaint in the Superior Court setting forth the facts and circumstances relating to the seizure of the animal and such facts as he has been able to determine relating to the animal's care, custody, and condition and requesting that legal and custodial rights to such animal be transferred to the Animal Shelter or Humane Society. A copy of such a complaint shall be served on the owner or custodian of the animal.

(g) If the owner or custodian of the animal wishes to dispute the allegations of the complaint or the requested relief, he shall file an answer to the complaint within 10 days after service, setting forth his response to the allegations of the complaint. If no such answer is filed within the ten-day time limit, the legal and custodial rights to the animal shall be deemed transferred to the Animal Shelter or Humane Society, and the court shall, on application of the Department of Agriculture and the consent of the Animal Shelter or Humane Society, enter an order to that effect. If an answer is filed, the court shall hold a hearing on the merits of the matter within 30 days thereafter. Neither party shall have the right to trial by jury at such a hearing.

(h) At the adjudicatory hearing, the Department of Agriculture shall bear the burden of proving by preponderance of evidence that the seized animal was neglected or abused as defined in this chapter, and that the owner or custodian was either responsible for or had or should have had knowledge of the abuse or neglect. If the court so finds, the court shall enter an order transferring legal and custodial rights to the animal to the Department of Agriculture and shall enter judgment against the owner or custodian for an amount pursuant to subsection (i) of this section.

(i) The owner or custodian of such animal shall be liable to the Department of Agriculture, Humane Society, Animal Shelter, or licensed veterinarian for the payment of such care keeping and medical attention provided to the animal from the date of its delivery to the date of its release.

11. LAW ENFORCEMENT POLICIES

12. SEXUAL ASSAULT

14 V.I. CODE ANN.§ 2062 (2012). Bestiality.

Whoever shall carnally copulate with a beast shall be imprisoned not more than 5 years.

13. FIGHTING

19 V.I. CODE ANN.19 § 2613a (2012).Promoting, staging, advertising or witnessing dogfights; confiscation of equipment; possession of dog.

(a) Whoever:

(1) willfully, or for any bet, stake, or reward, instigates or encourages any dog to attack, bite, wound or bait another dog, except in the course of protection of life or property;

(2) keeps any house, pit or other place, or provides any equipment or facilities to be used in permitting any fight between dogs;

(3) does any act or performs any service in the furtherance of, or to facilitate, any dogfight including promotion, refereeing, handling of dogs at a dogfight, transporting spectators to or from a dogfight, providing concessions at a dogfight, advertising a dogfight, or serving as a stake-holder of any money wagered on any dogfight; or

(4) owns, possesses, keeps, or trains any dog with the intent that such dog will be engaged in an exhibition of fighting with another dog shall be guilty of a felony punishable by imprisonment for not more than two (2) years and fined not less than two thousand dollars (\$ 2,000) nor more than four thousand dollars (\$ 4,000). However, any person who is knowingly present as a spectator at any place, building, or other site where preparations are being made for an exhibition of dogfighting with the intent to be present at such preparation or fight, or who is knowingly present at such exhibition shall be guilty of a felony punishable by imprisonment for not more than eighteen (18) months and fined not more than one thousand dollars (\$ 1,000) for a first offense and imprisonment for not more than five (5) years, and fined not more than five thousand dollars (\$ 5,000) for any second or subsequent offense.

(b) Any peace officer who arrests a person under subsection (a) of this section may lawfully take possession of all equipment used for training, handling, or transporting a fighting dog and all equipment used to stage, promote or advertise a dogfight. Following a conviction under this section, the court entering the judgment shall order that any and all such equipment used in violation of this section be destroyed or forfeited to the Government of the United States Virgin Islands.

(c) Any peace officer making an arrest under this section shall lawfully take possession of any dog on the premises where the dogfight is alleged to have been staged or occurred and any dog kept on the premises of any person arrested under this section.

(1) When a peace officer takes possession of a dog under this subsection, the dog will be placed in the care of a humane society, animal shelter, court-approved licensed veterinarian, or a court-approved private housing facility under the supervision of a veterinarian, employee of the animal shelter, or officer of the humane society for boarding, treatment, or other care.

(2) The veterinarian, animal warden, or officer may humanely euthanize the dog that is in his opinion injured or diseased past recovery, or whose continued existence is inhumane and whose destruction is necessary to relieve pain or suffering. The owner of a dog destroyed under this subsection shall not be entitled to damages.

(3) If the veterinarian determines by means of physical examination or observation that the dog should be humanely euthanized due to lack of any useful purpose because of training or viciousness, a written request to destroy the dog shall be submitted to the court for approval. The court shall give notice to the dog's owner who shall have five (5) days in which to submit a written response. After five (5) days, upon a finding by the court that the dog lacks any useful purpose due to training or viciousness, it shall be within the authority of the veterinarian, animal warden, or officer of the humane society to humanely euthanize the dog when it is no longer needed as evidence.

(4) If the veterinarian determines by means of physical examination and observation that the dog has not been trained for aggressive conduct or if the court finds that the dog should not be humanely euthanized for reasons of training or viciousness, the dog shall be returned to its owner when the dog is no longer needed as evidence. The dog, however, may be subject to dangerous dog designation as provided under section 2615c of this chapter.

(5) All expenses incurred for treatment, boarding and other care of the dog, prior to the conviction of the owner, shall be assessed against the owner.

14. REFERENCED STATUTES

14 V.I. CODE ANN. § 180 (2012). Definitions.

The following terms, wherever used or referenced in this chapter, shall have the following meanings, unless a different meaning clearly appears from the context:

- (a) 'Adequate care' means the provision of adequate food, clean water, shelter, sanitary conditions, exercise, rest, and veterinary medical attention in order to maintain the animal in a state of good health.
- (b) 'Adequate food' means the provision, at suitable intervals, of wholesome foodstuff, suitable for the species and age of the animal and adequate to maintain a reasonable level of nutrition to allow for proper growth and weight in the animal, all of which foodstuff is served in a safe clean dish or container.
- (c) 'Animal' means any non-human mammal, bird, reptile or amphibian but does not include any pest that might be exterminated.
- (d) 'Animal impound' means any premises designated by the Commissioner of Agriculture, or his designated agent, for the purpose of impounding and caring for animals.
- (e) 'To cause or permit unjustifiable pain' includes overloading, overworking, overdriving, over exercising, tormenting, unjustifiably beating or cruelly whipping an animal, using a disabled animal, maliciously abandoning or restraining an animal.
- (f) 'Humane society' and 'animal shelter' mean a non-profit corporation organized under the laws of the Virgin Islands as a humane society or shelter, or as a society or shelter for the prevention of cruelty to animals.
- (g) 'Maliciously' means intentionally acting with a depravity of mind or reckless and wanton disregard for life.
- (h) 'Neglect' means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.
- (i) 'Owner' means any person that (1) has a right of property in an animal, (2) keeps or harbors an animal, (3) has an animal in his care, or (4) acts as a custodian of an animal.
- (j) 'Person' includes any individual, partnership, corporation or association.
- (k) 'Serious physical injury' means any injury that results in a serious or permanent impairment of a bodily function, leaves the animal disfigured or causes prolonged pain or impairment of health.

(l) 'Shelter' means continuous and adequate protection from the elements, suitable for the age and species of animal and weather conditions, to maintain the animal in a state of good health, including appropriate space or provisions for adequate exercise.

(m) 'State of good health' means freedom from disease and illness and in a condition of proper cleanliness, body weight, and temperature for the age and species of the animal, unless the animal is undergoing appropriate medical treatment.

(n) 'Unnecessarily kills an animal' means an act that is not reasonably necessary to terminate an animal's suffering, to protect the life of the actor or another person or animal, or if other means of disposing of an animal exist which would not impair the health or well being of the animal.

(o) 'Provision of adequate water' means provision of potable water made continuously available in a safe, clean dish, receptacle or container.

14 V.I. CODE ANN. § 181 (2012). Animal Abuse in the First Degree.

Any person who maliciously or unnecessarily:

(a) kills any animal; or

(b) tortures, maims, mutilates, disfigures, wounds, or inflicts unjustifiable pain on any animal; or

(c) forces, causes or induces a minor to maliciously or unnecessarily kill, torture, maim, mutilate; maliciously disfigure, wound or inflict unjustifiable pain on any animal; or

(d) causes or permits the cropping of any animal's ears or the docking of any animal's tail by a person other than a licensed veterinarian; or

(e) uses or traps to use domestic dogs, cats or any other animal as bait, prey or target or other malicious activities, including for the purpose of, but not limited to, training dogs or other animals to fight, excluding adult, male fowl used for the sport of cockfighting; or

(f) administers any poison to an animal or exposes any poisonous substance with the intent that the substance be taken or swallowed by the animal shall, for each offense, be guilty of a felony punishable by imprisonment not exceeding two (2) years and fined not less than \$2,000, but not exceeding \$5,000.

14 V.I. CODE ANN. § 182 (2012). Animal Abuse in the Second Degree.

Any person who intentionally or knowingly:

- (a) causes, permits or inflicts unjustifiable or repeated physical pain, suffering or injury to any animal; or
- (b) leads any animal from any vehicle or from a trailer drawn by a motor vehicle in a malicious or negligent manner; or
- (c) transports an animal in a malicious manner or causes an animal to be transported in a malicious manner that results in unreasonable pain and suffering; or
- (d) maliciously kills, wounds or traps any bird; destroys any bird's nest; or removes any eggs or young birds from any nest shall, for every such offense, be guilty of a misdemeanor punishable by imprisonment not exceeding one (1) year or a fine of \$500.

14 V.I. CODE ANN. § 183 (2012). Animal Neglect in the First Degree.

Any person who intentionally, knowingly, recklessly or negligently:

- (a) fails to provide an animal in such person's custody or control with adequate care, and such failure causes serious physical injury or death to the animal; or
- (b) abandons an animal or causes an animal to be abandoned in any place without making provisions for the animal's adequate care, unless the premises are temporarily vacated for the protection of human life during disaster; or
- (c) disposes of any live animal at or into a dumpster or at any garbage disposal site; or
- (d) allows an animal, including one who is aged, diseased, maimed, hopelessly sick, disabled or nonambulatory to suffer torture or unnecessary neglect or pain; or
- (e) while operating a motor vehicle, hits or injures any animal and fails to make all reasonable efforts to contact the owner of the animal and otherwise attend to the animal's medical well-being; or
- (f) confines an animal in a motor vehicle or other enclosed space in which the temperature is so high as to cause or threaten serious harm to the animal; shall, for every such offense, be guilty of a misdemeanor punishable by a fine not exceeding \$3,000 and up to 500 hours of community service.

14 V.I. CODE ANN. § 184 (2012). Animal Neglect in the Second Degree.

(a) Any person who intentionally, knowingly, recklessly or negligently fails to provide adequate care for an animal in such person's custody and such failure causes the animal needless suffering shall, for every such offense, be guilty of a misdemeanor punishable by a fine of up to \$500 and up to one hundred (100) hours of community service.

(b) If any domestic animal is at any time confined and continues to be confined without necessary food and water for more than 24 consecutive hours, it is lawful for any person designated by the Department of Agriculture, or any peace officer from time to time, as may be considered necessary, to enter into and upon any pound or area in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such a person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the owner is subject to enforcement of a money judgment for the reasonable cost of such food and water.

14 V.I. CODE ANN. § 185 (2012). Future Animal Custody and Counseling.

(a) If a person is convicted of any offense defined in sections 181, 182, 183 and 184 of this chapter, the court shall, in addition to any other sentence or penalty imposed, enter an order enjoining the person from acting as a custodian of any animal for a period of not less than five years from the date of sentence, or from the person's release from custody, if a term of custody is imposed, or for a greater period, up to twenty years, in the discretion of the court. To the extent that the duration of an order coincides with the term of, probation imposed, as a result of such conviction, a violation of an order shall be treated as a violation of probation, and punished as such; otherwise, any violation of an order shall be treated as criminal contempt of court and punished as such.

(b)

(1) If a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for the counseling, the court may develop a sliding fee schedule based on the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee.

(2) The counseling specified in paragraph (1) of this subsection shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine.

14 V.I. CODE ANN. § 187 (2012). Seizure.

(a) Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, any peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, who becomes aware of any animal that the officer, warden or agent determines, in his sole discretion, to be an apparent victim of animal abuse or neglect as defined under this chapter, shall take possession of the animal and shall deliver the animal to a Humane Society, Animal Shelter, Animal Impound or licensed veterinarian to be sheltered, cared for and given medical attention, if necessary. If the animal is taken to a licensed veterinarian, the officer, warden or agent shall notify the appropriate Animal Shelter or Humane Society of that fact. Any employee of the Department of Agriculture appropriately designated by the Commissioner of Agriculture, peace officer, animal warden or agent of a Humane Society or Animal Shelter designated by the Commissioner of Agriculture pursuant to title 19, section 2604 of the Virgin Island Code, acting pursuant to this section may take any action that such officer, warden or agent considers, in his sole discretion, reasonably necessary to seize such animal so endangered and to remove the threat of further harm to the animal, and no such officer, warden, veterinarian or agent, or his employers, or the Government of the Virgin Islands shall be liable for any harm or damages of whatever nature caused by such action or for any other action taken pursuant to this chapter.

(b) The veterinarian, animal warden or agent of a Humane Society, Animal Shelter, or animal impound receiving an animal from the Department of Agriculture pursuant to this section may humanely euthanize the animal, if such veterinarian, warden or agent, in his sole discretion, determines that the animal is injured or diseased past recovery, or that the animal's continued existence is inhumane and that euthanizing the animal is necessary to relieve pain or suffering.

(c) It is the duty of any veterinarian licensed in the Virgin Islands to report to the Police Department, Department of Justice, Department of Agriculture, any peace officer or other appropriate enforcement agency, any animal found, reasonably known or believed to be abandoned, neglected or abused as defined in this chapter, and such veterinarian is not subject to any civil or criminal liability for such reporting or for participating in an investigation of animal abuse or neglect, if done in good faith.

(d) If an animal seized under subsection (a) of this section is not euthanized pursuant to subsection (b), the Animal Shelter, Humane Society or animal impound in possession of the animal, or notified of a veterinarian's possession of the animal, shall make reasonable efforts to notify the owner or custodian of the animal of such seizure pursuant to the terms of paragraphs (1) and (2) of this subsection.

(1) If the identity and the mailing address of the custodian or owner are known, written notice of seizure shall be given and shall be deposited in the postal service, postage pre-paid and certified.

(2) The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice and the date of the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his agent, shall request the hearing pursuant to the procedures set forth in subsection (e) of this section.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(F) Notice is deemed accomplished three days after the mailing of the notice, and in no event may proof of receipt of such notice be required.

(G) If the identity of the custodian or owner is known, but the custodian or owner's mailing address is unknown, notice of seizure shall be given either by delivery of written notice to the custodian or owner, in which case, notice shall be deemed accomplished upon delivery or by the procedures set forth in subparagraph (H) of this paragraph.

(H) If the identity of the custodian or owner is unknown, notice of seizure shall be given either by posting for written notice thereof at the physical location of such seizure or by publishing written notice thereof in a newspaper of general circulation on the island of seizure, and notice shall be deemed accomplished three days after such posting or publication.

(e) The owner or custodian of the seized animal must deliver to the Animal Shelter, Humane Society or animal impound written notice of the owner's or custodian's desire to contest the seizure of the animal and to regain custody of the animal within three days after delivery of such notice. To be considered effective, the notice of the owner or custodian of the seized animal must set forth the owner's or custodian's physical address and mailing address. If the owner or custodian of the animal fails to deliver such notice within the specified period, then the owner or custodian shall be deemed to have relinquished all legal and custodial rights to such animal and to have delivered such animal to the ownership and custody of the Department of Agriculture.

(f) If the owner or custodian of the animal delivers the notice set forth in subsection (e) within the stated period, the Commissioner of Agriculture, within five days after receipt of such notice

shall hold an administrative hearing to make a determination as to whether the animal should have been removed. After a determination that the animal should have been removed, the Commissioner shall file a complaint in the Superior Court setting forth the facts and circumstances relating to the seizure of the animal and such facts as he has been able to determine relating to the animal's care, custody, and condition and requesting that legal and custodial rights to such animal be transferred to the Animal Shelter or Humane Society. A copy of such a complaint shall be served on the owner or custodian of the animal.

(g) If the owner or custodian of the animal wishes to dispute the allegations of the complaint or the requested relief, he shall file an answer to the complaint within 10 days after service, setting forth his response to the allegations of the complaint. If no such answer is filed within the ten-day time limit, the legal and custodial rights to the animal shall be deemed transferred to the Animal Shelter or Humane Society, and the court shall, on application of the Department of Agriculture and the consent of the Animal Shelter or Humane Society, enter an order to that effect. If an answer is filed, the court shall hold a hearing on the merits of the matter within 30 days thereafter. Neither party shall have the right to trial by jury at such a hearing.

(h) At the adjudicatory hearing, the Department of Agriculture shall bear the burden of proving by preponderance of evidence that the seized animal was neglected or abused as defined in this chapter, and that the owner or custodian was either responsible for or had or should have had knowledge of the abuse or neglect. If the court so finds, the court shall enter an order transferring legal and custodial rights to the animal to the Department of Agriculture and shall enter judgment against the owner or custodian for an amount pursuant to subsection (i) of this section.

(i) The owner or custodian of such animal shall be liable to the Department of Agriculture, Humane Society, Animal Shelter, or licensed veterinarian for the payment of such care keeping and medical attention provided to the animal from the date of its delivery to the date of its release.

14 V.I. CODE ANN. § 2062 (2012). Bestiality

Whoever shall carnally copulate with a beast shall be imprisoned not more than 5 years.

19 V.I. CODE ANN.19 § 2613a (2012).Promoting, staging, advertising or witnessing dogfights; confiscation of equipment; possession of dog.

(a) Whoever:

(1) willfully, or for any bet, stake, or reward, instigates or encourages any dog to attack, bite, wound or bait another dog, except in the course of protection of life or property;

(2) keeps any house, pit or other place, or provides any equipment or facilities to be used in permitting any fight between dogs;

(3) does any act or performs any service in the furtherance of, or to facilitate, any dogfight including promotion, refereeing, handling of dogs at a dogfight, transporting spectators to or from a dogfight, providing concessions at a dogfight, advertising a dogfight, or serving as a stake-holder of any money wagered on any dogfight; or

(4) owns, possesses, keeps, or trains any dog with the intent that such dog will be engaged in an exhibition of fighting with another dog shall be guilty of a felony punishable by imprisonment for not more than two (2) years and fined not less than two thousand dollars (\$ 2,000) nor more than four thousand dollars (\$ 4,000). However, any person who is knowingly present as a spectator at any place, building, or other site where preparations are being made for an exhibition of dogfighting with the intent to be present at such preparation or fight, or who is knowingly present at such exhibition shall be guilty of a felony punishable by imprisonment for not more than eighteen (18) months and fined not more than one thousand dollars (\$ 1,000) for a first offense and imprisonment for not more than five (5) years, and fined not more than five thousand dollars (\$ 5,000) for any second or subsequent offense.

(b) Any peace officer who arrests a person under subsection (a) of this section may lawfully take possession of all equipment used for training, handling, or transporting a fighting dog and all equipment used to stage, promote or advertise a dogfight. Following a conviction under this section, the court entering the judgment shall order that any and all such equipment used in violation of this section be destroyed or forfeited to the Government of the United States Virgin Islands.

(c) Any peace officer making an arrest under this section shall lawfully take possession of any dog on the premises where the dogfight is alleged to have been staged or occurred and any dog kept on the premises of any person arrested under this section.

(1) When a peace officer takes possession of a dog under this subsection, the dog will be placed in the care of a humane society, animal shelter, court-approved licensed veterinarian, or a court-approved private housing facility under the supervision of a veterinarian, employee of the animal shelter, or officer of the humane society for boarding, treatment, or other care.

(2) The veterinarian, animal warden, or officer may humanely euthanize the dog that is in his opinion injured or diseased past recovery, or whose continued existence is inhumane and whose destruction is necessary to relieve pain or suffering. The owner of a dog destroyed under this subsection shall not be entitled to damages.

(3) If the veterinarian determines by means of physical examination or observation that the dog should be humanely euthanized due to lack of any useful purpose because of training or viciousness, a written request to destroy the dog shall be submitted to the court for approval. The court shall give notice to the dog's owner who shall have five (5) days in which to submit a written response. After five (5) days, upon a finding by the court that the dog lacks any useful purpose due to training or viciousness, it shall be within the authority of the veterinarian, animal warden, or officer of the humane society to humanely euthanize the dog when it is no longer needed as evidence.

(4) If the veterinarian determines by means of physical examination and observation that the dog has not been trained for aggressive conduct or if the court finds that the dog should not be humanely euthanized for reasons of training or viciousness, the dog shall be returned to its owner when the dog is no longer needed as evidence. The dog, however, may be subject to dangerous dog designation as provided under section 2615c of this chapter.

(5) All expenses incurred for treatment, boarding and other care of the dog, prior to the conviction of the owner, shall be assessed against the owner.

ANIMAL PROTECTION LAWS OF VIRGINIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Virginia's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Virginia may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

VIRGINIA

1. GENERAL PROHIBITIONS*	<p>(1) Companion animal neglect VA. CODE ANN. § 3.2-6503</p> <p>(2) Livestock animal neglect VA. CODE ANN. § 3.2-6503.1</p> <p>(3) Abandonment of animal VA. CODE ANN. § 3.2-6504</p> <p>(4) Cruelty to animals VA. CODE ANN. §§ 3.2-6570(A),(B)</p> <p>(5) Cruelty, resulting in death, to companion animal dog or cat VA. CODE ANN. § 3.2-6570(F)</p> <p>(6) Malicious injury, killing, or poisoning animals owned by another VA. CODE ANN. § 18.2-144</p>
<i>Animals Covered in Definition</i>	“[A]ny nonhuman vertebrate species except fish” VA. CODE ANN. § 3.2-6500

VIRGINIA*continued*

Classification of Crimes

- (1)
[1st offense]:
Class 4 misdemeanor
- [2nd and subsequent offense]:
Class 2 or Class 3 misdemeanor
-
- (2)
Class 4 misdemeanor
-
- (3)
Class 3 misdemeanor
-
- (4)
[1st offense]:
Class 1 misdemeanor
- [Certain 2nd offenses within 5 years and
animal dies]:
Class 6 felony
-
- (5)
Class 6 felony
-
- (6)
[Livestock]:
Class 5 felony
- [Fowl or companion animal, 1st offense]:
Class 1 misdemeanor
- [Fowl or companion animal, subsequent
offenses when animal dies or died from the
previous offense]:
Class 6 felony

VIRGINIA*continued*

2. MAXIMUM PENALTIES**

(1)
[1st offense]:
\$250 fine
VA. CODE ANN. § 18.2-11(d)

[2nd and subsequent offense]:
Class3:
\$500 fine
VA. CODE ANN. § 18.2-11(c)

Class2:
6 months jail
and/or
\$1,000 fine
VA. CODE ANN. § 18.2-11(b)

(2)
\$250 fine
VA. CODE ANN. § 18.2-11(d)

(3)
\$500 fine
VA. CODE ANN. § 18.2-11(c)

(4)
[1st offense]:
1 year jail
and/or
\$2,500 fine
VA. CODE ANN. § 18.2-11(a)

[2nd offense within 5 years and animal dies]:
5 years imprisonment
and/or
1 year imprisonment and \$2,500 fine
VA. CODE ANN. § 18.2-10(f)

VIRGINIA*continued*

<p>2. MAXIMUM PENALTIES ** <i>continued</i></p>	<p>(5) 5 years imprisonment <i>and/or</i> 1 year imprisonment and \$2,500 fine VA. CODE ANN. § 18.2-10(f)</p> <p>-----</p> <p>(6) [Livestock]: 10 years imprisonment <i>and/or</i> 1 year imprisonment and \$2,500 fine VA. CODE ANN. § 18.2-10(e)</p> <p>[Fowl or companion animal, 1st offense]: 1 year jail <i>and/or</i> \$2,500 fine VA. CODE ANN. § 18.2-11(a)</p> <p>[Fowl or companion animal, subsequent offenses when animal dies or died in the previous offense]: 5 years imprisonment <i>and/or</i> \$2,500 fine VA. CODE ANN. § 18.2-10(f)</p>
<p>3. EXEMPTIONS ***</p>	<p>1, 2, 9 VA. CODE ANN. § 3.2-6503.1</p> <p>1 VA. CODE ANN. § 3.2-6506</p> <p>1, 2, 3, 4, 9 VA. CODE ANN. § 3.2-6570</p>

VIRGINIA*continued*

<p>4.COUNSELING / EVALUATIONS^H</p>	<p>Upon conviction, court may order counseling. VA. CODE ANN.§ 3.2-6570(A)</p>
<p>5.PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6.RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Court may require owner to post bond for costs of care of impounded animals. VA. CODE ANN.§ 3.2-6569(F)</p> <p>The court shall order defendant to pay costs of care of impounded animals. VA. CODE ANN.§ 3.2-6569(H)</p> <p>When a sale occurs, the proceeds shall first be applied to the costs of the sale, then next to the unreimbursed expenses for the care and provision of the animal. VA. CODE ANN.§ 3.2-6569(L)</p>
<p>7.SEIZURE / ON-SITE SUPERVISION</p>	<p>Upon receiving a complaint of a suspected violation of any law for the protection of domestic animals, any animal control officer, law enforcement officer, or State Veterinarian’s representative may enter business premises for investigation purposes. VA. CODE ANN.§ 3.2-6564(A)</p> <p>Upon obtaining a warrant, the law enforcement officer, animal control officer, State Veterinarian’s representative, or humane investigator may enter upon any other premises where the animal or animals described in the complaint are housed or kept. VA. CODE ANN.§ 3.2-6564(A)</p>

VIRGINIA*continued*

<p>7. SEIZURE / ON-SITE SUPERVISION <i>cont'd.</i></p>	<p>Animal control officer, humane investigator, law enforcement officer or State Veterinarian's representative may seize cruelly treated animals that are facing an immediate and direct threat to life, safety, or health. VA. CODE ANN. § 3.2-6565</p> <p>Search warrants shall be issued for probable cause that animals are being cruelly treated. VA. CODE ANN. § 3.2-6568</p> <p>Any humane investigator, law enforcement official, or animal warden may lawfully seize animals abandoned or being cruelly treated; special procedures for livestock seizures. VA. CODE ANN. § 3.2-6569</p>
<p>8. FORFEITURE / POSSESSION^H</p>	<p>If the court determines that the animal has been abused, the owner shall forfeit rights to the animal. VA. CODE ANN. § 3.2-6569(F)</p> <p>The court may prohibit defendant from future ownership of companion or farm animals. VA. CODE ANN. §§ 3.2-6569(I),(J)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>Animal control officers shall report suspected child abuse or neglect and are immune from civil or criminal liability or administrative penalty or sanction for so reporting. VA. CODE ANN. § 63.2-1509</p>

VIRGINIA*continued*

10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians may report suspected animal abuse and are immune from liability for such reporting. VA. CODE ANN.§§ 3.2-6507, 54.1-3812.1</p> <p>Veterinarians who in good faith provide records or information related to a report of suspected cruelty, or testify about such information, shall be immune from liability. VA. CODE ANN. § 54.1-3812.1</p>
11. LAW ENFORCEMENT POLICIES	<p>Animal control officer appointments and enforcement powers VA. CODE ANN. § 3.2-6555</p> <p>Required training for animal control officers VA. CODE ANN.§ 3.2-6556</p> <p>Humane investigators qualifications; appointment; term VA. CODE ANN.§3.2-6558</p> <p>Any humane investigator may investigate violations of animal cruelty within locality of appointment. VA. CODE ANN.§ 3.2-6559</p> <p>Each animal control officer, humane investigator or State Veterinarian’s representative shall interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. VA. CODE ANN.§ 3.2-6566</p> <p>All law enforcement officers and State Veterinarian’s representatives shall enforce the provisions of this chapter to the same extent other laws in the Commonwealth are enforced. VA. CODE ANN.§ 3.2-6567</p>

VIRGINIA*continued*

12.SEXUAL ASSAULT	The “crime against nature” with a “brute animal” is a Class 6 felony. VA. CODE ANN.§ 18.2-361
13.FIGHTING	Various animal fighting activities, including spectatorship, are Class 1 misdemeanors; other animal fighting activities are Class 6 felonies. VA. CODE ANN.§ 3.2-6571 Animal fighting is a qualifying offense under state RICO laws. VA. CODE ANN. § 18.2-513
<i>Other Felony Provisions Affecting Animals</i> ¹	-----
NOTES	Any person who has been convicted of abuse, neglect, or cruelty to animals that sells, offers for sale, or trades any companion animal is guilty of a Class 1 misdemeanor. VA. CODE ANN. § 3.2-6570.1

*States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

VA. CODE ANN. § 3.2-6500(2012).Definitions.

As used in this chapter unless the context requires a different meaning:

“Abandon” means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of five consecutive days.

“Adequate care” or “care” means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

“Adequate exercise” or “exercise” means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

“Adequate feed” means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

“Adequate shelter” means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals’ feet to pass through the openings; (ii) sag under the animals’ weight; or (iii) otherwise do not protect the animals’ feet or toes from injury are not adequate shelter.

“Adequate space” means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, “adequate space” means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

“Adequate water” means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

“Adoption” means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

“Agricultural animals” means all livestock and poultry.

“Ambient temperature” means the temperature surrounding the animal.

“Animal” means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal means any species susceptible to rabies. For the purposes of § 3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

“Animal control officer” means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.2-6555.

“Animal shelter” means a facility, other than a private residential dwelling and its surrounding grounds, that is used to house or contain animals and that is owned, operated, or maintained by a nongovernmental entity including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.

“Boarding establishment” means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

“Collar” means a well-fitted device, appropriate to the age and size of the animal, attached to the animal’s neck in such a way as to prevent trauma or injury to the animal.

“Commercial dog breeder” means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

“Companion animal” means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

“Consumer” means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term “consumer” shall not include a business or corporation engaged in sales or services.

“Dealer” means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier; or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

“Direct and immediate threat” means any clear and imminent danger to an animal’s health, safety or life.

“Dump” means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

“Emergency veterinary treatment” means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

“Enclosure” means a structure used to house or restrict animals from running at large.

“Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

“Exhibitor” means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture.

“Facility” means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

“Farming activity” means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

“Foster care provider” means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

“Foster home” means a private residential dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.

“Groomer” means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

“Home-based rescue” means any person that accepts: (i) more than 12 companion animals; or (ii) more than nine companion animals and more than three unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

“Humane” means any action taken in consideration of and with the intent to provide for the animal’s health and well-being.

“Humane investigator” means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558.

“Humane society” means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

“Kennel” means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

“Law-enforcement officer” means any person who is a full-time or part-time employee of a police department or sheriff’s office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff’s office.

“Livestock” includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

“New owner” means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

“Ordinance” means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

“Other officer” includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

“Owner” means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

“Pet shop” means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

“Poultry” includes all domestic fowl and game birds raised in captivity.

“Pound” means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any locality or incorporated society for the prevention of cruelty to animals.

“Primary enclosure” means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

“Properly cleaned” means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals’ contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

“Properly lighted” when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

“Properly lighted” when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

“Releasing agency” means a pound, animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue, that releases companion animals for adoption.

“Research facility” means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

“Sanitize” means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

“Sore” means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2.

“Sterilize” or “sterilization” means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

“Treasurer” includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

“Treatment” or “adequate treatment” means the responsible handling or transportation of animals in the person’s ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

“Veterinary treatment” means treatment by or on the order of a duly licensed veterinarian.

“Weaned” means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species, and has ingested such food, without nursing, for a period of at least five days.

VA. CODE ANN. § 3.2-6503(2012). Care of animals by owner; penalty.

A. Each owner shall provide for each of his companion animals:

- 1. Adequate feed;*
- 2. Adequate water;*
- 3. Adequate shelter that is properly cleaned;*
- 4. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;*
- 5. Adequate exercise;*
- 6. Adequate care, treatment, and transportation; and*
- 7. Veterinary care when needed to prevent suffering or disease transmission.*

The provisions of this section shall also apply to every pound, animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized.

B. Violation of this section is a Class 4 misdemeanor. A second or subsequent violation of subdivision A 1, A 2, A 3, or A 7 is a Class 2 misdemeanor and a second or subsequent violation of subdivision A 4, A 5, or A 6 is a Class 3 misdemeanor.

VA. CODE ANN. § 3.2-6503.1 (2012).Care of agricultural animals by owner; penalty.

A. Each owner shall provide for each of his agricultural animals:

- 1. Feed to prevent malnourishment;*
- 2. Water to prevent dehydration; and*
- 3. Veterinary treatment as needed to address impairment of health or bodily function when such impairment cannot be otherwise addressed through animal husbandry, including humane destruction.*

B. The provisions of this section shall not require an owner to provide feed or water when such is customarily withheld, restricted, or apportioned pursuant to a farming activity or if otherwise prescribed by a veterinarian.

C. There shall be a rebuttable presumption that there has been no violation of this section if an owner is unable to provide feed, water, or veterinary treatment due to an act of God.

D. The provisions of this section shall not apply to agricultural animals used for bona fide medical or scientific experimentation.

E. A violation of this section is a Class 4 misdemeanor.

VA. CODE ANN. § 3.2-6504 (2012).Abandonment of animal; penalty.

No person shall abandon or dump any animal. Violation of this section is a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to a pound, animal shelter, or other releasing agency.

VA. CODE ANN. § 3.2-6570 (2012).Cruelty to animals; penalty.

A. Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the

above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to

have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540 or 3.2-6552.

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

VA. CODE ANN. § 18.2-144 (2012). Maiming, killing or poisoning animals, fowl, etc.

Except as otherwise provided for by law, if any person maliciously shoot, stab, wound or otherwise cause bodily injury to, or administer poison to or expose poison with intent that it be taken by, any horse, mule, pony, cattle, swine or other livestock of another, with intent to maim, disfigure, disable or kill the same, or if he do any of the foregoing acts to any animal of his own with intent to defraud any insurer thereof, he shall be guilty of a Class 5 felony. If any person do any of the foregoing acts to any fowl or to any companion animal with any of the aforesaid intents, he shall be guilty of a Class 1 misdemeanor, except that any second or subsequent offense shall be a Class 6 felony if the current offense or any previous offense resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this section.

VA. CODE ANN. § 18.2-403.1 (2012). Offenses involving animals—Class 1 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 1 misdemeanor:

- 1. Violation of subsection A of § 3.2-6570 pertaining to cruelty to animals, except as provided for second or subsequent violations in that section.*
- 2. Violation of § 3.2-6508 pertaining to transporting animals under certain conditions.*
- 3. Making a false claim or receiving money on a false claim under § 3.2-6553 pertaining to compensation for livestock and poultry killed by dogs.*
- 4. Violation of § 3.2-6518 pertaining to boarding establishments and groomers as defined in § 3.2-6500.*

VA. CODE ANN. § 18.2-403.2 (2012). Offenses involving animals—Class 3 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 3 misdemeanor:

- 1. Violation of § 3.2-6511 pertaining to the failure of a shopkeeper or pet dealer to provide adequate care to animals.*

2. *Violation of § 3.2-6509 pertaining to the misrepresentation of an animal's condition by the shopkeeper or pet dealer.*
3. *Violation of § 3.2-6504 pertaining to the abandonment of animals.*
4. *Violation of § 3.2-6510 pertaining to the sale of baby fowl.*
5. *Violation of clause (iii) of subsection A of § 3.2-6570 pertaining to soring horses.*
6. *Violation of § 3.2-6519 pertaining to notice of consumer remedies required to be supplied by boarding establishments.*

VA. CODE ANN. § 18.2-403.3 (2012). Offenses involving animals—Class 4 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 4 misdemeanor:

1. *Violation of § 3.2-6566 pertaining to interference of agents charged with preventing cruelty to animals.*
2. *Violation of § 3.2-6573 pertaining to shooting pigeons.*
3. *Violation of § 3.2-6554 pertaining to disposing of the body of a dead companion animal.*
4. *Violation of ordinances passed pursuant to §§ 3.2-6522 and 3.2-6525 pertaining to rabid dogs and preventing the spread of rabies and the running at large of vicious dogs.*
5. *Violation of an ordinance passed pursuant to § 3.2-6539 requiring dogs to be on a leash.*
6. *Failure by any person to secure and exhibit the permits required by § 29.1-422 pertaining to field trails, night trails and foxhounds.*
7. *Diseased dogs.—For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.*
8. *License application.—For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.*
9. *License tax.—For any dog or cat owner to fail to pay any license tax required by § 3.2-6503 before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog or cat.*

10. Concealing a dog or cat.—For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.

11. Removing collar and tag.—For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.

12. Violation of § 3.2-6503 pertaining to care of animals by owner.

2. PENALTIES

VA. CODE ANN. § 18.2-10 (2012). Punishment for conviction of felony, penalty.

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be mentally retarded pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. If the person was under 18 years of age at the time of the offense or is determined to be mentally retarded pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

VA. CODE ANN. § 18.2-11 (2012). Punishment for conviction of misdemeanor.

The authorized punishments for conviction of a misdemeanor are:

(a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.

(b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1,000, either or both.

(c) For Class 3 misdemeanors, a fine of not more than \$500.

(d) For Class 4 misdemeanors, a fine of not more than \$250.

For a misdemeanor offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

3. EXEMPTIONS

VA. CODE ANN. § 3.2-6503.1 (2012).Care of agricultural animals by owner; penalty.

A. Each owner shall provide for each of his agricultural animals:

1. Feed to prevent malnourishment;
2. Water to prevent dehydration; and
3. Veterinary treatment as needed to address impairment of health or bodily function when such impairment cannot be otherwise addressed through animal husbandry, including humane destruction.

B. The provisions of this section shall not require an owner to provide feed or water when such is customarily withheld, restricted, or apportioned pursuant to a farming activity or if otherwise prescribed by a veterinarian.

C. There shall be a rebuttable presumption that there has been no violation of this section if an owner is unable to provide feed, water, or veterinary treatment due to an act of God.

D. The provisions of this section shall not apply to agricultural animals used for bona fide medical or scientific experimentation.

E. A violation of this section is a Class 4 misdemeanor.

VA. CODE ANN. § 3.2-6506(2012).Exceptions regarding veterinarians.

Sections 3.2-6503, 3.2-6504, 3.2-6508 through 3.2-6519, 3.2- 6557, 3.2-6559, 3.2-6561, 3.2-6564, 3.2-6565, and 3.2-6574 through 3.2-6580 shall not apply to: (i) a place or establishment that is operated under the immediate supervision of a duly licensed veterinarian as a hospital or boarding establishment where animals are harbored, boarded and cared for incident to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine; or (ii) animals boarded under the immediate supervision of a duly licensed veterinarian.

VA. CODE ANN. § 3.2-6570 (2012).Cruelty to animals; penalty.

A. Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain *not connected with bona fide scientific or medical experimentation*, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, *unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes*; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain *not connected with bona fide scientific or medical experimentation*, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, *unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes*; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with *bona fide scientific or medical experimentation* or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540 or 3.2-6552.

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

4. COUNSELING / EVALUATIONS

VA. CODE ANN. § 3.2-6570 (2012).Cruelty to animals; penalty.

A. Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540 or 3.2-6552.

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

VA. CODE ANN. § 3.1-796.115 (2012). Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. Before seizing or impounding any agricultural animal, such humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or a State Veterinarian's representative, who shall recommend to such person the most appropriate action for the disposition of the agricultural animal, provided, however, that the seizure or impoundment of an equine resulting from a violation of subdivision A (iii) or subdivision B (ii) of § 3.1-796.122 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses equivalent to that required by 9 C.F.R. Part 11.7 and that is approved by the State Veterinarian. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the disposition of the animal, and any other information required by the State Veterinarian.

VA. CODE ANN. § 3.2-6569 (2012). Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause (iii) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than thirty days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal may be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

7. SEIZURE / ON-SITE SUPERVISION

VA. CODE ANN. § 3.2-6564 (2012). Complaint of suspected violation; investigation.

A. Upon receiving a complaint of a suspected violation of this chapter, any ordinance enacted pursuant to this chapter or any law for the protection of domestic animals, any animal control officer, law-enforcement officer, or State Veterinarian's representative may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment. Upon receiving a complaint of a suspected violation of any law or ordinance regarding care or treatment of animals or disposal of dead animals, any humane investigator may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment.

Upon obtaining a warrant as provided for in § 3.2-6568, the law-enforcement officer, animal control officer, State Veterinarian's representative, or humane investigator may enter upon any other premises where the animal or animals described in the complaint are housed or kept. Attorneys for the Commonwealth and law-enforcement officials shall provide such assistance as may be required in the conduct of such investigations.

B. If the investigation discloses that a violation of § 3.2-6503 has occurred, the investigating official shall notify the owner or custodian of the complaint and of what action is necessary to comply with this chapter.

VA. CODE ANN. § 3.2-6565 (2012). Impoundment; expenses; lien; disposition of animal.

When an animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative finds that an apparent violation of this chapter has rendered an animal in such a condition as to constitute a direct and immediate threat to its life, safety or health that the owner or custodian has failed to remedy, such animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative may impound the animal pursuant to § 3.2-6569 in a facility that will provide the elements of good care as set forth in § 3.2-6503 and shall then proceed to take such steps as are required to dispose of the animal pursuant to § 3.2-6569.

VA. CODE ANN. § 3.2-6568 (2012). Power of search for violations of statutes against cruelty to animals.

When a sworn complaint is made to any proper authority by any animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in any particular building or place, such authority, if satisfied that there is reasonable cause for such belief, shall issue a warrant authorizing any sheriff, deputy sheriff or police officer, to search the building or place.

VA. CODE ANN. § 3.2-6569 (2012). Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause (iii) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

- 1. The owner or tenant of the land where the agricultural animal is located gives written permission;*
- 2. A general district court so orders; or*
- 3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.*

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than thirty days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal may be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

8. FORFEITURE / POSSESSION

VA. CODE ANN. § 3.2-6569 (2012). Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause (iii) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than thirty days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal may be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

9. CROSS ENFORCEMENT / REPORTING

VA. CODE ANN. §63.2-1509(2012).Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or *animal control officer*;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person associated with or employed by any private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
13. Any person, over the age of 18 years, who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;

14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance; and

15. Any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5, unless such personnel immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, “reason to suspect that a child is abused or neglected” shall include (i) a finding made by an attending physician within seven days of a child’s birth that the results of a blood or urine test conducted within 48 hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician; (ii) a finding by an attending physician made within 48 hours of a child’s birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis by an attending physician made within seven days of a child’s birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child; or (iv) a diagnosis by an attending physician made within seven days of a child’s birth that the child has fetal alcohol syndrome attributable to in utero exposure to alcohol. When “reason to suspect” is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so within 72 hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.

10. VETERINARIAN REPORTING / IMMUNITY

VA. CODE ANN. § 3.2-6507 (2012). Injured or sick animal; action by veterinarian.

A. If a licensed veterinarian is called or by his own action comes upon an animal that is sick or injured and the owner of such animal cannot be immediately located, then the licensed veterinarian, in his professional judgment, may treat, hospitalize or euthanize the animal without the permission of the owner. The veterinarian shall make such reports and keep such records of such sick or injured animals as may be prescribed by the Board of Veterinary Medicine, including the information required under subsection B of § 3.2-6557.

B. In no event shall a licensed veterinarian who has acted in good faith and properly exercised professional judgment regarding an animal be subject to liability for his actions in: (i) acting in accordance with subsection A; or (ii) reporting cases of suspected cruelty to animals.

VA. CODE ANN. §54.1-3812.1(2012). Reporting of animal cruelty.

Any veterinarian who makes a report of suspected animal cruelty or who provides records or information related to a report of suspected cruelty or testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such veterinarian acted in bad faith or with malicious purpose.

11. LAW ENFORCEMENT POLICIES

VA. CODE ANN. § 3.2-6555(2012).Position of animal control officer created.

The governing body of each county or city shall, or each town may, employ an officer to be known as the animal control officer who shall have the power to enforce this chapter, all ordinances enacted pursuant to this chapter and all laws for the protection of domestic animals. The governing body may also employ one or more deputy animal control officers to assist the animal control officer in the performance of his duties. Animal control officers and deputy animal control officers shall have knowledge of the animal control and protection laws of the Commonwealth that they are required to enforce. When in uniform or upon displaying a badge or other credentials of office, animal control officers and deputy animal control officers shall have the power to issue a summons or obtain a felony warrant as necessary, providing the execution of such warrant shall be carried out by any law-enforcement officer as defined in § 9.1-101, to any person found in the act of violating any such law or any ordinance enacted pursuant to such law of the locality where the animal control officer or deputy animal control officer is employed. Commercial dog breeding locations shall be subject to inspection by animal control at least twice annually and additionally upon receipt of a complaint or their own motion to ensure compliance with state animal care laws and regulations. The animal control officer and the deputy animal control officers shall be paid as the governing body of each locality shall prescribe.

Any locality where an animal control officer or deputy animal control officers have been employed may contract with one or more additional localities for enforcement of animal protection and control laws by the animal control officers or deputy animal control officers. Any such contract may provide that the locality employing the animal control officer or deputy animal control officers shall be reimbursed a portion of the salary and expenses of the animal control officer or deputy animal control officers.

Every locality employing an animal control officer shall submit to the State Veterinarian, on a form provided by him, information concerning the employment and training status of the animal control officers employed by the locality. The State Veterinarian may require that the locality notify him of any change in such information.

VA. CODE ANN. § 3.2-6556 (2012).Training of animal control officers.

A. Every locality employing animal control officers shall require that every animal control officer and deputy animal control officer completes the following training:

1. Within two years from the date of hire, a basic animal control course that has been approved by the State Veterinarian. The basic animal control course shall include training in recognizing suspected child abuse and neglect and information on how complaints may be filed and shall be approved and implemented; and

2. Every three years, additional training approved by the State Veterinarian, 15 hours of which shall be training in animal control and protection.

The State Veterinarian shall develop criteria to be used in approving training courses and shall provide an opportunity for public comment on proposed criteria before the final criteria are adopted.

Subdivision 1 shall not apply to animal control officers or deputy animal control officers hired before July 1, 1998. The State Veterinarian may grant exemptions from the requirements of subdivision 1 to animal control officers hired on or after July 1, 1998, based on the animal control officer's previous training.

The State Veterinarian shall work to ensure the availability of these training courses through regional criminal justice training academies or other entities as approved by him. Based on information provided by authorized training entities, the State Veterinarian shall maintain the training records for all animal control officers for the purpose of documenting and ensuring that they are in compliance with this subsection.

B. Upon cause shown by a locality, the State Veterinarian may grant additional time during which the training required by subsection A may be completed by an animal control officer for the locality.

C. Any animal control officer that fails to complete the training required by subsection A shall be removed from office, unless the State Veterinarian has granted additional time as provided in subsection B.

VA. CODE ANN. § 3.2-6558(2012). Humane investigators; qualifications; appointment; term.

A. A circuit court may reappoint any person as a humane investigator for any locality within its jurisdiction if the person:

- 1. Was appointed as a humane investigator prior to July 1, 2003; and*
- 2. Has never been convicted of animal cruelty or neglect, any felony, or any crime of moral turpitude according to a criminal background check, which shall be performed by the attorney for the Commonwealth at the expense of the person seeking the appointment.*

B. A circuit court may appoint a person to fill a vacancy in that jurisdiction created when a humane investigator who was appointed prior to July 1, 2003, is no longer willing or eligible to be a humane investigator, provided the person seeking appointment:

- 1. Has received a written recommendation from the administrative entity that oversees animal control in the locality where the humane investigator seeks appointment;*

2. Has never been convicted of animal cruelty or neglect, any felony, or any crime of moral turpitude according to a criminal background check, which shall be performed by the attorney for the Commonwealth at the expense of the person seeking the appointment; and

3. Has completed a basic animal control course approved by the State Veterinarian pursuant to § 3.2-6556.

C. A person residing outside the Commonwealth may be appointed as a humane investigator only if he is employed by a humane society located within the locality where he is seeking appointment.

D. Reappointments of humane investigators shall be for terms of three years. Each humane investigator shall, during each term for which he is appointed, complete 15 hours of training in animal care and protection approved for animal control officers. If a humane investigator is appointed to a succeeding term before or within 30 days after his current term expires, a criminal background check shall not be required. If a humane investigator's term expires and he is not appointed to a succeeding term before or within 30 days after his current term expires, the humane investigator shall not be appointed to another term.

VA. CODE ANN. § 3.2-6559 (2012). Powers and duties of humane investigators.

A. Any humane investigator may, within the locality where he has been appointed, investigate violations of laws and ordinances regarding care and treatment of animals and disposal of dead animals.

B. Each humane investigator shall carry during the performance of his powers and duties under this chapter an identification card issued by the locality where the humane investigator is appointed. The identification card shall include the following information regarding the humane investigator:

- 1. His full name;*
- 2. The locality where he has been appointed;*
- 3. The name of the circuit court that appointed him;*
- 4. The signature of the circuit court judge that appointed him;*
- 5. A photograph of his face; and*
- 6. The date of expiration of his appointment.*

C. Each humane investigator shall record on a form approved by the administrative entity that oversees animal control every investigation he performs, maintain such record for five years, and make such record available upon request to any law-enforcement officer, animal control officer or State Veterinarian's representative. Each humane investigator shall file quarterly a report summarizing such records with the administrative agency that oversees animal control on an approved form. A humane investigator's appointment may be revoked as provided in § 3.2-6561 if he fails to file such report.

VA. CODE ANN. § 3.2-6566 (2012). Preventing cruelty to animals; interference; penalty.

Each animal control officer, humane investigator or State Veterinarian's representative shall interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct or resist any humane investigator or State Veterinarian's representative in the discharge of his rights, powers, and duties as authorized and prescribed by law is guilty of a Class 4 misdemeanor.

VA. CODE ANN. § 3.2-6567 (2012). Enforcement authority.

All law-enforcement officers in the Commonwealth and State Veterinarian's representatives shall enforce the provisions of this chapter to the same extent other laws in the Commonwealth are enforced.

12. SEXUAL ASSAULT

VA. CODE ANN. § 18.2-361 (2012). Crimes against nature; penalty.

A. *If any person carnally knows in any manner any brute animal, or carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge, he or she shall be guilty of a Class 6 felony, except as provided in subsection B.*

B. Any person who performs or causes to be performed cunnilingus, fellatio, anilingus or anal intercourse upon or by his daughter or granddaughter, son or grandson, brother or sister, or father or mother is guilty of a Class 5 felony. However, if a parent or grandparent commits any such act with his child or grandchild and such child or grandchild is at least 13 but less than 18 years of age at the time of the offense, such parent or grandparent is guilty of a Class 3 felony.

C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes step-child and grandchild includes step-grandchild.

13. FIGHTING

VA. CODE ANN. § 3.2-6571 (2012).Animal fighting; penalty.

A. No person shall knowingly:

- 1. Promote, prepare for, engage in, or be employed in, the fighting of animals for amusement, sport or gain;*
- 2. Attend an exhibition of the fighting of animals;*
- 3. Authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or*
- 4. Aid or abet any such acts.*

Except as provided in subsection B, any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who violates any provision of subsection A in combination with one or more of the following is guilty of a Class 6 felony:

- 1. When a dog is one of the animals;*
- 2. When any device or substance intended to enhance an animal's ability to fight or to inflict injury upon another animal is used, or possessed with intent to use it for such purpose;*
- 3. When money or anything of value is wagered on the result of such fighting;*
- 4. When money or anything of value is paid or received for the admission of a person to a place for animal fighting;*
- 5. When any animal is possessed, owned, trained, transported, or sold with the intent that the animal engage in an exhibition of fighting with another animal; or*
- 6. When he permits or causes a minor to (i) attend an exhibition of the fighting of any animals or (ii) undertake or be involved in any act described in this subsection.*

C.

- 1. Any animal control officer, as defined in § 3.2-6500, shall confiscate any animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting.*

2. Upon confiscation of an animal, the animal control officer shall petition the appropriate court for a hearing for a determination of whether the animal has been, is, or is intended to be used in animal fighting. The hearing shall be not more than 10 business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the locality unless the owner posts bond in surety with the locality in an amount sufficient to compensate the locality for its cost of caring for the animal for a period of nine months. He shall post additional bond for each successive nine-month period until a final determination by the trial court on any criminal charges brought pursuant to subsections A or B.

3. Upon a final determination of guilt by the trial court on criminal charges brought pursuant to subsections A or B, the court shall order that the animal be forfeited to the locality. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.

D. Any person convicted of violating any provision of subsection A or B shall be prohibited by the court from possession or ownership of companion animals or cocks.

E. In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred in housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.

F. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting, fishing, or trapping authorized under any title of the Code of Virginia or regulations promulgated thereto or (ii) farming activities authorized under Title 3.2 of the Code of Virginia or regulations promulgated thereto.

VA. CODE ANN. § 18.2-513 (2012). Definitions.

As used in this chapter, the term:

“Criminal street gang” shall be as defined in § 18.2-46.1.

“Enterprise” includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang; or other group of three or more individuals associated for the purpose of criminal activity.

“Proceeds” shall be as defined in § 18.2-246.2.

“Racketeering activity” means to commit, attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of this title, § 18.2-460; a felony offense of §§ 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of this title, §§ 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, 18.2-95, Article 4 (§ 18.2-111 et seq.) of Chapter 5 of this title, Article 1 (§ 18.2-168 et seq.) of Chapter 6 of this title, §§ 18.2-178, 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6 of this title, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of this title, § 18.2-246.13, Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title, §§ 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-348, 18.2-355, 18.2-356, 18.2-357, 18.2-368, 18.2-369, 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9 of this title, Article 1 (§ 18.2-434 et seq.) of Chapter 10 of this title, Article 2 (§ 18.2-438 et seq.) of Chapter 10 of this title, Article 3 (§ 18.2-446 et seq.) of Chapter 10 of this title, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of this title, § 3.2-657I, 18.2-516, 32.1-314, 58.1-1008.2, or 58.1-1017; or any substantially similar offenses under the laws of any other state, the District of Columbia, the United States or its territories.

14. REFERENCED STATUTES

VA. CODE ANN. § 3.2-6500(2012).Definitions.

As used in this chapter unless the context requires a different meaning:

“Abandon” means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of five consecutive days.

“Adequate care” or “care” means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

“Adequate exercise” or “exercise” means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

“Adequate feed” means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

“Adequate shelter” means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals’ feet to pass through the openings; (ii) sag under the animals’ weight; or (iii) otherwise do not protect the animals’ feet or toes from injury are not adequate shelter.

“Adequate space” means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, “adequate space” means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

“Adequate water” means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

“Adoption” means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

“Agricultural animals” means all livestock and poultry.

“Ambient temperature” means the temperature surrounding the animal.

“Animal” means any nonhuman vertebrate species except fish. For the purposes of § 3.2-6522, animal means any species susceptible to rabies. For the purposes of § 3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

“Animal control officer” means a person appointed as an animal control officer or deputy animal control officer as provided in § 3.2-6555.

“Animal shelter” means a facility, other than a private residential dwelling and its surrounding grounds, that is used to house or contain animals and that is owned, operated, or maintained by a nongovernmental entity including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.

“Boarding establishment” means a place or establishment other than a pound or animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee.

“Collar” means a well-fitted device, appropriate to the age and size of the animal, attached to the animal’s neck in such a way as to prevent trauma or injury to the animal.

“Commercial dog breeder” means any person who, during any 12-month period, maintains 30 or more adult female dogs for the primary purpose of the sale of their offspring as companion animals.

“Companion animal” means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

“Consumer” means any natural person purchasing an animal from a dealer or pet shop or hiring the services of a boarding establishment. The term “consumer” shall not include a business or corporation engaged in sales or services.

“Dealer” means any person who in the regular course of business for compensation or profit buys, sells, transfers, exchanges, or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier; or (ii) any person whose primary purpose is to find permanent adoptive homes for companion animals.

“Direct and immediate threat” means any clear and imminent danger to an animal’s health, safety or life.

“Dump” means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another.

“Emergency veterinary treatment” means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

“Enclosure” means a structure used to house or restrict animals from running at large.

“Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent that causes painless loss of consciousness, and death during such loss of consciousness.

“Exhibitor” means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture.

“Facility” means a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept.

“Farming activity” means, consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.

“Foster care provider” means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

“Foster home” means a private residential dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.

“Groomer” means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal.

“Home-based rescue” means any person that accepts: (i) more than 12 companion animals; or (ii) more than nine companion animals and more than three unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

“Humane” means any action taken in consideration of and with the intent to provide for the animal’s health and well-being.

“Humane investigator” means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558.

“Humane society” means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

“Kennel” means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

“Law-enforcement officer” means any person who is a full-time or part-time employee of a police department or sheriff’s office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff’s office.

“Livestock” includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

“New owner” means an individual who is legally competent to enter into a binding agreement pursuant to subdivision B 2 of § 3.2-6574, and who adopts or receives a dog or cat from a releasing agency.

“Ordinance” means any law, rule, regulation, or ordinance adopted by the governing body of any locality.

“Other officer” includes all other persons employed or elected by the people of Virginia, or by any locality, whose duty it is to preserve the peace, to make arrests, or to enforce the law.

“Owner” means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal.

“Pet shop” means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public.

“Poultry” includes all domestic fowl and game birds raised in captivity.

“Pound” means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility operated for the same purpose under a contract with any locality or incorporated society for the prevention of cruelty to animals.

“Primary enclosure” means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

“Properly cleaned” means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals’ contact with the above-mentioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

“Properly lighted” when referring to a facility means sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals.

“Properly lighted” when referring to a private residential dwelling and its surrounding grounds means sufficient illumination to permit routine maintenance and cleaning thereof, and observation of the companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

“Releasing agency” means a pound, animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue, that releases companion animals for adoption.

“Research facility” means any place, laboratory, or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

“Sanitize” means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

“Sore” means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian. Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2.

“Sterilize” or “sterilization” means a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

“Treasurer” includes the treasurer and his assistants of each county or city or other officer designated by law to collect taxes in such county or city.

“Treatment” or “adequate treatment” means the responsible handling or transportation of animals in the person’s ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

“Veterinary treatment” means treatment by or on the order of a duly licensed veterinarian.

“Weaned” means that an animal is capable of and physiologically accustomed to ingestion of solid food or food customary for the adult of the species, and has ingested such food, without nursing, for a period of at least five days.

VA. CODE ANN. § 3.2-6503(2012). Care of animals by owner; penalty.

A. Each owner shall provide for each of his companion animals:

1. Adequate feed;
2. Adequate water;
3. Adequate shelter that is properly cleaned;
4. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;
5. Adequate exercise;
6. Adequate care, treatment, and transportation; and
7. Veterinary care when needed to prevent suffering or disease transmission.

The provisions of this section shall also apply to every pound, animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized.

B. Violation of this section is a Class 4 misdemeanor. A second or subsequent violation of subdivision A 1, A 2, A 3, or A 7 is a Class 2 misdemeanor and a second or subsequent violation of subdivision A 4, A 5, or A 6 is a Class 3 misdemeanor.

VA. CODE ANN. § 3.2-6504 (2012). Abandonment of animal; penalty.

No person shall abandon or dump any animal. Violation of this section is a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to a pound, animal shelter, or other releasing agency.

VA. CODE ANN. § 3.2-6506 (2012). Exceptions regarding veterinarians.

Sections 3.2-6503, 3.2-6504, 3.2-6508 through 3.2-6519, 3.2-6557, 3.2-6559, 3.2-6561, 3.2-6564, 3.2-6565, and 3.2-6574 through 3.2-6580 shall not apply to: (i) a place or establishment that is operated under the immediate supervision of a duly licensed veterinarian as a hospital or boarding establishment where animals are harbored, boarded and cared for incident to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine; or (ii) animals boarded under the immediate supervision of a duly licensed veterinarian.

VA. CODE ANN. § 3.2-6507 (2012). Injured or sick animal; action by veterinarian.

A. If a licensed veterinarian is called or by his own action comes upon an animal that is sick or injured and the owner of such animal cannot be immediately located, then the licensed veterinarian, in his professional judgment, may treat, hospitalize or euthanize the animal without the permission of the owner. The veterinarian shall make such reports and keep such records of such sick or injured animals as may be prescribed by the Board of Veterinary Medicine, including the information required under subsection B of § 3.2-6557.

B. In no event shall a licensed veterinarian who has acted in good faith and properly exercised professional judgment regarding an animal be subject to liability for his actions in: (i) acting in accordance with subsection A; or (ii) reporting cases of suspected cruelty to animals.

VA. CODE ANN. § 3.2-6555 (2012). Position of animal control officer created.

The governing body of each county or city shall, or each town may, employ an officer to be known as the animal control officer who shall have the power to enforce this chapter, all ordinances enacted pursuant to this chapter and all laws for the protection of domestic animals. The governing body may also employ one or more deputy animal control officers to assist the animal control officer in the performance of his duties. Animal control officers and deputy animal control officers shall have knowledge of the animal control and protection laws of the Commonwealth that they are required to enforce. When in uniform or upon displaying a badge or other credentials of office, animal control officers and deputy animal control officers shall have the power to issue a summons or obtain a felony warrant as necessary, providing the execution of such warrant shall be carried out by any law-enforcement officer as defined in § 9.1-101, to any person found in the act of violating any such law or any ordinance enacted pursuant to such law of the locality where the animal control officer or deputy animal control officer is employed. Commercial dog breeding locations shall be subject to inspection by animal control at least twice annually and additionally upon receipt of a complaint or their own motion to ensure compliance with state animal care laws and regulations. The animal control officer and the deputy animal control officers shall be paid as the governing body of each locality shall prescribe.

Any locality where an animal control officer or deputy animal control officers have been employed may contract with one or more additional localities for enforcement of animal protection and control laws by the animal control officers or deputy animal control officers. Any such contract may provide that the locality employing the animal control officer or deputy animal control officers shall be reimbursed a portion of the salary and expenses of the animal control officer or deputy animal control officers.

Every locality employing an animal control officer shall submit to the State Veterinarian, on a form provided by him, information concerning the employment and training status of the animal control officers employed by the locality. The State Veterinarian may require that the locality notify him of any change in such information.

VA. CODE ANN. § 3.2-6556 (2012). Training of animal control officers.

A. Every locality employing animal control officers shall require that every animal control officer and deputy animal control officer completes the following training:

1. Within two years from the date of hire, a basic animal control course that has been approved by the State Veterinarian. The basic animal control course shall include training in recognizing suspected child abuse and neglect and information on how complaints may be filed and shall be approved and implemented; and
2. Every three years, additional training approved by the State Veterinarian, 15 hours of which shall be training in animal control and protection.

The State Veterinarian shall develop criteria to be used in approving training courses and shall provide an opportunity for public comment on proposed criteria before the final criteria are adopted.

Subdivision 1 shall not apply to animal control officers or deputy animal control officers hired before July 1, 1998. The State Veterinarian may grant exemptions from the requirements of subdivision 1 to animal control officers hired on or after July 1, 1998, based on the animal control officer's previous training.

The State Veterinarian shall work to ensure the availability of these training courses through regional criminal justice training academies or other entities as approved by him. Based on information provided by authorized training entities, the State Veterinarian shall maintain the training records for all animal control officers for the purpose of documenting and ensuring that they are in compliance with this subsection.

B. Upon cause shown by a locality, the State Veterinarian may grant additional time during which the training required by subsection A may be completed by an animal control officer for the locality.

C. Any animal control officer that fails to complete the training required by subsection A shall be removed from office, unless the State Veterinarian has granted additional time as provided in subsection B.

VA. CODE ANN. § 3.2-6558(2012). Humane investigators; qualifications; appointment; term.

A. A circuit court may reappoint any person as a humane investigator for any locality within its jurisdiction if the person:

1. Was appointed as a humane investigator prior to July 1, 2003; and
2. Has never been convicted of animal cruelty or neglect, any felony, or any crime of moral turpitude according to a criminal background check, which shall be performed by the attorney for the Commonwealth at the expense of the person seeking the appointment.

B. A circuit court may appoint a person to fill a vacancy in that jurisdiction created when a humane investigator who was appointed prior to July 1, 2003, is no longer willing or eligible to be a humane investigator, provided the person seeking appointment:

1. Has received a written recommendation from the administrative entity that oversees animal control in the locality where the humane investigator seeks appointment;

2. Has never been convicted of animal cruelty or neglect, any felony, or any crime of moral turpitude according to a criminal background check, which shall be performed by the attorney for the Commonwealth at the expense of the person seeking the appointment; and

3. Has completed a basic animal control course approved by the State Veterinarian pursuant to § 3.2-6556.

C. A person residing outside the Commonwealth may be appointed as a humane investigator only if he is employed by a humane society located within the locality where he is seeking appointment.

D. Reappointments of humane investigators shall be for terms of three years. Each humane investigator shall, during each term for which he is appointed, complete 15 hours of training in animal care and protection approved for animal control officers. If a humane investigator is appointed to a succeeding term before or within 30 days after his current term expires, a criminal background check shall not be required. If a humane investigator's term expires and he is not appointed to a succeeding term before or within 30 days after his current term expires, the humane investigator shall not be appointed to another term.

VA. CODE ANN. § 3.2-6559 (2012). Powers and duties of humane investigators.

A. Any humane investigator may, within the locality where he has been appointed, investigate violations of laws and ordinances regarding care and treatment of animals and disposal of dead animals.

B. Each humane investigator shall carry during the performance of his powers and duties under this chapter an identification card issued by the locality where the humane investigator is appointed. The identification card shall include the following information regarding the humane investigator:

1. His full name;
2. The locality where he has been appointed;
3. The name of the circuit court that appointed him;
4. The signature of the circuit court judge that appointed him;
5. A photograph of his face; and
6. The date of expiration of his appointment.

C. Each humane investigator shall record on a form approved by the administrative entity that oversees animal control every investigation he performs, maintain such record for five years, and make such record available upon request to any law-enforcement officer, animal control officer or State Veterinarian's representative. Each humane investigator shall file quarterly a report summarizing such records with the administrative agency that oversees animal control on an approved form. A humane investigator's appointment may be revoked as provided in § 3.2-6561 if he fails to file such report.

VA. CODE ANN. § 3.2-6564(2012). Complaint of suspected violation; investigation.

A. Upon receiving a complaint of a suspected violation of this chapter, any ordinance enacted pursuant to this chapter or any law for the protection of domestic animals, any animal control officer, law-enforcement officer, or State Veterinarian's representative may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment. Upon receiving a complaint of a suspected violation of any law or ordinance regarding care or treatment of animals or disposal of dead animals, any humane investigator may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment.

Upon obtaining a warrant as provided for in § 3.2-6568, the law-enforcement officer, animal control officer, State Veterinarian's representative, or humane investigator may enter upon any other premises where the animal or animals described in the complaint are housed or kept. Attorneys for the Commonwealth and law-enforcement officials shall provide such assistance as may be required in the conduct of such investigations.

B. If the investigation discloses that a violation of § 3.2-6503 has occurred, the investigating official shall notify the owner or custodian of the complaint and of what action is necessary to comply with this chapter.

VA. CODE ANN. § 3.2-6565 (2012). Impoundment; expenses; lien; disposition of animal.

When an animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative finds that an apparent violation of this chapter has rendered an animal in such a condition as to constitute a direct and immediate threat to its life, safety or health that the owner or custodian has failed to remedy, such animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative may impound the animal pursuant to § 3.2-6569 in a facility that will provide the elements of good care as set forth in § 3.2-6503 and shall then proceed to take such steps as are required to dispose of the animal pursuant to § 3.2-6569.

VA. CODE ANN. § 3.2-6566 (2012). Preventing cruelty to animals; interference; penalty.

Each animal control officer, humane investigator or State Veterinarian's representative shall interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct or resist any humane investigator or State Veterinarian's representative in the discharge of his rights, powers, and duties as authorized and prescribed by law is guilty of a Class 4 misdemeanor.

VA. CODE ANN. § 3.2-6567 (2012). Enforcement authority.

All law-enforcement officers in the Commonwealth and State Veterinarian's representatives shall enforce the provisions of this chapter to the same extent other laws in the Commonwealth are enforced.

VA. CODE ANN. § 3.2-6568 (2012). Power of search for violations of statutes against cruelty to animals.

When a sworn complaint is made to any proper authority by any animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in any particular building or place, such authority, if satisfied that there is reasonable cause for such belief, shall issue a warrant authorizing any sheriff, deputy sheriff or police officer, to search the building or place.

VA. CODE ANN. § 3.2-6569 (2012). Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale.

A. Any humane investigator, law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat to its life, safety or health. Before seizing or impounding any agricultural animal, such humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or a State Veterinarian's representative, who shall recommend to such person the most appropriate action for the disposition of the agricultural animal. The seizure or impoundment of an equine resulting from a violation of subsection A (iii) or subsection B (ii) of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses equivalent to that required by 9 C.F.R. Part 11.7 and that is approved by the State Veterinarian. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained.

If there is a direct and immediate threat to an agricultural animal, the humane investigator, law-enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the disposition of the animal, and any other information required by the State Veterinarian.

Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

B. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

C. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

D. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than thirty days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal be: (a) sold by a local governing body; (b) humanely destroyed, or disposed of by sale or gift to a federal agency, state-supported institution, agency of the Commonwealth, agency of another state, or a licensed federal dealer having its principal place of business located within the Commonwealth; (c) delivered to any local humane society or shelter, or to any person who is a resident of the county or city where the animal is seized or an adjacent county or city in the Commonwealth and who will pay the required license fee, if any, on such animal; or (d) delivered to the person with a right of property in the animal as provided in subsection E.

E. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

F. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

G. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

H. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

I. Any person who is prohibited from owning or possessing animals pursuant to subsection G or H may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

J. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

K. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law-enforcement officer, animal control officer, or licensed veterinarian.

VA. CODE ANN. § 3.2-6570(2012). Cruelty to animals; penalty.

A. Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (v) causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540 or 3.2-6552.

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

VA. CODE ANN. § 3.2-6570.1(2012). Sale of animals after cruelty or neglect conviction; penalty.

Any person who has been convicted of a violation of any law concerning abuse, neglect, or cruelty to animals that sells, offers for sale, or trades any companion animal is guilty of a Class 1 misdemeanor. However, a person may dispose of animals under the provisions of a court order.

VA. CODE ANN. § 3.2-6571(2012). Animal fighting; penalty.

A. No person shall knowingly:

1. Promote, prepare for, engage in, or be employed in, the fighting of animals for amusement, sport or gain;
2. Attend an exhibition of the fighting of animals;
3. Authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or
4. Aid or abet any such acts.

Except as provided in subsection B, any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who violates any provision of subsection A in combination with one or more of the following is guilty of a Class 6 felony:

1. When a dog is one of the animals;
2. When any device or substance intended to enhance an animal's ability to fight or to inflict injury upon another animal is used, or possessed with intent to use it for such purpose;
3. When money or anything of value is wagered on the result of such fighting;
4. When money or anything of value is paid or received for the admission of a person to a place for animal fighting;
5. When any animal is possessed, owned, trained, transported, or sold with the intent that the animal engage in an exhibition of fighting with another animal; or
6. When he permits or causes a minor to (i) attend an exhibition of the fighting of any animals or (ii) undertake or be involved in any act described in this subsection.

C.

1. Any animal control officer, as defined in § 3.2-6500, shall confiscate any animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting.
2. Upon confiscation of an animal, the animal control officer shall petition the appropriate court for a hearing for a determination of whether the animal has been, is, or is intended to be used in animal fighting. The hearing shall be not more than 10 business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the locality unless the owner posts bond in surety with the locality in an amount sufficient to compensate the locality for its cost of caring for the animal for a period of nine months. He shall post additional bond for each successive nine-month period until a final determination by the trial court on any criminal charges brought pursuant to subsections A or B.
3. Upon a final determination of guilt by the trial court on criminal charges brought pursuant to subsections A or B, the court shall order that the animal be forfeited to the locality. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.

D. Any person convicted of violating any provision of subsection A or B shall be prohibited by the court from possession or ownership of companion animals or cocks.

E. In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred in housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.

F. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting, fishing, or trapping authorized under any title of the Code of Virginia or regulations promulgated thereto or (ii) farming activities authorized under Title 3.2 of the Code of Virginia or regulations promulgated thereto.

VA. CODE ANN. § 18.2-10 (2012). Punishment for conviction of felony, penalty.

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be mentally retarded pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. If the person was under 18 years of age at the time of the offense or is determined to be mentally retarded pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

VA. CODE ANN. § 18.2-11 (2012). Punishment for conviction of misdemeanor.

The authorized punishments for conviction of a misdemeanor are:

- (a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.
- (b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1,000, either or both.
- (c) For Class 3 misdemeanors, a fine of not more than \$500.
- (d) For Class 4 misdemeanors, a fine of not more than \$250.

For a misdemeanor offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

VA. CODE ANN. § 18.2-144 (2012). Maiming, killing or poisoning animals, fowl, etc.

Except as otherwise provided for by law, if any person maliciously shoot, stab, wound or otherwise cause bodily injury to, or administer poison to or expose poison with intent that it be taken by, any horse, mule, pony, cattle, swine or other livestock of another, with intent to maim, disfigure, disable or kill the same, or if he do any of the foregoing acts to any animal of his own with intent to defraud any insurer thereof, he shall be guilty of a Class 5 felony. If any person do any of the foregoing acts to any fowl or to any companion animal with any of the aforesaid intents, he shall be guilty of a Class 1 misdemeanor, except that any second or subsequent offense shall be a Class 6 felony if the current offense or any previous offense resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this section.

VA. CODE ANN. § 18.2-361 (2012). Crimes against nature; penalty.

A. If any person carnally knows in any manner any brute animal, or carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge, he or she shall be guilty of a Class 6 felony, except as provided in subsection B.

B. Any person who performs or causes to be performed cunnilingus, fellatio, anilingus or anal intercourse upon or by his daughter or granddaughter, son or grandson, brother or sister, or father or mother is guilty of a Class 5 felony. However, if a parent or grandparent commits any such act with his child or grandchild and such child or grandchild is at least 13 but less than 18 years of age at the time of the offense, such parent or grandparent is guilty of a Class 3 felony.

C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes step-child and grandchild includes step-grandchild.

VA. CODE ANN. § 18.2-403.1 (2012). Offenses involving animals—Class 1 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 1 misdemeanor:

1. Violation of subsection A of § 3.2-6570 pertaining to cruelty to animals, except as provided for second or subsequent violations in that section.
2. Violation of § 3.2-6508 pertaining to transporting animals under certain conditions.
3. Making a false claim or receiving money on a false claim under § 3.2-6553 pertaining to compensation for livestock and poultry killed by dogs.

4. Violation of § 3.2-6518 pertaining to boarding establishments and groomers as defined in § 3.2-6500.

VA. CODE ANN. § 18.2-403.2 (2012).Offenses involving animals—Class 3 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 3 misdemeanor:

1. Violation of § 3.2-6511 pertaining to the failure of a shopkeeper or pet dealer to provide adequate care to animals.
2. Violation of § 3.2-6509 pertaining to the misrepresentation of an animal's condition by the shopkeeper or pet dealer.
3. Violation of § 3.2-6504 pertaining to the abandonment of animals.
4. Violation of § 3.2-6510 pertaining to the sale of baby fowl.
5. Violation of clause (iii) of subsection A of § 3.2-6570 pertaining to soring horses.
6. Violation of § 3.2-6519 pertaining to notice of consumer remedies required to be supplied by boarding establishments.

VA. CODE ANN. § 18.2-403.3 (2012).Offenses involving animals—Class 4 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 4 misdemeanor:

1. Violation of § 3.2-6566 pertaining to interference of agents charged with preventing cruelty to animals.
2. Violation of § 3.2-6573 pertaining to shooting pigeons.
3. Violation of § 3.2-6554 pertaining to disposing of the body of a dead companion animal.
4. Violation of ordinances passed pursuant to §§ 3.2-6522 and 3.2-6525 pertaining to rabid dogs and preventing the spread of rabies and the running at large of vicious dogs.
5. Violation of an ordinance passed pursuant to § 3.2-6539 requiring dogs to be on a leash.

6. Failure by any person to secure and exhibit the permits required by § 29.1-422 pertaining to field trails, night trails and foxhounds.
7. Diseased dogs.—For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
8. License application.—For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.
9. License tax.—For any dog or cat owner to fail to pay any license tax required by § 3.2-6503 before February 1 for the year in which it is due. In addition, the court may order confiscation and the proper disposition of the dog or cat.
10. Concealing a dog or cat.—For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.
11. Removing collar and tag.—For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.
12. Violation of § 3.2-6503 pertaining to care of animals by owner.

VA. CODE ANN. § 18.2-513 (2012). Definitions.

As used in this chapter, the term:

“Criminal street gang” shall be as defined in § 18.2-46.1.

“Enterprise” includes any of the following: sole proprietorship, partnership, corporation, business trust, criminal street gang; or other group of three or more individuals associated for the purpose of criminal activity.

“Proceeds” shall be as defined in § 18.2-246.2.

“Racketeering activity” means to commit, attempt to commit, conspire to commit, or to solicit, coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of this title, § 18.2-460; a felony offense of §§ 3.2-4212, 3.2-4219, 10.1-1455, 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of this title, §§ 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59, 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, 18.2-95, Article 4 (§ 18.2-111 et seq.) of Chapter 5 of this title, Article 1 (§ 18.2-168 et seq.) of Chapter 6 of this title, §§ 18.2-178, 18.2-186, Article 6 (§ 18.2-191 et seq.) of Chapter 6 of this title, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of this title, § 18.2-246.13, Article 1 (§ 18.2-

247 et seq.) of Chapter 7 of this title, §§ 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1, 18.2-328, 18.2-348, 18.2-355, 18.2-356, 18.2-357, 18.2-368, 18.2-369, 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9 of this title, Article 1 (§ 18.2-434 et seq.) of Chapter 10 of this title, Article 2 (§ 18.2-438 et seq.) of Chapter 10 of this title, Article 3 (§ 18.2-446 et seq.) of Chapter 10 of this title, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of this title, § 3.2-6571, 18.2-516, 32.1-314, 58.1-1008.2, or 58.1-1017; or any substantially similar offenses under the laws of any other state, the District of Columbia, the United States or its territories.

VA. CODE ANN. §54.1-3812.1(2012).Reporting of animal cruelty.

Any veterinarian who makes a report of suspected animal cruelty or who provides records or information related to a report of suspected cruelty or testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such veterinarian acted in bad faith or with malicious purpose.

VA. CODE ANN. §63.2-1509 (2012).Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or animal control officer;

9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person associated with or employed by any private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
13. Any person, over the age of 18 years, who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance; and
15. Any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5, unless such personnel immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee,

who shall make such report forthwith.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, “reason to suspect that a child is abused or neglected” shall include (i) a finding made by an attending physician within seven days of a child’s birth that the results of a blood or urine test conducted within 48 hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician; (ii) a finding by an attending physician made within 48 hours of a child’s birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis by an attending physician made within seven days of a child’s birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child; or (iv) a diagnosis by an attending physician made within seven days of a child’s birth that the child has fetal alcohol syndrome attributable to in utero exposure to alcohol. When “reason to suspect” is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so within 72 hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.

ANIMAL PROTECTION LAWS OF WASHINGTON

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Washington's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Washington may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

WASHINGTON

1. GENERAL PROHIBITIONS*	<p>(1) Taking, concealing, injuring, or killing a pet animal WASH. REV. CODE§ 9.08.070</p> <p>(2) Transfer or sale of stolen pet WASH. REV. CODE§§ 9.08.072-078</p> <p>(3) Transporting animals in unsafe manner WASH. REV. CODE§ 16.52.080</p> <p>(4) Poisoning animals WASH. REV. CODE§ 16.52.190</p> <p>(5) Animal cruelty in the first degree WASH. REV. CODE§ 16.52.205</p> <p>(6) Animal cruelty in the second degree WASH. REV. CODE§ 16.52.207</p>
<i>Animals Covered in Definition</i>	<p>“[A]ny nonhuman mammal, bird, reptile, or amphibian” WASH. REV. CODE§ 16.52.011(2)(b)</p> <p>“Similar animal” means an animal in the same taxonomic order or class WASH. REV. CODE § 16.52.011(2)(m)</p> <p>“[E]very creature, either alive or dead, other than a human being” WASH. REV. CODE § 16.52.205(8)(a)</p>

WASHINGTON*continued*

<p><i>Classification of Crimes</i></p>	<p>(1), (4), (6) Gross misdemeanor ----- (2) Gross misdemeanor <i>or</i> Class C felony (under certain conditions) ----- (3) Misdemeanor ----- (5) Class C felony</p>
<p>2. MAXIMUM PENALTIES**</p>	<p>(1), (4), (6) 1 year county jail <i>and/or</i> \$5,000 fine* WASH. REV. CODE§ 9A.20.021(2) (2) 1 year county jail <i>and/or</i> \$5,000 fine* WASH. REV. CODE§ 9A.20.021(2) <i>OR</i> (under certain conditions): 5 years state prison <i>and/or</i> \$10,000 fine* WASH. REV. CODE§ 9A.20.21(1)(c)</p>

WASHINGTON*continued*

<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(3) 60 days county jail <i>and/or</i> \$150 fine* <i>and</i> costs of prosecution WASH. REV. CODE § 16.52.165</p> <p>(5) 5 years state prison <i>and/or</i> \$10,000 fine* WASH. REV. CODE § 9A.20.21(1)(c)</p> <p>*Additional civil penalty of \$1,000 to be paid to county to prevent cruelty to animals WASH. REV. CODE § 16.52.200(7)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>2, 3, 5, 9 WASH. REV. CODE§ 16.52.180</p> <p>4, 7, 9 WASH. REV. CODE§ 16.52.185</p> <p>6 WASH. REV. CODE§ 16.52.190(3)</p> <p>1, 4 WASH. REV. CODE § 16.52.205(6)</p> <p>9 WASH. REV. CODE§§ 16.52.207(4), 16.52.210</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>Upon conviction, court may order participation in counseling at the defendant's expense. WASH. REV. CODE§§ 16.52.200(9), 16.52.205(5)(b)</p>

WASHINGTON*continued*

5. PROTECTIVE ORDERS^H	WASH. REV. CODE §§ 26.50.060, 26.50.110
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>Owner may be required to post a bond for costs of care of impounded animals. WASH. REV. CODE§ 16.52.085(4)</p> <p>If convicted, defendant shall be liable for reasonable costs of care, investigation, and prosecution. WASH. REV. CODE§ 16.52.200(6),(7)</p> <p>As part of the sentence, the court may order reimbursement of costs of care for impounded animals. WASH. REV. CODE §16.52.205(5)(c)</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>With a warrant, law enforcement and animal control officers may seize cruelly treated animals or animals owned or possessed by someone in violation of a court order; and may proceed without a warrant if animal is in an immediate life-threatening condition. WASH. REV. CODE§ 16.52.085(1)</p> <p>If any domestic animal is impounded or confined without necessary food and water for more than 36 consecutive hours, any person may enter and supply it with necessary food and water so long as it is confined. An investigating officer may remove the animals to protective custody to supply confined animals with food and water. WASH. REV. CODE§ 16.52.100</p> <p>Court may order seizure of animals as a condition of bond if there are reasonable grounds to believe that animal cruelty in the first degree has occurred. WASH. REV. CODE§ 16.52.205(7)</p>

WASHINGTON*continued*

8. FORFEITURE / POSSESSION^H	<p>If owner fails to post a bond for costs of care of seized animals, animals may be forfeited to impounding agency. WASH. REV. CODE§ 16.52.085(4)</p> <p>If any seized animal dies as a result of the violation, or defendant has a prior conviction, all animals shall be forfeited on conviction; in other cases, forfeiture is at the discretion of the court but may be ordered if abuse was severe and reoccurrence likely. WASH. REV. CODE§ 16.52.200(3)</p> <p>Upon conviction, the offender shall be prohibited from owning, caring for, or residing with, similar animals for a period of time ranging from two years to permanently, depending upon prior convictions and the severity of the offense. WASH. REV. CODE § 16.52.200(4)</p> <p>Procedure available for restoration of right to own or possess animals in select cases after a specific time period. WASH. REV. CODE § 16.52.200(5)</p> <p>Upon conviction, court may order offender not to harbor or own animals, or reside in any household where animals are present. WASH. REV. CODE § 16.52.205(5)(a)</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarians are immune from civil or criminal liability when using reasonable prudence in carrying out provisions of animal mistreatment statutes. WASH. REV. CODE§ 16.52.210</p>

WASHINGTON*continued*

<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Law enforcement agencies, animal care, and animal control agencies may enforce the animal cruelty provisions. WASH. REV. CODE§ 16.52.015</p> <p>Animal control and humane officers may issue citations, cause a law enforcement officer to make an arrest, carry nonfirearm protective devices for personal protection, and prepare affidavits to obtain search warrants. WASH. REV. CODE§§ 16.52.015, 16.52.020</p>
<p>12. SEXUAL ASSAULT</p>	<p>Sexual assault of an animal is a Class C felony WASH. REV. CODE § 16.52.205(3),(4)</p>
<p>13. FIGHTING</p>	<p>Various animal fighting activities are Class C felonies. WASH. REV. CODE§ 16.52.117</p>
<p><i>Other Felony Provisions Affecting Animals¹</i></p>	<p>Killing or harming livestock belonging to another person is a Class C felony. WASH. REV. CODE § 16.52.320</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

WASH. REV. CODE § 9.08.070 (2012). Pet animals—Taking, concealing, injuring, killing, etc.—Penalty.

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than five hundred dollars per pet animal, except as provided by subsection (2) of this section:

(a) Takes, leads away, confines, secretes or converts any pet animal, except in cases in which the value of the pet animal exceeds two hundred fifty dollars;

(b) Conceals the identity of any pet animal or its owner by obscuring, altering, or removing from the pet animal any collar, tag, license, tattoo, or other identifying device or mark;

(c) Willfully or recklessly kills or injures any pet animal, unless excused by law.

(2) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

WASH. REV. CODE § 9.08.072 (2012). Transferring stolen pet animal to a research institution—Penalty.

(1) It is unlawful for any person to receive with intent to sell to a research institution in the state of Washington, or sell or otherwise directly transfer to a research institution in the state of Washington, a pet animal that the person knows or has reason to know has been stolen or fraudulently obtained. This section does not apply to U.S.D.A. licensed dealers.

(2) The first conviction under this section is a gross misdemeanor punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than five hundred dollars per pet animal.

(3) A second or subsequent conviction under this section is a class C felony punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

(4) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

WASH. REV. CODE § 9.08.074 (2012). Transferring stolen pet animal to a person who has previously sold a stolen pet animal to a research institution—Penalty.

(1) It is unlawful for any person, who knows or has reason to know that a pet animal has been stolen or fraudulently obtained, to sell or otherwise transfer the pet animal to another who the person knows or has reason to know has previously sold a stolen or fraudulently obtained pet animal to a research institution in the state of Washington.

(2) A conviction under this section is a class C felony punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

WASH. REV. CODE § 9.08.076 (2012). Transferring stolen pet animal to a research institution by a U.S.D.A. licensed dealer—Penalty.

(1) It is unlawful for a U.S.D.A. licensed dealer to receive with intent to sell, or sell or transfer directly or through a third party, to a research institution in the state of Washington, a pet animal that the dealer knows or has reason to know has been stolen or fraudulently obtained.

(2) A conviction under this section is a class C felony punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

WASH. REV. CODE § 9.08.078 (2012). Illegal sale, receipt, or transfer of pet animals—Separate offenses.

(1) The sale, receipt, or transfer of each individual pet animal in violation of RCW 9.08.070 through 9.08.078 constitutes a separate offense.

(2) The provisions of RCW 9.08.070 through 9.08.078 shall not apply to the lawful acts of any employee, agent, or director of any humane society, animal control agency, or animal shelter operated by or on behalf of any government agency, operating under law.

WASH. REV. CODE § 16.52.011 (2012). Definitions—Principles of liability.

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

(2) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) “Abandons” means the knowing or reckless desertion of an animal by its owner or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal’s adequate care.

(b) *“Animal” means any nonhuman mammal, bird, reptile, or amphibian.*

(c) *“Animal care and control agency” means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.*

(d) *“Animal control officer” means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term “animal control officer” shall be interpreted to include “humane officer” as defined in (g) of this subsection and RCW 16.52.025.*

(e) *“Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.*

(f) *“Food” means food or feed appropriate to the species for which it is intended.*

(g) *“Humane officer” means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.*

(h) *“Law enforcement agency” means a general authority Washington law enforcement agency as defined in RCW 10.93.020.*

(i) *“Necessary food” means the provision at suitable intervals of wholesome foodstuff suitable for the animal’s age and species and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal.*

(j) *“Necessary water” means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal.*

(k) *“Owner” means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.*

(l) *“Person” means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.*

(m) *“Similar animal” means:*

(i) For a mammal, another animal that is in the same taxonomic order; or

(ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.

(n) “Substantial bodily harm” means substantial bodily harm as defined in RCW 9A.04.110.

(o) “Livestock” includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

WASH. REV. CODE § 16.52.080 (2012). Transporting or confining in unsafe manner—Penalty.

Any person who willfully transports or confines or causes to be transported or confined any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor. And whenever any such person shall be taken into custody or be subject to arrest pursuant to a valid warrant therefor by any officer or authorized person, such officer or person may take charge of the animal or animals; and any necessary expense thereof shall be a lien thereon to be paid before the animal or animals may be recovered; and if the expense is not paid, it may be recovered from the owner of the animal or the person guilty.

WASH. REV. CODE § 16.52.190 (2012). Poisoning animals—Penalty.

(1) Except as provided in subsections (2) and (3) of this section, a person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree.

(2) Subsection (1) of this section shall not apply to euthanizing by poison an animal in a lawful and humane manner by the animal’s owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority.

(3) Subsection (1) of this section shall not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes. As used in this section, the term “rodent” includes but is not limited to Columbia ground squirrels, other ground squirrels, rats, mice, gophers, rabbits, and any other rodent designated as injurious to the agricultural interests of the state as provided in chapter 17.16 RCW. The term “pest” as used in this section includes any pest as defined in RCW 17.21.020.

(4) A person violating this section is guilty of a gross misdemeanor.

WASH. REV. CODE § 16.52.205 (2012).Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

- (a) Knowingly engages in any sexual conduct or sexual contact with an animal;
- (b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;
- (c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;
- (d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or
- (e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

- (a) Not harbor or own animals or reside in any household where animals are present;
- (b) Participate in appropriate counseling at the defendant's expense;
- (c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) *“Animal” means every creature, either alive or dead, other than a human being.*

(b) *“Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.*

(c) *“Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.*

(d) *“Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.*

WASH. REV. CODE § 16.52.207 (2012).Animal cruelty in the second degree.

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;

(b) Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or

(c) Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

(3) Animal cruelty in the second degree is a gross misdemeanor.

(4) In any prosecution of animal cruelty in the second degree under subsection (1) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

2. PENALTIES

WASH. REV. CODE § 9.92.020 (2012). Punishment of gross misdemeanor when not fixed by statute.

Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

WASH. REV. CODE § 9.92.030 (2012). Punishment of misdemeanor when not fixed by statute.

Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars or both such imprisonment and fine.

WASH. REV. CODE § 9A.20.021 (2012). Maximum sentences for crimes committed July 1, 1984, and after.

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

WASH. REV. CODE § 16.52.165 (2012). Punishment—Conviction of misdemeanor.

Every person convicted of any misdemeanor under RCW 16.52.080 or 16.52.090 shall be punished by a fine of not exceeding one hundred and fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or both such fine and imprisonment, and shall pay the costs of the prosecution.

WASH. REV. CODE § 16.52.200 (2012). Sentences—Forfeiture of animals—Liability for costs—Civil penalty—Education, counseling.

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, or residing with any similar animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205;

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

- (a) The person's prior animal cruelty in the second degree convictions;
- (b) The type of harm or violence inflicted upon the animals;
- (c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;
- (d) Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and
- (e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, or residing with similar animals under subsection (4) of this section, that person:

- (a) Shall pay a civil penalty of one thousand dollars for the first violation;
- (b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and
- (c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty

prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

3. EXEMPTIONS

WASH. REV. CODE § 16.52.180 (2012). Limitations on application of chapter.

No part of this chapter shall be deemed to interfere with any of the laws of this state known as the “game laws,” nor be deemed to interfere with the right to destroy any venomous reptile or any known as dangerous to life, limb or property, or to interfere with the right to kill animals to be used for food or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et seq.

WASH. REV. CODE § 16.52.185 (2012). Exclusions from chapter.

Nothing in this chapter applies to accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry, or products thereof or to the use of animals in the normal and usual course of rodeo events or to the customary use or exhibiting of animals in normal and usual events at fairs as defined in RCW 15.76.120.

WASH. REV. CODE § 16.52.190 (2012). Poisoning animals—Penalty.

(1) Except as provided in subsections (2) and (3) of this section, a person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree.

(2) Subsection (1) of this section shall not apply to euthanizing by poison an animal in a lawful and humane manner by the animal’s owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority.

(3) Subsection (1) of this section shall not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes. As used in this section, the term “rodent” includes but is not limited to Columbia ground squirrels, other ground squirrels, rats, mice, gophers, rabbits, and any other rodent designated as injurious to the agricultural interests of the state as provided in chapter 17.16 RCW. The term “pest” as used in this section includes any pest as defined in RCW 17.21.020.

(4) A person violating this section is guilty of a gross misdemeanor.

WASH. REV. CODE § 16.52.205 (2012).Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) “Animal” means every creature, either alive or dead, other than a human being.

(b) “Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) “Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) “Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

WASH. REV. CODE § 16.52.207 (2012).Animal cruelty in the second degree.

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;

(b) Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or

(c) Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

(3) Animal cruelty in the second degree is a gross misdemeanor.

(4) In any prosecution of animal cruelty in the second degree under subsection (1) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

**WASH. REV. CODE § 16.52.210 (2012). Destruction of animal by law enforcement officer—
Immunity from liability.**

This chapter shall not limit the right of a law enforcement officer to destroy an animal that has been seriously injured and would otherwise continue to suffer. Such action shall be undertaken with reasonable prudence and, whenever possible, in consultation with a licensed veterinarian and the owner of the animal.

Law enforcement officers and licensed veterinarians shall be immune from civil and criminal liability for actions taken under this chapter if reasonable prudence is exercised in carrying out the provisions of this chapter.

4. COUNSELING / EVALUATIONS

WASH. REV. CODE § 16.52.200 (2012). Sentences—Forfeiture of animals—Liability for costs—Civil penalty—Education, counseling.

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, or residing with any similar animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

(a) The person's prior animal cruelty in the second degree convictions;

(b) The type of harm or violence inflicted upon the animals;

(c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;

(d) Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and

(e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, or residing with similar animals under subsection (4) of this section, that person:

(a) Shall pay a civil penalty of one thousand dollars for the first violation;

(b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and

(c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

WASH. REV. CODE § 16.52.205 (2012).Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) “Animal” means every creature, either alive or dead, other than a human being.

(b) “Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) “Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) “Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

5. PROTECTIVE ORDERS

WASH. REV. CODE § 26.50.060 (2012). Relief—Duration—Realignment of designation of parties—Award of costs, service fees, and attorneys' fees.

(1) Upon notice and after hearing, the court may provide relief as follows:

- (a) Restrain the respondent from committing acts of domestic violence;
- (b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;
- (c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;
- (d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;
- (e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;
- (f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;
- (g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees;
- (h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;
- (i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(k) Consider the provisions of RCW 9.41.800;

(l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

(m) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the

court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

WASH. REV. CODE § 26.50.110 (2012). Violation of order—Penalties.

(1)

(a) Whenever an order is granted under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or

knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent;
or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

WASH. REV. CODE § 16.52.085 (2012). Removal of animals for feeding—Examination—Notice—Euthanasia.

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued RCW 16.52.200(4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. *An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date.* If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. *If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care.* When a court has prohibited the owner from owning, caring for, or residing with a similar animal under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. *If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner.* If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

WASH. REV. CODE § 16.52.200 (2012). Sentences—Forfeiture of animals—Liability for costs—Civil penalty—Education, counseling.

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, or residing with any similar animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205;

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

- (a) The person's prior animal cruelty in the second degree convictions;
- (b) The type of harm or violence inflicted upon the animals;
- (c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;
- (d) Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and
- (e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, or residing with similar animals under subsection (4) of this section, that person:

- (a) Shall pay a civil penalty of one thousand dollars for the first violation;
- (b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and
- (c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

WASH. REV. CODE § 16.52.205 (2012).Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) “Animal” means every creature, either alive or dead, other than a human being.

(b) “Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) “Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) “Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

7. SEIZURE / ON-SITE SUPERVISION

WASH. REV. CODE § 16.52.085 (2012). Removal of animals for feeding—Examination—Notice—Euthanasia.

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued RCW 16.52.200(4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with a similar animal under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

WASH. REV. CODE § 16.52.100 (2012). Confinement without food and water—Intervention by others.

If any domestic animal is impounded or confined without necessary food and water for more than thirty-six consecutive hours, any person may, from time to time, as is necessary, enter into and open any pound or place of confinement in which any domestic animal is confined, and supply it with necessary food and water so long as it is confined. The person shall not be liable to action for the entry, and may collect from the animal's owner the reasonable cost of the food and water. The animal shall be subject to attachment for the costs and shall not be exempt from levy and sale upon execution issued upon a judgment. If an investigating officer finds it extremely difficult to supply confined animals with food and water, the officer may remove the animals to protective custody for that purpose.

WASH. REV. CODE § 16.52.205 (2012). Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) "Animal" means every creature, either alive or dead, other than a human being.

(b) "Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) "Sexual contact" means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

8. FORFEITURE / POSSESSION

WASH. REV. CODE § 16.52.085 (2012). Removal of animals for feeding—Examination—Notice—Euthanasia.

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued RCW 16.52.200(4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with a similar animal under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

WASH. REV. CODE § 16.52.200 (2012). Sentences—Forfeiture of animals—Liability for costs—Civil penalty—Education, counseling.

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, or residing with any similar animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

(a) The person's prior animal cruelty in the second degree convictions;

(b) The type of harm or violence inflicted upon the animals;

(c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;

(d) Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and

(e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, or residing with similar animals under subsection (4) of this section, that person:

(a) Shall pay a civil penalty of one thousand dollars for the first violation;

(b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and

(c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

WASH. REV. CODE § 16.52.205 (2012).Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) *In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:*

(a) *Not harbor or own animals or reside in any household where animals are present;*

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) “Animal” means every creature, either alive or dead, other than a human being.

(b) “Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) “Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) “Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

WASH. REV. CODE § 16.52.210 (2012). Destruction of animal by law enforcement officer — Immunity from liability.

This chapter shall not limit the right of a law enforcement officer to destroy an animal that has been seriously injured and would otherwise continue to suffer. Such action shall be undertaken with reasonable prudence and, whenever possible, in consultation with a licensed veterinarian and the owner of the animal.

Law enforcement officers and licensed veterinarians shall be immune from civil and criminal liability for actions taken under this chapter if reasonable prudence is exercised in carrying out the provisions of this chapter.

11. LAW ENFORCEMENT POLICIES

WASH. REV. CODE § 16.52.015 (2012). Enforcement—Law enforcement agencies and animal care and control agencies.

(1) Law enforcement agencies and animal care and control agencies may enforce the provisions of this chapter. Animal care and control agencies may enforce the provisions of this chapter in a county or city only if the county or city legislative authority has entered into a contract with the agency to enforce the provisions of this chapter.

(2) Animal control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Washington.

(3) Animal control officers have the following enforcement powers when enforcing this chapter:

(a) The power to issue citations based on probable cause to offenders for civil infractions and misdemeanor and gross misdemeanor violations of this chapter or RCW 9.08.070 through 9.08.078 or 81.48.070;

(b) The power to cause a law enforcement officer to arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or RCW 9.08.070 or 81.48.070. Animal control officers may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;

(c) The power to carry nonfirearm protective devices for personal protection;

(d) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or RCW 9.08.070 or 81.48.070, and to seize evidence of those violations.

(4) Upon request of an animal control officer who has probable cause to believe that a person has violated this chapter or RCW 9.08.070 or 81.48.070, a law enforcement agency officer may arrest the alleged offender.

WASH. REV. CODE § 16.52.020. Humane societies—Enforcement authority.

Any citizens of the state of Washington incorporated under the laws of this state as a humane society or as a society for the prevention of cruelty to animals may enforce the provisions of this chapter through its animal control officers subject to the limitations in RCW 16.52.015 and 16.52.025. The legislative authority in each county may grant exclusive authority to exercise the privileges and authority granted by this section to one or more qualified corporations for a period of up to three years based upon ability to fulfill the purposes of this chapter.

12. SEXUAL ASSAULT

WASH. REV. CODE § 16.52.205 (2012). Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) *A person is guilty of animal cruelty in the first degree when he or she:*

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) *Animal cruelty in the first degree is a class C felony.*

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) *For purposes of this section:*

(a) *“Animal” means every creature, either alive or dead, other than a human being.*

(b) *“Sexual conduct” means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.*

(c) *“Sexual contact” means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.*

(d) *“Photographs” or “films” means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.*

13. FIGHTING

WASH. REV. CODE § 16.52.117 (2012). Animal fighting—Prohibited behavior—Class C felony—Exceptions.

(1) A person commits the crime of animal fighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) Knowingly promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight at any place or building;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and with the intent of using the stray animal or pet animal for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal" means dogs or male chickens.

14. REFERENCED STATUTES

WASH. REV. CODE § 9.08.070 (2012). Pet animals—Taking, concealing, injuring, killing, etc.—Penalty.

(1) Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than five hundred dollars per pet animal, except as provided by subsection (2) of this section:

(a) Takes, leads away, confines, secretes or converts any pet animal, except in cases in which the value of the pet animal exceeds two hundred fifty dollars;

(b) Conceals the identity of any pet animal or its owner by obscuring, altering, or removing from the pet animal any collar, tag, license, tattoo, or other identifying device or mark;

(c) Willfully or recklessly kills or injures any pet animal, unless excused by law.

(2) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

WASH. REV. CODE § 9.08.072 (2012). Transferring stolen pet animal to a research institution—Penalty.

(1) It is unlawful for any person to receive with intent to sell to a research institution in the state of Washington, or sell or otherwise directly transfer to a research institution in the state of Washington, a pet animal that the person knows or has reason to know has been stolen or fraudulently obtained. This section does not apply to U.S.D.A. licensed dealers.

(2) The first conviction under this section is a gross misdemeanor punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than five hundred dollars per pet animal.

(3) A second or subsequent conviction under this section is a class C felony punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

(4) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW 9A.56.030, 9A.56.040, or 9A.56.050 for theft or under RCW 9A.56.150, 9A.56.160, or 9A.56.170 for possession of stolen property.

WASH. REV. CODE § 9.08.074 (2012). Transferring stolen pet animal to a person who has previously sold a stolen pet animal to a research institution—Penalty

(1) It is unlawful for any person, who knows or has reason to know that a pet animal has been stolen or fraudulently obtained, to sell or otherwise transfer the pet animal to another who the person knows or has reason to know has previously sold a stolen or fraudulently obtained pet animal to a research institution in the state of Washington.

(2) A conviction under this section is a class C felony punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

WASH. REV. CODE § 9.08.076 (2012). Transferring stolen pet animal to a research institution by a U.S.D.A. licensed dealer—Penalty.

(1) It is unlawful for a U.S.D.A. licensed dealer to receive with intent to sell, or sell or transfer directly or through a third party, to a research institution in the state of Washington, a pet animal that the dealer knows or has reason to know has been stolen or fraudulently obtained.

(2) A conviction under this section is a class C felony punishable according to chapter 9A.20 RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

WASH. REV. CODE § 9.08.078 (2012). Illegal sale, receipt, or transfer of pet animals—Separate offenses.

(1) The sale, receipt, or transfer of each individual pet animal in violation of RCW 9.08.070 through 9.08.078 constitutes a separate offense.

(2) The provisions of RCW 9.08.070 through 9.08.078 shall not apply to the lawful acts of any employee, agent, or director of any humane society, animal control agency, or animal shelter operated by or on behalf of any government agency, operating under law.

WASH. REV. CODE § 9.92.020 (2012). Punishment of gross misdemeanor when not fixed by statute.

Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

WASH. REV. CODE § 9.92.030 (2012). Punishment of misdemeanor when not fixed by statute.

Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars or both such imprisonment and fine.

WASH. REV. CODE § 9A.20.021 (2012). Maximum sentences for crimes committed July 1, 1984, and after.

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

WASH. REV. CODE § 16.52.011 (2012).Definitions—Principles of liability.

- (1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.
- (2) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.
 - (a) “Abandons” means the knowing or reckless desertion of an animal by its owner or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal’s adequate care.
 - (b) “Animal” means any nonhuman mammal, bird, reptile, or amphibian.
 - (c) “Animal care and control agency” means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.
 - (d) “Animal control officer” means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term “animal control officer” shall be interpreted to include “humane officer” as defined in (g) of this subsection and RCW 16.52.025.
 - (e) “Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.
 - (f) “Food” means food or feed appropriate to the species for which it is intended.
 - (g) “Humane officer” means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.
 - (h) “Law enforcement agency” means a general authority Washington law enforcement agency as defined in RCW 10.93.020.
 - (i) “Necessary food” means the provision at suitable intervals of wholesome foodstuff suitable for the animal’s age and species and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal.
 - (j) “Necessary water” means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal.

(k) “Owner” means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(l) “Person” means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

(m) “Similar animal” means:

(i) For a mammal, another animal that is in the same taxonomic order; or

(ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.

(n) “Substantial bodily harm” means substantial bodily harm as defined in RCW 9A.04.110.

(o) “Livestock” includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

WASH. REV. CODE § 16.52.015 (2012). Enforcement—Law enforcement agencies and animal care and control agencies.

(1) Law enforcement agencies and animal care and control agencies may enforce the provisions of this chapter. Animal care and control agencies may enforce the provisions of this chapter in a county or city only if the county or city legislative authority has entered into a contract with the agency to enforce the provisions of this chapter.

(2) Animal control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Washington.

(3) Animal control officers have the following enforcement powers when enforcing this chapter:

(a) The power to issue citations based on probable cause to offenders for civil infractions and misdemeanor and gross misdemeanor violations of this chapter or RCW 9.08.070 through 9.08.078 or 81.48.070;

(b) The power to cause a law enforcement officer to arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or RCW 9.08.070 or 81.48.070. Animal control officers may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;

(c) The power to carry nonfirearm protective devices for personal protection;

(d) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or RCW 9.08.070 or 81.48.070, and to seize evidence of those violations.

(4) Upon request of an animal control officer who has probable cause to believe that a person has violated this chapter or RCW 9.08.070 or 81.48.070, a law enforcement agency officer may arrest the alleged offender.

WASH. REV. CODE § 16.52.020 (2012). Humane societies—Enforcement authority.

Any citizens of the state of Washington incorporated under the laws of this state as a humane society or as a society for the prevention of cruelty to animals may enforce the provisions of this chapter through its animal control officers subject to the limitations in RCW 16.52.015 and 16.52.025. The legislative authority in each county may grant exclusive authority to exercise the privileges and authority granted by this section to one or more qualified corporations for a period of up to three years based upon ability to fulfill the purposes of this chapter.

WASH. REV. CODE § 16.52.080 (2012). Transporting or confining in unsafe manner—Penalty.

Any person who willfully transports or confines or causes to be transported or confined any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor. And whenever any such person shall be taken into custody or be subject to arrest pursuant to a valid warrant therefor by any officer or authorized person, such officer or person may take charge of the animal or animals; and any necessary expense thereof shall be a lien thereon to be paid before the animal or animals may be recovered; and if the expense is not paid, it may be recovered from the owner of the animal or the person guilty.

**WASH. REV. CODE § 16.52.085 (2012).Removal of animals for feeding—Examination—
Notice—Euthanasia.**

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued RCW 16.52.200(4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with a similar animal under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or

animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

WASH. REV. CODE § 16.52.100 (2012). Confinement without food and water—Intervention by others.

If any domestic animal is impounded or confined without necessary food and water for more than thirty-six consecutive hours, any person may, from time to time, as is necessary, enter into and open any pound or place of confinement in which any domestic animal is confined, and supply it with necessary food and water so long as it is confined. The person shall not be liable to action for the entry, and may collect from the animal's owner the reasonable cost of the food and water. The animal shall be subject to attachment for the costs and shall not be exempt from levy and sale upon execution issued upon a judgment. If an investigating officer finds it extremely difficult to supply confined animals with food and water, the officer may remove the animals to protective custody for that purpose.

WASH. REV. CODE § 16.52.117 (2012). Animal fighting—Prohibited behavior—Class C felony—Exceptions.

(1) A person commits the crime of animal fighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) Knowingly promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight at any place or building;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and with the intent of using the stray animal or pet animal for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal" means dogs or male chickens.

WASH. REV. CODE § 16.52.165 (2012). Punishment—Conviction of misdemeanor.

Every person convicted of any misdemeanor under RCW 16.52.080 or 16.52.090 shall be punished by a fine of not exceeding one hundred and fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or both such fine and imprisonment, and shall pay the costs of the prosecution.

WASH. REV. CODE § 16.52.180 (2012). Limitations on application of chapter.

No part of this chapter shall be deemed to interfere with any of the laws of this state known as the "game laws," nor be deemed to interfere with the right to destroy any venomous reptile or any known as dangerous to life, limb or property, or to interfere with the right to kill animals to be used for food or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et seq.

WASH. REV. CODE § 16.52.185 (2012). Exclusions from chapter.

Nothing in this chapter applies to accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry, or products thereof or to the use of animals in the normal and usual course of rodeo events or to the customary use or exhibiting of animals in normal and usual events at fairs as defined in RCW 15.76.120.

WASH. REV. CODE § 16.52.190 (2012). Poisoning animals—Penalty.

(1) Except as provided in subsections (2) and (3) of this section, a person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree.

(2) Subsection (1) of this section shall not apply to euthanizing by poison an animal in a lawful and humane manner by the animal's owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority.

(3) Subsection (1) of this section shall not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes. As used in this section, the term "rodent" includes but is not limited to Columbia ground squirrels, other ground squirrels, rats, mice, gophers, rabbits, and any other rodent designated as injurious to the agricultural interests of the state as provided in chapter 17.16 RCW. The term "pest" as used in this section includes any pest as defined in RCW 17.21.020.

(4) A person violating this section is guilty of a gross misdemeanor.

WASH. REV. CODE § 16.52.200 (2012). Sentences—Forfeiture of animals—Liability for costs—Civil penalty—Education, counseling.

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, or residing with any similar animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

(a) The person's prior animal cruelty in the second degree convictions;

(b) The type of harm or violence inflicted upon the animals;

(c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;

(d) Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and

(e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, or residing with similar animals

under subsection (4) of this section, that person:

- (a) Shall pay a civil penalty of one thousand dollars for the first violation;
- (b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and
- (c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

WASH. REV. CODE § 16.52.205 (2012). Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she:

- (a) Knowingly engages in any sexual conduct or sexual contact with an animal;
- (b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;
- (c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;
- (d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or
- (e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court may order that the convicted person do any of the following:

(a) Not harbor or own animals or reside in any household where animals are present;

(b) Participate in appropriate counseling at the defendant's expense;

(c) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in subsection (3) of this section.

(6) Nothing in this section may be considered to prohibit accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician.

(7) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

(8) For purposes of this section:

(a) "Animal" means every creature, either alive or dead, other than a human being.

(b) "Sexual conduct" means any touching or fondling by a person, either directly or through clothing, of the sex organs or anus of an animal or any transfer or transmission of semen by the person upon any part of the animal, for the purpose of sexual gratification or arousal of the person.

(c) "Sexual contact" means any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or any intrusion, however slight, of any part of the body of the person into the sex organ or anus of an animal, or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person.

(d) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

WASH. REV. CODE § 16.52.207 (2012).Animal cruelty in the second degree.

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;

(b) Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or

(c) Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

(3) Animal cruelty in the second degree is a gross misdemeanor.

(4) In any prosecution of animal cruelty in the second degree under subsection (1) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

**WASH. REV. CODE § 16.52.210 (2012).Destruction of animal by law enforcement officer—
Immunity from liability.**

This chapter shall not limit the right of a law enforcement officer to destroy an animal that has been seriously injured and would otherwise continue to suffer. Such action shall be undertaken with reasonable prudence and, whenever possible, in consultation with a licensed veterinarian and the owner of the animal.

Law enforcement officers and licensed veterinarians shall be immune from civil and criminal liability for actions taken under this chapter if reasonable prudence is exercised in carrying out the provisions of this chapter.

WASH. REV. CODE § 26.50.060 (2012). Relief—Duration—Realignment of designation of parties—Award of costs, service fees, and attorneys’ fees.

(1) Upon notice and after hearing, the court may provide relief as follows:

- (a) Restrain the respondent from committing acts of domestic violence;
- (b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;
- (c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;
- (d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;
- (e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;
- (f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;
- (g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys’ fees;
- (h) Restrain the respondent from having any contact with the victim of domestic violence or the victim’s children or members of the victim’s household;
- (i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim’s children, or members of the victim’s household. For the purposes of this subsection, “communication” includes both “wire communication” and “electronic communication” as defined in RCW 9.73.260;
- (j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;
- (k) Consider the provisions of RCW 9.41.800;

(l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

(m) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as “petitioner” and “respondent” where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court’s denial.

WASH. REV. CODE § 26.50.110 (2012). Violation of order—Penalties.

(1)

(a) Whenever an order is granted under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party’s efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

ANIMAL PROTECTION LAWS OF WEST VIRGINIA

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains West Virginia's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

West Virginia may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

WEST VIRGINIA

<p>1. GENERAL PROHIBITIONS*</p>	<p>(1) Abuse or killing of a companion animal W. VA. CODE§ 19-20-12(a)</p> <p>(2) Intentional theft of a companion animal W. VA. CODE§ 19-20-12(b)</p> <p>(3) Malicious poisoning, maiming or killing of a horse, cow or other animal (excluding dogs) of another person W. VA. CODE§ 61-3-27</p> <p>(4) Cruel treatment, neglect, abandonment of an animal, dangerous confinement in a vehicle, riding when unfit, baiting or harassing to make it perform, cruelly chaining, or using, training or possessing any domesticated animal for the purpose of maltreating another animal W. VA. CODE§ 61-8-19(a)</p> <p>(5) Torture or malicious killing of an animal W. VA. CODE§ 61-8-19(b)</p> <p>(6) Administering a controlled substance to animal engaged in a contest W. VA. CODE§ 61-8-19(c)</p>
<p><i>Animals Covered in Definition</i></p>	<p>-----</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (2), (3), (4), (6) Misdemeanor</p> <p>(3)[If value of animal is over \$100], (5) Felony</p>

WEST VIRGINIA*continued*

2. MAXIMUM PENALTIES**

(1)
90 days community service
and/or
\$500 fine
W. VA. CODE§ 19-20-12(a)

(2)
[1st offense]:
90 days community service
and/or
\$500 fine
W. VA. CODE§ 19-20-12(b)

[Subsequent offenses]:
6 months county jail
or
one year community service
AND
\$1,000 fine
W. VA. CODE§ 19-20-12(b)

(3)
[If value of injured animal is less than \$100]:
3 months jail
and
\$500 fine
W. VA. CODE§ 61-3-27

[If value of injured animal is \$100 or more]:
10 years prison
W. VA. CODE§ 61-3-27

WEST VIRGINIA*continued*

<p>2. MAXIMUM PENALTIES^{**} <i>continued</i></p>	<p>(4) [1st offense]: 6 months jail <i>and/or</i> \$2,000 fine W. VA. CODE§ 61-8-19(a)</p> <p>[Subsequent offenses]: 1 year jail <i>and/or</i> \$3,000 fine W. VA. CODE§ 61-8-19(g)</p> <p>-----</p> <p>(5) 5 years jail <i>and</i> \$5,000 fine W. VA. CODE§ 61-8-19(b)</p> <p>(6) \$2,000 fine W. VA. CODE§ 61-8-19(c)</p>
<p>3. EXEMPTIONS^{***}</p>	<p>2, 3, 4 W. VA. CODE§ 7-10-4(h)</p> <p>9 W. VA. CODE§19-20-16</p> <p>1, 2, 3, 4, 9 W. VA. CODE§§ 61-8-19(c),(f)</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>Psychiatric evaluation required for probation. W. VA. CODE§ 61-8-19(h)(1)</p> <p>Court may require offenders to complete an anger management program for perpetrators of animal cruelty. W. VA. CODE § 61-8-19(h)(2)</p>

WEST VIRGINIA*continued*

5. PROTECTIVE ORDERS^H	W. VA. CODE § 48-27-503
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H	<p>If probable cause is shown, defendant is liable for costs of care while animal is impounded. W. VA. CODE§§ 7-10-4 (b),(d)</p> <p>Upon a finding of probable cause, the owner shall post a renewable bond for costs of care. W. VA. CODE§ 7-10-4(c)</p> <p>Unrecovered expenses become a lien on the animal. W. VA. CODE§ 7-10-4(d)</p> <p>Restitution is available for abuse or killing of companion animal. W. VA. CODE§ 19-20-12</p> <p>If convicted, defendant is liable for costs of care of seized animals. W. VA. CODE§ 61-8-19(d)</p>
7. SEIZURE / ON-SITE SUPERVISION	<p>Humane officers may seize cruelly treated animals drawing, or inside of, a vehicle. W. VA. CODE§ 7-10-3</p> <p>Humane officers shall seize any abandoned, neglected, or cruelly treated animal, including birds and wildlife in captivity. W. VA. CODE§ 7-10-4(a)</p> <p>If magistrate finds animal was cruelly treated, humane officer will maintain possession of seized animal pending further proceedings. W. VA. CODE§ 7-10-4(c)</p> <p>Court shall issue search warrants for reasonable cause that animals are being cruelly treated. W. VA. CODE § 61-8-21</p>

WEST VIRGINIA*continued*

<p>8. FORFEITURE / POSSESSION^H</p>	<p>Upon a finding by a preponderance of the evidence that the owner of a seized animal did abandon, neglect or cruelly treat the animal, the animal shall be humanely disposed of unless a bond is posted. W. VA. CODE § 7-10-4(c)</p> <p>Any person convicted of a violation shall forfeit all interest in animal abused. W. VA. CODE § 61-8-19(d)</p> <p>Court shall prohibit anyone convicted from possessing, owning or residing with any animal for 5 years following a misdemeanor conviction, and for 15 years following a felony conviction. W. VA. CODE § 61-8-19(i)</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>Humane officers shall report suspected child, elder and incapacitated person abuse or neglect, or suspected domestic violence. W. VA. CODE § 7-10-2(b); 49-6A-2</p> <p>Humane officers shall report suspected circumstances whereby an incapacitated person may be abused, neglected or in an emergency situation. W. VA. CODE § 9-6-9</p> <p>Adult protective service and child protective service workers shall report suspected animal cruelty. W. VA. CODE §§ 9-6-9a, 49-6A-2b</p> <p>Law enforcement officers responding to domestic violence cases shall report suspected animal cruelty. W. VA. CODE § 48-27-702(c)</p>

WEST VIRGINIA*continued*

10. VETERINARIAN REPORTING/ IMMUNITY	<p>Veterinarian has no civil or criminal liability for making a determination that a seized animal should be humanely destroyed to end its suffering. W. VA. CODE§ 7-10-4(e)</p> <p>Veterinarian has a duty to report suspected animal abuse or neglect, and has no civil or criminal liability from such reporting. W. VA. CODE§ 7-10-4a</p>
11. LAW ENFORCEMENT POLICIES	<p>When a prosecuting attorney has information of the violation of any penal law committed within such county, he shall institute and prosecute all necessary and proper proceedings against the offender. W. VA. CODE§ 7-4-1</p> <p>Designated humane officers shall investigate all complaints of cruelty and enforce related statutes. W. VA. CODE§ 7-10-1</p> <p>Humane officers may arrest offenders upon probable cause and has the duty prevent the perpetration or continuance of any act of cruelty. W. VA. CODE§ 7-10-2</p> <p>Commissioner of agriculture may designate employees to investigate animal cruelty; state police and law enforcement authorities have authority and duty to enforce provisions relating to abuse and killing of companion animals. W. VA. CODE§§ 19-20-12(d),(e)</p>
12. SEXUAL ASSAULT	-----

WEST VIRGINIA*continued*

<p>13. FIGHTING</p>	<p>Using, training or possessing a domesticated animal for seizing, detaining or maltreating another domesticated animal is a misdemeanor; search warrants may be issued for reasonable cause. W. VA. CODE §§ 61-8-19, -21</p> <p>Animal fighting ventures are prohibited and punishable as a misdemeanor or felony depending upon the species involved. W. VA. CODE § 61-8-19a</p> <p>Attending an animal fighting venture is a misdemeanor. W. VA. CODE § 61-8-19b</p> <p>Search warrants relating to birds and animals kept for fighting may be issued for reasonable cause. W. VA. CODE § 61-8-22</p> <p>A search without a warrant is authorized at animal fighting exhibitions. W. VA. CODE § 61-8-23</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>Intentionally injuring/killing a law enforcement animal; injury to explosives-detection animal W. VA. CODE §§ 19-20-24, 61-3E-6</p>
<p>NOTE</p>	<p>Notwithstanding any statute to the contrary, counties may adopt laws providing for the custody and care of animals that have been abandoned, neglected or cruelly treated. W. VA. CODE § 7-1-14</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state's animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 1 This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

W. VA. CODE § 19-20-12 (2012). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

W. VA. CODE § 61-3-27 (2012). Malicious killing of animals by poison or otherwise; penalty.

If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of one hundred dollars or more, the person is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than one hundred dollars, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than five hundred dollars: Provided, That this section shall not be construed to include dogs.

W. VA. CODE § 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

2. PENALTIES

W. VA. CODE § 19-20-12 (2012). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, *shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both.* However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, *shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both.* Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, *shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars.* In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

W. VA. CODE § 61-3-27 (2012). Malicious killing of animals by poison or otherwise; penalty.

If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of one hundred dollars or more, the person is guilty of a felony, *and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than one hundred dollars, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than five hundred dollars: Provided, That this section shall not be construed to include dogs.*

W. VA. CODE § 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, *shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.*

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, *shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.*

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, *shall be fined not less than five hundred nor more than two thousand dollars.*

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a *misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.*

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. *A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.*

3. EXEMPTIONS

W. VA. CODE § 7-10-4 (2012). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [§§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 19-20-16 (2012). Same—When lawful to kill dog.

A person may kill a dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry outside of the enclosure of the owner of the dog, unless the chasing or worrying be done by the direction of the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry.

W. VA. CODE § 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a) If any person cruelly mistreats, abandons or withholds proper sustenance, including food, water, shelter or medical treatment, necessary to sustain normal health and fitness or to end suffering or abandons any animal to die, or intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result, or rides an animal when it is physically unfit, or baits or harasses any animal for the purpose of making it perform for a person's amusement, or cruelly chains any animal or uses, trains or possesses any domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) If any person intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, he or she is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) Any person, *other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian*, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section shall forfeit his or her interest in any animal and all interest in the animal shall vest in the humane society or county pound of the county in which the conviction was rendered and the person shall, in addition to any fine imposed, be liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of said subsection is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection shall be mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of said evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

4. COUNSELING / EVALUATIONS

W. VA. CODE § 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

5. PROTECTIVE ORDERS

W. VA. CODE § 48-27-503 (2012). Permissive provisions in protective order.

The terms of a protective order may include:

- (1) Granting possession to the petitioner of the residence or household jointly resided in at the time the abuse occurred;
- (2) Ordering the respondent to refrain from entering or being present in the immediate environs of the residence of the petitioner;
- (3) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children named in the order;
- (4) Establishing terms of temporary visitation with regard to the minor children named in the order including, but not limited to, requiring third party supervision of visitations if necessary to protect the petitioner and/or the minor children;
- (5) Ordering the noncustodial parent to pay to the caretaker parent a sum for temporary support and maintenance of the petitioner and children, if any;
- (6) Ordering the respondent to pay to the petitioner a sum for temporary support and maintenance of the petitioner, where appropriate;
- (7) Ordering the respondent to refrain from entering the school, business or place of employment of the petitioner or household or family members for the purpose of violating the protective order;
- (8) Ordering the respondent to participate in an intervention program for perpetrators;
- (9) Ordering the respondent to refrain from contacting, telephoning, communicating, harassing or verbally abusing the petitioner;
- (10) Providing for either party to obtain personal property or other items from a location, including granting temporary possession of motor vehicles owned by either or both of the parties, and providing for the safety of the parties while this occurs, including ordering a law-enforcement officer to accompany one or both of the parties;
- (11) Ordering the respondent to reimburse the petitioner or other person for any expenses incurred as a result of the domestic violence, including, but not limited to, medical expenses, transportation and shelter;

(12) Ordering the petitioner and respondent to refrain from transferring, conveying, alienating, encumbering or otherwise dealing with property which could otherwise be subject to the jurisdiction of the court or another court in an action for divorce or support, partition or in any other action affecting their interests in property;

(13) Awarding the petitioner the exclusive care, possession, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and prohibiting the respondent from taking, concealing, molesting, physically injuring, killing or otherwise disposing of the animal and limiting or precluding contact by the respondent with the animal;
and

(14) Ordering any other relief the court deems necessary to protect the physical safety of petitioner or those persons for whom a petition may be filed as provided in subdivision (2), section three hundred five of this article.

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

W. VA. CODE § 7-10-4 (2012). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [§§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 19-20-12 (2012). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. *Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.*

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

W. VA. CODE § 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

7. SEIZURE / ON-SITE SUPERVISION

W. VA. CODE § 7-10-3 (2012). Cruel treatment of animal drawing or in vehicle; custody and care thereof by humane officers.

When any person arrested is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, such officer shall take charge of such animal and of such vehicle and its contents, and of the animal or animals drawing the same, and shall, if the person in charge thereof be not the owner, give notice of such seizure to the owner, and provide for them until their owner shall take charge of the same; and if the person in charge of or driving such animals be the owner thereof, the same shall not be returned to him until he has been tried for the offense and acquitted, or if convicted, until he shall give bond in the penalty of five hundred dollars with approved security before the tribunal trying the case conditioned not to again cruelly treat such animals; and the officer shall have a lien upon such animals and the vehicle and its contents for the expenses of such care and provision, or such expenses or any part thereof remaining unpaid may be recovered by such humane officer in a civil action.

W. VA. CODE § 7-10-4 (2012). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [§§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE§ 61-8-21 (2012). Search warrants relating to cruelty to animals.

If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

8. FORFEITURE / POSSESSION

W. VA. CODE § 7-10-4 (2012). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. *The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal.* At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [§§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term “controlled substance” has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

9. CROSS ENFORCEMENT / REPORTING

W. VA. CODE § 7-10-2(2012). Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.

(a) It is the duty of humane officers to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate and, upon probable cause, to cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspection of records and property as may be reasonably necessary to any investigation.

(b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds therefor. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Health and Human Resources in accordance with the provisions of section five, article six-a, chapter forty-nine of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of section eleven, article six, chapter nine of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of article twenty-seven, chapter forty-eight of this code.

(c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars or confined in jail not more than thirty days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

W. VA. CODE § 9-6-9 (2012). Mandatory reporting of incidences of abuse, neglect or emergency situation.

(a) If any medical, dental or mental health professional, Christian Science practitioner, religious healer, social service worker, law-enforcement officer, humane officer, state or regional ombudsman or any employee of any nursing home or other residential facility has reasonable cause to believe that an incapacitated adult or facility resident is or has been neglected, abused or placed in an emergency situation, or if such person observes an incapacitated adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person shall immediately report the circumstances pursuant to the provisions of section eleven of this article: Provided, That nothing in this article is intended to prevent individuals from reporting on their own behalf.

(b) In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of an incapacitated adult or facility resident or the existence of an emergency situation, any other person may make such a report.

(c) The secretary shall develop a form for the filing of written complaints, as provided by section eleven of this article, and provide these forms to all nursing homes or other residential facilities, hospitals, ombudsmen and adult protective service agencies in this state. The forms shall be designed to protect the identity of the complainant, if desired, and to facilitate the prompt filing of complaints.

(d) The Department of Health and Human Resources shall develop and implement a procedure to notify any person mandated to report suspected abuse and neglect of an incapacitated adult or facility resident of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

W. VA. CODE § 9-6-9a (2012). Mandatory reporting [of suspected] animal cruelty by adult protective service workers.

In the event an adult protective service worker, in response to a report mandated by section nine of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

W. VA. CODE § 48-27-702 (2012). Law-enforcement officers to provide information, transportation and to report suspicions of animal cruelty.

(a) Any law-enforcement officer responding to an alleged incident of domestic violence shall inform the parties of the availability of the possible remedies provided by this article and the possible applicability of the criminal laws of this state. Any law-enforcement officer investigating an alleged incident of domestic violence shall advise the victim of such violence of the availability of the family protection shelter to which such person may be admitted.

(b) If there is reasonable cause to believe that a person is a victim of domestic violence or is likely to be a victim of domestic violence, a law-enforcement officer responding to an alleged incident of domestic violence shall, in addition to providing the information required in subsection (a) of this section, provide transportation for or facilitate transportation of the victim, upon the request of such victim, to a shelter or an appropriate court.

(c) Whenever a law-enforcement officer, pursuant to a response to an alleged incident of domestic violence, forms a reasonable suspicion that an animal is a victim of cruel or inhumane treatment, he or she shall report the suspicion and the grounds therefor to the county humane officer within twenty-four hours of the response to the alleged incident of domestic violence.

W. VA. CODE § 49-6A-2 (2012). Persons mandated to report suspected abuse and neglect.

(a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, *humane officer*, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than forty-eight hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources: Provided, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint: Provided, however, That any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made.

(b) Any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than forty-eight hours after receiving such a disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report. In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm: Provided, That the individual makes the report as soon as practicable after the threat of harm has been reduced. The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

(c) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

W. VA. CODE § 49-6A-2b (2012). Mandatory reporting of suspected animal cruelty by child protective service workers.

In the event a child protective service worker, in response to a report mandated by section two of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

10. VETERINARIAN REPORTING / IMMUNITY

W. VA. CODE § 7-10-4 (2012). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [§§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 7-10-4a (2012). Reporting of animals abandoned, neglected or cruelly treated; enforcement.

(a) It is the duty of any licensed veterinarian and the right of any other person to report to a humane officer any animal found, reasonably known or believed to be abandoned, neglected or cruelly treated as set forth in this article, and such veterinarian or other person may not be subject to any civil or criminal liability as a result of such reporting.

(b) Any person who, with force, assaults, resists, or impedes any other person engaged in the reporting of abandoned, neglected or cruelly treated animals as provided for in this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred fifty nor more than one thousand dollars, or confined in the county jail not more than one year, or both so fined and confined.

11. LAW ENFORCEMENT POLICIES

W. VA. CODE § 7-4-1 (2012). Duties of prosecuting attorney; further duties upon request of Attorney General.

It shall be the duty of the prosecuting attorney to attend to the criminal business of the State in the county in which he is elected and qualified, and when he has information of the violation of any penal law committed within such county, he shall institute and prosecute all necessary and proper proceedings against the offender, and may in such case issue or cause to be issued a summons for any witness he may deem material. Every public officer shall give him information of the violation of any penal law committed within his county. It shall also be the duty of the prosecuting attorney to attend to civil suits in such county in which the State, or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such county or any county board of education is interested.

It shall be the duty of the prosecuting attorney to keep his office open in the charge of a responsible person during the hours polls are open on general, primary and special county-wide election days, and the prosecuting attorney, or his assistant, if any, shall be available for the purpose of advising election officials. It shall be the further duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the Attorney General in performing, in the county in which he is elected, any legal duties required to be performed by the Attorney General, and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of such county. It shall also be the duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the attorney general in performing, any legal duties required to be performed by the Attorney General, in any county other than that in which such prosecuting attorney is elected, and for the performance of any such duties in any county other than that in which such prosecuting attorney is elected he shall be paid his actual expenses.

Upon the request of the Attorney General the prosecuting attorney shall make a written report of the state and condition of the several causes in which the State is a party, pending in his county, and upon any matters referred to him by the Attorney General as provided by law.

W. VA. CODE § 7-10-1 (2012). Deputy sheriffs as humane officers.

The sheriff of each county of this state shall annually designate, by a record made in the office of the clerk of the county commission, one of his or her deputies to act as humane officer of the county; or, if the county commission and sheriff agree, the county dog warden may be designated to act as the humane officer or as an additional humane officer; any person designated to act as a humane officer and all peace officers designated by law as a humane officer or an additional humane officer shall investigate all complaints made to him or her of cruel or inhumane treatment of animals within the county and he or she shall personally see that the law relating to the prevention of cruelty to animals is enforced. The wilful failure of such designee to investigate any complaint made to him or her and to take proper measures in such case or to perform his or her duty in any other respect may constitute good cause for removal from employment.

W. VA. CODE § 7-10-2(2012). Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.

(a) It is the duty of humane officers to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate and, upon probable cause, to cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspection of records and property as may be reasonably necessary to any investigation.

(b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds therefor. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Health and Human Resources in accordance with the provisions of section five, article six-a, chapter forty-nine of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of section eleven, article six, chapter nine of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of article twenty-seven, chapter forty-eight of this code.

(c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars or confined in jail not more than thirty days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

W. VA. CODE § 19-20-12 (2012). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

12. SEXUAL ASSAULT

13. FIGHTING

W. VA. CODE § 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

W. VA. CODE§ 61-8-19a (2012). Animal fighting ventures prohibited.

(a) It is unlawful for any person to engage in, be employed at, or sell an admission to any animal fighting venture.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars and not more than one thousand dollars, or confined in the county jail not exceeding one year, or both so fined and confined, and may be divested of ownership and control of such animals, and be liable for all costs for their care and maintenance: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two, article one, chapter twenty of this code, or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand dollars and not more than five thousand dollars, and imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

W. VA. CODE§ 61-8-19b (2012). Attendance at animal fighting ventures prohibited; penalty.

(a) It is unlawful for any person to knowingly attend an animal fighting venture involving animals as provided in subsections (a) and (b), section nineteen-a, article eight of this chapter.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars and not more than one thousand dollars, or confined in the county or regional jail not more than one year, or both fined and imprisoned.

W. VA. CODE§ 61-8-21 (2012). Search warrants relating to cruelty to animals.

If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

W. VA. CODE§ 61-8-22 (2012). Search warrants relating to birds and animals kept for fighting.

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept or trained for fighting at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable, or police officer, to search such place, building, or tenement at any hour of the day or night, and take possession of all such birds, dogs or other animals there found, and to arrest all persons there present at any such exhibition or where preparations for such an exhibition are being made, or where birds, dogs, or other animals are kept or trained for fighting.

W. VA. CODE§ 61-8-23 (2012). Search without warrant where there is an exhibition of the fighting of birds or animals.

Any officer authorized to serve criminal process may, without warrant, enter any place, building, or tenement in which there is an exhibition of the fighting of birds, dogs, or other animals, or in which preparations are being made for such an exhibition and arrest all persons there present and take possession of and remove from the place of seizure the birds, dogs, or other animals engaged in fighting or there found and intended to be used or engaged in fighting, or kept or trained for fighting and hold the same in custody subject to the order of the court as hereinafter provided.

14. REFERENCED STATUTES

W. VA. CODE § 7-1-14 (2012). Custody and care of animals abandoned, neglected or cruelly treated; animals causing public nuisance, health risk or safety hazard; authority of county commission.

(a) Notwithstanding any provision of this code to the contrary, any county commission may adopt ordinances, rules and regulations providing for the custody and care of animals that have been abandoned, neglected or cruelly treated for the protection of any such animal and to prevent it from becoming a public nuisance or risk to public health or safety or the environment.

(b) Any such ordinance, rule or regulation may require each owner to provide for each of his or her animals:

(1) Adequate food which provides sufficient quantity and nutritive value to maintain each animal in good health;

(2) Adequate water which provides easy access to clean, fresh, potable water of a drinkable temperature in sufficient volume and suitable intervals to maintain normal hydration for each animal;

(3) Adequate shelter to protect the animal from the elements and other animals;

(4) Adequate space in the primary enclosure for the particular animal depending upon its age, size, species and weight which is regularly cleaned to prevent an unsanitary accumulation of urine and feces;

(5) Adequate exercise to assure that the animal maintains normal muscle tone and mass for the age, species, size and condition of the animal; and

(6) Veterinary care when needed or to prevent suffering or disease transmission.

(c) Any such ordinance, rule or regulation may limit the number of animals owned, kept or maintained by an individual, group or organization, whether public or private based on the person's ability to provide for the animals as set forth in subsection (b) of this section.

(d) Any such ordinance, rule or regulation shall provide appropriate penalties for violations and shall authorize humane officers to take possession of any animal that is not properly cared for as required by such ordinance, rule or regulation.

W. VA. CODE§ 7-4-1 (2012). Duties of prosecuting attorney; further duties upon request of Attorney General.

It shall be the duty of the prosecuting attorney to attend to the criminal business of the State in the county in which he is elected and qualified, and when he has information of the violation of any penal law committed within such county, he shall institute and prosecute all necessary and proper proceedings against the offender, and may in such case issue or cause to be issued a summons for any witness he may deem material. Every public officer shall give him information of the violation of any penal law committed within his county. It shall also be the duty of the prosecuting attorney to attend to civil suits in such county in which the State, or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such county or any county board of education is interested.

It shall be the duty of the prosecuting attorney to keep his office open in the charge of a responsible person during the hours polls are open on general, primary and special county-wide election days, and the prosecuting attorney, or his assistant, if any, shall be available for the purpose of advising election officials. It shall be the further duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the Attorney General in performing, in the county in which he is elected, any legal duties required to be performed by the Attorney General, and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of such county. It shall also be the duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the attorney general in performing, any legal duties required to be performed by the Attorney General, in any county other than that in which such prosecuting attorney is elected, and for the performance of any such duties in any county other than that in which such prosecuting attorney is elected he shall be paid his actual expenses.

Upon the request of the Attorney General the prosecuting attorney shall make a written report of the state and condition of the several causes in which the State is a party, pending in his county, and upon any matters referred to him by the Attorney General as provided by law.

W. VA. CODE§ 7-10-1 (2012). Deputy sheriffs as humane officers.

The sheriff of each county of this state shall annually designate, by a record made in the office of the clerk of the county commission, one of his or her deputies to act as humane officer of the county; or, if the county commission and sheriff agree, the county dog warden may be designated to act as the humane officer or as an additional humane officer; any person designated to act as a humane officer and all peace officers designated by law as a humane officer or an additional humane officer shall investigate all complaints made to him or her of cruel or inhumane treatment of animals within the county and he or she shall personally see that the law relating to the prevention of cruelty to animals is enforced. The wilful failure of such designee to investigate any complaint made to him or her and to take proper measures in such case or to perform his or her duty in any other respect may constitute good cause for removal from employment.

W. VA. CODE§ 7-10-2(2012). Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.

(a) It is the duty of humane officers to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate and, upon probable cause, to cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspection of records and property as may be reasonably necessary to any investigation.

(b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds therefor. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Health and Human Resources in accordance with the provisions of section five, article six-a, chapter forty-nine of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of section eleven, article six, chapter nine of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of article twenty-seven, chapter forty-eight of this code.

(c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars or confined in jail not more than thirty days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

W. VA. CODE§ 7-10-3 (2012). Cruel treatment of animal drawing or in vehicle; custody and care thereof by humane officers.

When any person arrested is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, such officer shall take charge of such animal and of such vehicle and its contents, and of the animal or animals drawing the same, and shall, if the person in charge thereof be not the owner, give notice of such seizure to the owner, and provide for them until their owner shall take charge of the same; and if the person in charge of or driving such animals be the owner thereof, the same shall not be returned to him until he has been tried for the offense and acquitted, or if convicted, until he shall give bond in the penalty of five hundred dollars with approved security before the tribunal trying the case conditioned not to again cruelly treat such animals; and the officer shall have a lien upon such animals and the vehicle and its contents for the expenses of such care and provision, or such expenses or any part thereof remaining unpaid may be recovered by such humane officer in a civil action.

W. VA. CODE§ 7-10-4 (2012). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [§§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 7-10-4a (2012). Reporting of animals abandoned, neglected or cruelly treated; enforcement.

(a) It is the duty of any licensed veterinarian and the right of any other person to report to a humane officer any animal found, reasonably known or believed to be abandoned, neglected or cruelly treated as set forth in this article, and such veterinarian or other person may not be subject to any civil or criminal liability as a result of such reporting.

(b) Any person who, with force, assaults, resists, or impedes any other person engaged in the reporting of abandoned, neglected or cruelly treated animals as provided for in this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred fifty nor more than one thousand dollars, or confined in the county jail not more than one year, or both so fined and confined.

W. VA. CODE § 9-6-9 (2012). Mandatory reporting of incidences of abuse, neglect or emergency situation.

(a) If any medical, dental or mental health professional, Christian Science practitioner, religious healer, social service worker, law-enforcement officer, humane officer, state or regional ombudsman or any employee of any nursing home or other residential facility has reasonable cause to believe that an incapacitated adult or facility resident is or has been neglected, abused or placed in an emergency situation, or if such person observes an incapacitated adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person shall immediately report the circumstances pursuant to the provisions of section eleven of this article: Provided, That nothing in this article is intended to prevent individuals from reporting on their own behalf.

(b) In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of an incapacitated adult or facility resident or the existence of an emergency situation, any other person may make such a report.

(c) The secretary shall develop a form for the filing of written complaints, as provided by section eleven of this article, and provide these forms to all nursing homes or other residential facilities, hospitals, ombudsmen and adult protective service agencies in this state. The forms shall be designed to protect the identity of the complainant, if desired, and to facilitate the prompt filing of complaints.

(d) The Department of Health and Human Resources shall develop and implement a procedure to notify any person mandated to report suspected abuse and neglect of an incapacitated adult or facility resident of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

W. VA. CODE § 9-6-9a (2012). Mandatory reporting [of suspected] animal cruelty by adult protective service workers.

In the event an adult protective service worker, in response to a report mandated by section nine of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

W. VA. CODE § 19-20-12 (2012). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

W. VA. CODE § 19-20-16 (2012). Same—When lawful to kill dog.

A person may kill a dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry outside of the enclosure of the owner of the dog, unless the chasing or worrying be done by the direction of the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry.

W. VA. CODE § 48-27-503 (2012). Permissive provisions in protective order.

The terms of a protective order may include:

- (1) Granting possession to the petitioner of the residence or household jointly resided in at the time the abuse occurred;
- (2) Ordering the respondent to refrain from entering or being present in the immediate environs of the residence of the petitioner;

- (3) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children named in the order;
- (4) Establishing terms of temporary visitation with regard to the minor children named in the order including, but not limited to, requiring third party supervision of visitations if necessary to protect the petitioner and/or the minor children;
- (5) Ordering the noncustodial parent to pay to the caretaker parent a sum for temporary support and maintenance of the petitioner and children, if any;
- (6) Ordering the respondent to pay to the petitioner a sum for temporary support and maintenance of the petitioner, where appropriate;
- (7) Ordering the respondent to refrain from entering the school, business or place of employment of the petitioner or household or family members for the purpose of violating the protective order;
- (8) Ordering the respondent to participate in an intervention program for perpetrators;
- (9) Ordering the respondent to refrain from contacting, telephoning, communicating, harassing or verbally abusing the petitioner;
- (10) Providing for either party to obtain personal property or other items from a location, including granting temporary possession of motor vehicles owned by either or both of the parties, and providing for the safety of the parties while this occurs, including ordering a law-enforcement officer to accompany one or both of the parties;
- (11) Ordering the respondent to reimburse the petitioner or other person for any expenses incurred as a result of the domestic violence, including, but not limited to, medical expenses, transportation and shelter;
- (12) Ordering the petitioner and respondent to refrain from transferring, conveying, alienating, encumbering or otherwise dealing with property which could otherwise be subject to the jurisdiction of the court or another court in an action for divorce or support, partition or in any other action affecting their interests in property;
- (13) Awarding the petitioner the exclusive care, possession, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and prohibiting the respondent from taking, concealing, molesting, physically injuring, killing or otherwise disposing of the animal and limiting or precluding contact by the respondent with the animal; and

(14) Ordering any other relief the court deems necessary to protect the physical safety of petitioner or those persons for whom a petition may be filed as provided in subdivision (2), section three hundred five of this article.

W. VA. CODE § 48-27-702 (2012). Law-enforcement officers to provide information, transportation and to report suspicions of animal cruelty.

(a) Any law-enforcement officer responding to an alleged incident of domestic violence shall inform the parties of the availability of the possible remedies provided by this article and the possible applicability of the criminal laws of this state. Any law-enforcement officer investigating an alleged incident of domestic violence shall advise the victim of such violence of the availability of the family protection shelter to which such person may be admitted.

(b) If there is reasonable cause to believe that a person is a victim of domestic violence or is likely to be a victim of domestic violence, a law-enforcement officer responding to an alleged incident of domestic violence shall, in addition to providing the information required in subsection (a) of this section, provide transportation for or facilitate transportation of the victim, upon the request of such victim, to a shelter or an appropriate court.

(c) Whenever a law-enforcement officer, pursuant to a response to an alleged incident of domestic violence, forms a reasonable suspicion that an animal is a victim of cruel or inhumane treatment, he or she shall report the suspicion and the grounds therefor to the county humane officer within twenty-four hours of the response to the alleged incident of domestic violence.

W. VA. CODE § 49-6A-2 (2012). Persons mandated to report suspected abuse and neglect.

(a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than forty-eight hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources: Provided, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint: Provided, however, That any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized

activities for children, facility or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made.

(b) Any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than forty-eight hours after receiving such a disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report. In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm: Provided, That the individual makes the report as soon as practicable after the threat of harm has been reduced. The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

(c) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

W. VA. CODE § 49-6A-2b (2012). Mandatory reporting of suspected animal cruelty by child protective service workers.

In the event a child protective service worker, in response to a report mandated by section two of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

W. VA. CODE§ 61-3-27 (2012).Malicious killing of animals by poison or otherwise; penalty.

If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of one hundred dollars or more, the person is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than one hundred dollars, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than five hundred dollars: Provided, That this section shall not be construed to include dogs.

W. VA. CODE§ 61-8-19 (2012). Cruelty to animals; penalties; exclusions.

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

W. VA. CODE§ 61-8-19a (2012). Animal fighting ventures prohibited.

(a) It is unlawful for any person to engage in, be employed at, or sell an admission to any animal fighting venture.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars and not more than one thousand dollars, or confined in the county jail not exceeding one year, or both so fined and confined, and may be divested of ownership and control of such animals, and be liable for all costs for their care and maintenance: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two, article one, chapter twenty of this code, or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand dollars and not more than five thousand dollars, and imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

W. VA. CODE§ 61-8-19b (2012). Attendance at animal fighting ventures prohibited; penalty.

(a) It is unlawful for any person to knowingly attend an animal fighting venture involving animals as provided in subsections (a) and (b), section nineteen-a, article eight of this chapter.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars and not more than one thousand dollars, or confined in the county or regional jail not more than one year, or both fined and imprisoned.

W. VA. CODE§ 61-8-21 (2012). Search warrants relating to cruelty to animals.

If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

W. VA. CODE§ 61-8-22 (2012). Search warrants relating to birds and animals kept for fighting.

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept or trained for fighting at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable, or police officer, to search such place, building, or tenement at any hour of the day or night, and take possession of all such birds, dogs or other animals there found, and to arrest all persons there present at any such exhibition or where preparations for such an exhibition are being made, or where birds, dogs, or other animals are kept or trained for fighting.

W. VA. CODE§ 61-8-23 (2012). Search without warrant where there is an exhibition of the fighting of birds or animals.

Any officer authorized to serve criminal process may, without warrant, enter any place, building, or tenement in which there is an exhibition of the fighting of birds, dogs, or other animals, or in which preparations are being made for such an exhibition and arrest all persons there present and take possession of and remove from the place of seizure the birds, dogs, or other animals engaged in fighting or there found and intended to be used or engaged in fighting, or kept or trained for fighting and hold the same in custody subject to the order of the court as hereinafter provided.

ANIMAL PROTECTION LAWS OF WISCONSIN

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Wisconsin's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Wisconsin may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

WISCONSIN

1. GENERAL PROHIBITIONS*

- (1)
Mistreatment of animals
WIS. STAT.§ 951.02

- (2)
Transporting animals in a cruel manner
WIS. STAT.§ 951.05

- (3)
Exposing animals to poisonous and controlled substances
WIS. STAT.§ 951.06

- (4)
Failure to provide proper food and drink to confined animals
WIS. STAT.§ 951.13

- (5)
Failure to provide proper shelter to animals
WIS. STAT.§ 951.14

- (6)
Abandoning animals
WIS. STAT.§ 951.15

Animals Covered in Definition

“[E]very living warm-blooded creature, except a human being; reptile; or amphibian.”
WIS. STAT.§ 951.01(1)

WISCONSIN*continued*

Classification of Crimes

(1) - (6)
Class C forfeiture

(1) - (6)
[2nd offense within 3 years of an abatement
order]:
Class A forfeiture

(1) - (6)
[Any intentional or negligent violation]
Class A misdemeanor

(1)
[Any intentional violation that results in
mutilation, disfigurement, or death of
animal]:
Class I felony

(1), (3)
[Any intentional violation knowing animal is
law enforcement animal]
Class I felony

WISCONSIN*continued*

2. MAXIMUM PENALTIES ^{**}	Class C forfeiture: \$500 fine WIS. STAT.§ 939.52(3)(c) Class A forfeiture: \$10,000 fine WIS. STAT.§ 939.52(3)(a) Class A misdemeanor: 9 months imprisonment <i>and/or</i> \$10,000 fine WIS. STAT.§ 939.51(3)(a) Class I felony: 3 years and 6 months imprisonment <i>and/or</i> \$10,000 fine WIS. STAT.§ 939.50(3)(i)
3. EXEMPTIONS ^{***}	2, 3, 5, 9 WIS. STAT.§ 951.015 1 WIS. STAT.§ 951.02 1, 6 WIS. STAT.§ 951.06 4 WIS. STAT.§ 951.14
4. COUNSELING / EVALUATIONS ^H	-----
5. PROTECTIVE ORDERS ^H	-----

WISCONSIN*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Unclaimed animals may be sold and proceeds from sale may be first applied to costs of care. WIS. STAT. §§ 173.23(1m),(1s)</p> <p>Court, upon petition, may order owner of seized animal to pay costs of care or may require a bond be posted for costs of care. WIS. STAT. § 173.23(3)(a)</p> <p>Upon conviction, defendant shall be assessed expenses. WIS. STAT. § 173.24</p> <p>Offender must pay restitution for any pecuniary loss suffered as a result of the crime. "Pecuniary loss" includes cost-of-care expenses, veterinary expenses, etc. WIS. STAT. § 951.18(4)(a)</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>If violation is suspected, humane officer may enter any building, vehicle or place where animals may be present for inspection or collection of evidence; if location is not public, entry shall be by warrant or consent. WIS. STAT. § 173.09</p> <p>Court shall issue a search warrant on probable cause of animal cruelty, directing law enforcement to seize cruelly treated animals. WIS. STAT. § 173.10</p> <p>Humane or law enforcement officer may take custody of animals being cruelly treated. WIS. STAT. § 173.13(1)(a)(8)</p> <p>Animals may be withheld for cause by a political subdivision or its contractor. WIS. STAT. § 173.21</p> <p>Provisions to review seizure or withholding WIS. STAT. § 173.22</p>

WISCONSIN*continued*

8. FORFEITURE / POSSESSION^H	<p>Ownership rights to animals unclaimed may be forfeited; owner's failure to comply with bond requirements may also result in forfeiture of seized animal. WIS. STAT.§§173.19; 173.23(1m),(2),(6)</p> <p>Upon conviction, the court may order defendant's animals to be delivered to a humane society, pound, or law enforcement officer. WIS. STAT.§ 951.18(4)(b)(1)</p> <p>The court may order that the violator may not possess animal for up to 5 years. WIS. STAT.§ 951.18(4)(c)</p>
9. CROSS ENFORCEMENT / REPORTING	-----
10. VETERINARIAN REPORTING/ IMMUNITY	<p>A veterinarian who has reason to believe an animal has been in animal fighting exhibition must report the matter to local humane officer or law enforcement. WIS. STAT. § 173.12(1)</p>
11. LAW ENFORCEMENT POLICIES	<p>Humane officers may investigate animal cruelty, seek subpoenas, issue citations, apply for search warrants, and request prosecutions. WIS. STAT.§ 173.07</p> <p>Law enforcement and humane officers may issue an order abatement for offenses. WIS. STAT. § 173.11</p> <p>District attorneys may apply to a court for a temporary or permanent injunction restraining persons from violating the animal protection laws. WIS. STAT. § 951.18(3)</p>

WISCONSIN*continued*

<p>12. SEXUAL ASSAULT</p>	<p>An act of “sexual gratification” with an animal is a Class A misdemeanor. WIS. STAT. § 944.17</p>
<p>13. FIGHTING</p>	<p>Provisions for disposition of seized fighting animals WIS. STAT.§ 173.12</p> <p>Various animal fighting activities are Class I felonies on 1st violation and Class H felonies on subsequent violation; offenders prohibited from owning, keeping, possessing or training animals for 5 years following conviction; being a spectator at an animal fight is a Class A misdemeanor. WIS. STAT.§§ 951.08, 951.18(2)</p>
<p><i>Other Felony Provisions Affecting Animals</i>¹</p>	<p>-----</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

WIS. STAT. § 951.01 (2012).Definitions.

In this chapter:

(1) *“Animal” includes every living:*

(a) Warm-blooded creature, except a human being;

(b) Reptile; or

(c) Amphibian.

(1m) *“Conservation warden” means a warden appointed under s. 23.10.*

(2) *“Cruel” means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.*

(3) *“Farm animal” means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.*

(3e) *“Humane officer” means an officer appointed under s. 173.03.*

(3f) *“Fire department” includes a volunteer fire department and a department under s. 60.553, 61.66, or 62.13(2e).*

(3m) *“Law enforcement agency” has the meaning given in s. 165.83(1)(b).*

(4) *“Law enforcement officer” has the meaning assigned under s. 967.02 (5) but does not include a conservation warden appointed under s. 23.10.*

(5) *“Service dog” means a dog that is trained for the purpose of assisting a person with a sensory, mental, or physical disability or accommodating such a disability.*

WIS. STAT. § 951.02 (2012). Mistreating animals.

No person may treat any animal, whether belonging to the person or another, in a cruel manner. This section does not prohibit normal and accepted veterinary practices.

WIS. STAT. § 951.05 (2012). Transportation of animals.

No person may transport any animal in or upon any vehicle in a cruel manner.

WIS. STAT. § 951.06 (2012). Use of poisonous and controlled substances.

No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in schedule I, II, III, IV or V of ch. 961, or any controlled substance analog of a controlled substance included in schedule I or II of ch. 961, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in accepted veterinary practices.

WIS. STAT. § 951.13 (2012). Providing proper food and drink to confined animals.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) Food. The food shall be sufficient to maintain all animals in good health.

(2) Water. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

WIS. STAT. § 951.14 (2012). Providing proper shelter.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) Indoor standards. Minimum indoor standards of shelter shall include:

(a) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.

(b) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) *Outdoor standards. Minimum outdoor standards of shelter shall include:*

(a) *Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.*

(b) *Shelter from inclement weather.*

1. *Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.*

2. *Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.*

(3) *Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include:*

(a) *Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.*

(b) *Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.*

(4) *Sanitation standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.*

WIS. STAT. § 951.15 (2012). Abandoning animals.

No person may abandon any animal.

WIS. STAT. § 951.18 (2012). Penalties.

(1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class I felony.

(2) Any person who violates s. 951.08(2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08(1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

(2s) Any person who violates s. 951.097(1)(b)1. or (2)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any person who violates s. 951.097(1)(b)2., (2)(b), or (3)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who violates s. 951.097(3)(b) or (4)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class I felony. Any person who violates s. 951.097(4)(b) or (5), knowing that the dog that is the victim is a service dog, is guilty of a Class H felony.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

(4) In addition to penalties applicable to this chapter under this section:

(a)

1. In this paragraph, “pecuniary loss” means any of the following:

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, the medical expenses of the animal’s user, the cost of training the animal’s user, and compensation for income lost by the animal’s user.

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.

(b)

1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound or, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23(1m), except that the fees under s. 173.23(1m)(a)4. do not apply if the expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12 (3)(a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12 (3).

(c) Except as provided in s. 951.08(2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

2. PENALTIES

WIS. STAT. §939.50 (2012). Classification of felonies.

(1) Felonies in the statutes are classified as follows:

- (a) Class A felony.
- (b) Class B felony.
- (c) Class C felony.
- (d) Class D felony.
- (e) Class E felony.
- (f) Class F felony.
- (g) Class G felony.
- (h) Class H felony.
- (i) *Class I felony.*

(2) A felony is a Class A, B, C, D, E, F, G, H, or I felony when it is so specified in the statutes.

(3) Penalties for felonies are as follows:

- (a) For a Class A felony, life imprisonment.
- (b) For a Class B felony, imprisonment not to exceed 60 years.
- (c) For a Class C felony, a fine not to exceed \$100,000 or imprisonment not to exceed 40 years, or both.
- (d) For a Class D felony, a fine not to exceed \$100,000 or imprisonment not to exceed 25 years, or both.
- (e) For a Class E felony, a fine not to exceed \$50,000 or imprisonment not to exceed 15 years, or both.
- (f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both.

(g) For a Class G felony, a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both.

(h) For a Class H felony, a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

(i) For a Class I felony, a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both.

WIS. STAT. § 939.51 (2012). Classification of misdemeanors.

(1) *Misdemeanors in chs. 939 to 951 are classified as follows:*

(a) *Class A misdemeanor.*

(b) *Class B misdemeanor.*

(c) *Class C misdemeanor.*

(2) *A misdemeanor is a Class A, B or C misdemeanor when it is so specified in chs. 939 to 951.*

(3) *Penalties for misdemeanors are as follows:*

(a) *For a Class A misdemeanor, a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.*

(b) *For a Class B misdemeanor, a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.*

(c) *For a Class C misdemeanor, a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.*

WIS. STAT. § 939.52 (2012). Classification of forfeitures.

(1) *Except as provided in ss. 946.86 and 946.87, forfeitures in chs. 939 to 951 are classified as follows:*

(a) *Class A forfeiture.*

(b) *Class B forfeiture.*

(c) *Class C forfeiture.*

(d) Class D forfeiture.

(e) Class E forfeiture.

(2) *A forfeiture is a Class A, B, C, D or E forfeiture when it is so specified in chs. 939 to 951*

(3) *Penalties for forfeitures are as follows:*

(a) *For a Class A forfeiture, a forfeiture not to exceed \$10,000.*

(b) *For a Class B forfeiture, a forfeiture not to exceed \$1,000.*

(c) *For a Class C forfeiture, a forfeiture not to exceed \$500.*

(d) *For a Class D forfeiture, a forfeiture not to exceed \$200.*

(e) *For a Class E forfeiture, a forfeiture not to exceed \$25.*

3. EXEMPTIONS

WIS. STAT. § 951.015 (2012). Construction and application.

(1) This chapter may not be interpreted as controverting any law regulating wild animals that are subject to regulation under ch. 169, the taking of wild animals, as defined in s. 29.001(90), or the slaughter of animals by persons acting under state or federal law.

(2) For purposes of enforcing this chapter as to wild animals subject to regulation under ch. 169, a conservation warden has the same powers and duties that a law enforcement officer has under this chapter.

(3) This chapter does not apply to:

(a) Teaching, research, or experimentation conducted pursuant to a protocol or procedure approved by an educational or research institution, and related incidental animal care activities, at facilities that are regulated under 7 USC 2131 to 2159 or 42 USC 289d.

(b) Bona fide scientific research involving species unregulated by federal law.

WIS. STAT. § 951.02 (2012). Mistreating animals.

No person may treat any animal, whether belonging to the person or another, in a cruel manner. *This section does not prohibit normal and accepted veterinary practices.*

WIS. STAT. § 951.06 (2012). Use of poisonous and controlled substances.

No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in schedule I, II, III, IV or V of ch. 961, or any controlled substance analog of a controlled substance included in schedule I or II of ch. 961, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. *This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in accepted veterinary practices.*

WIS. STAT. § 951.14 (2012). Providing proper shelter.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. *In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.*

(1) Indoor standards. Minimum indoor standards of shelter shall include:

- (a) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.
- (b) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) Outdoor standards. Minimum outdoor standards of shelter shall include:

- (a) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.
- (b) Shelter from inclement weather.
 - 1. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
 - 2. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include:

- (a) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
- (b) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) Sanitation standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

WIS. STAT. § 173.23 (2012).Disposition of animals.

(1) Claim and return. Except as provided in sub. (4) or s. 173.21 (1), a political subdivision or person contracting under s. 173.15 (1) shall return an animal described in s. 173.13 (1)(a)1., 3., 4., 6., 8. or 9. to its owner upon the happening of all of the following:

- (a) The owner claims the animal and provides reasonable evidence of ownership.
- (b) If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure by prepayment is given.
- (c) If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination by prepayment is given.
- (d) *All charges for custody, care, vaccination and treatment are paid.*

(1m) Unclaimed animals. A political subdivision or a person contracting under s. 173.15 (1) that has custody of an animal considered unclaimed under sub. (5)(c) or (6) or s. 173.13 (3)(c) or 173.19 or an unwanted animal may do any of the following:

(a) Release the animal to any person other than the owner if all of the following apply:

- 1. The person provides his or her name and address.
- 2. If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure is given by evidence of prepayment.
- 3. If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination is given by evidence of prepayment.
- 4. *Any charges imposed by the political subdivision or person contracting under s. 173.15 (1) for custody, care, vaccination and treatment are paid or waived.*

(b) If the animal is not a dog or cat, sell the animal at public auction, including sale at a licensed animal market.

(c) Euthanize the animal.

(d) If the animal is a stray or abandoned dog, release the dog under s. 174.13.

(1s) Proceeds of sale. If the owner of an animal sold under sub. (1m)(b) files a claim and provides proof of ownership within 30 days after the sale, the sale proceeds, less the cost of custody, care, treatment and sale, shall be returned to the owner.

(2) Animals not returned to owner. If an animal in the custody of a political subdivision, other than an animal to which sub. (1m) applies, is not returned to the owner under sub. (1) or (5)(b) or s. 173.12 (2), 173.21 (4) or 173.22 or disposed of under sub. (4) or (5)(a) or s. 173.12 (3), it shall be disposed of under a court order under sub. (3) or s. 951.18 (4).

(3) *Court order.*

(a) A political subdivision may petition the circuit court for an order doing any of the following with respect to an animal taken into custody by a law enforcement officer or a humane officer or withheld under s. 173.21(1):

- 1. Providing for payment for the custody, care or treatment of the animal.*
- 2. Requiring the owner of the animal to post bond for the costs of custody, care or treatment of the animal pending the outcome of any other proceeding.*
- 3. Authorizing the sale, destruction or other disposal of the animal.*

(b) The petition shall set forth the basis for the petitioned-for relief.

(c) The political subdivision shall serve a copy of the petition, in the manner provided in s. 801.11, upon the owner of the animal, if known.

(d) The court shall conduct a hearing on the petition. The petitioner and any person upon whom a copy of the petition was served may appear as a party.

(e) The court shall issue its order after hearing and may grant, modify and grant or deny the petitioned-for relief, after considering the interests of the animal, the owner of the animal, the political subdivision and the public.

(4) Injured or dangerous animals. A political subdivision or person contracting under s. 173.15(1) who has custody of an animal may have the animal euthanized if there are reasonable grounds to believe that any of the following applies:

(a) The animal is hopelessly injured beyond any reasonable chance of recovery.

(b) The animal poses an imminent threat to public health or safety.

(c) The animal poses an imminent threat to the health or safety of itself or its custodian.

(5) Animal not confined as required by quarantine order.

(a) A political subdivision or person contracting under s. 173.15 (1) that has custody of an animal that was not confined as required by a quarantine order issued under any statute, rule or ordinance relating to the control of any animal disease shall confine the animal for the duration of the quarantine or shall euthanize the animal with the written permission of the owner or, if the animal is determined to be diseased, at the direction of the person issuing the quarantine order.

(b) Unless the person issuing the quarantine order directs that the animal be euthanized because it is diseased, at the end of the quarantine period the political subdivision or person contracting under s. 173.15 (1) shall return the animal to its owner if the owner complies with sub. (1)(a) to (d) no later than the 7th day after the day on which the political subdivision or person contracting under s. 173.15 (1) demands that the owner claim the animal and pay for its custody, care and treatment.

(c) If an owner does not comply with sub. (1)(a) to (d) within the time provided in par. (b), the animal is considered an unclaimed animal under sub. (1m).

(d) Before euthanizing an animal that is in custody because it was not confined as required by a quarantine order, the person with custody of the animal shall notify the person who issued the order. If the person who issued the order determines that testing of specimens is necessary to determine the disease status of the animal, the person with custody shall collect the specimens.

(6) Noncompliance by owner. If an owner is ordered under sub. (3) to pay, or post bond for the payment of, costs of custody, care or treatment of an animal, and refuses to do so upon demand, the animal shall be treated as an unclaimed animal subject to sub. (1m).

WIS. STAT. §173.24 (2012). Reimbursement for expenses.

(1) A court shall assess the expenses under this section in any case in which there has been a search authorized under s. 173.10 or in which an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime under ch. 951.

(2) Expenses covered under this section include:

(a) Investigative expenses of any search under s. 173.10 or any seizure under this chapter.

(b) Any fees of a doctor of veterinary medicine.

(c) Expenses of taking any animal into custody under this chapter, including expenses reasonably incident to taking the animal into custody.

(d) Expenses of keeping or disposing of any animal taken into custody.

(3) If the person alleged to have violated ch. 951 is found guilty of the violation, the person shall be assessed the expenses under subs. (1) and (2). If the person is not found guilty, the county treasurer shall pay the expenses from the general fund of the county.

WIS. STAT. § 951.18 (2012). Penalties.

(1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class I felony.

(2) Any person who violates s. 951.08(2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08(1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

(2s) Any person who violates s. 951.097(1)(b)1. or (2)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any person who violates s. 951.097(1)(b)2., (2)(b), or (3)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who violates s. 951.097(3)(b) or (4)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class I felony. Any person who violates s. 951.097(4)(b) or (5), knowing that the dog that is the victim is a service dog, is guilty of a Class H felony.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

(4) *In addition to penalties applicable to this chapter under this section:*

(a)

1. *In this paragraph, “pecuniary loss” means any of the following:*

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, the medical expenses of the animal’s user, the cost of training the animal’s user, and compensation for income lost by the animal’s user.

2. *A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.*

(b)

1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound or, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23(1m), except that the fees under s. 173.23(1m)(a)4. do not apply if the expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12 (3)(a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12 (3).

(c) Except as provided in s. 951.08(2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

7. SEIZURE / ON-SITE SUPERVISION

WIS. STAT. §173.09 (2012). Investigations.

In the course of investigation of suspected violations of statutes or ordinances, a humane officer may enter any building, vehicle, or place where animals may be present for the purpose of inspection, examination of animals, or the gathering of evidence. If the building, vehicle, or place to be entered is not public, and consent of the owner or person in charge is not obtained, entry shall be under authority of a special inspection warrant issued under s. 66.0119 or a search warrant.

WIS. STAT. §173.10 (2012). Investigation of cruelty complaints.

A person may apply for a search warrant under s. 968.12 if there is reason to believe that a violation of ch. 951 has taken place or is taking place. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. If the person applying for the search warrant is a humane officer, the warrant shall direct that the humane officer accompany the law enforcement officer who is directed to perform the search. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. This section does not affect other powers and duties of law enforcement officers.

WIS. STAT. § 173.13 (2012). Taking custody of animals.

(1) Intake.

(a) A humane officer, on behalf of a political subdivision in which the humane officer has jurisdiction under s. 173.01 (3), or a law enforcement officer, on behalf of a political subdivision, may take custody of an animal if the humane officer or law enforcement officer has reasonable grounds to believe that the animal is one of the following:

1. An abandoned or stray animal.
2. An unwanted animal delivered to the humane officer or law enforcement officer.
3. A dog not tagged as required by ch. 174.

4. An animal not licensed in compliance with any ordinance.
5. An animal not confined as required by a quarantine order under any statute, rule or ordinance relating to the control of any animal disease.
6. An animal that has caused damage to persons or property.
7. A participant in an animal fight intentionally instigated by any person.
8. *An animal mistreated in violation of ch. 951.*
9. An animal delivered by a veterinarian under sub. (2).

(b) A humane officer shall accept into custody any animal delivered by a law enforcement officer or delivered under a court order.

(c) A person other than a humane officer or a law enforcement officer may not take an animal into custody on behalf of a political subdivision unless the animal is an abandoned or stray animal. If a person other than a humane officer or a law enforcement officer takes custody of an abandoned or stray animal on behalf of a political subdivision, he or she shall deliver the animal to a person contracting under s. 173.15 (1), to a humane officer or law enforcement officer for disposition under s. 173.23 or to a pound.

(2) Delivery of animal by veterinarian.

(a) A humane officer or law enforcement officer or a person contracting under s. 173.15 (1) may accept an animal delivered by a veterinarian, or his or her employee, if the animal has not been picked up by its owner and all of the following apply:

1. The veterinarian notified the owner of the animal by certified mail, return receipt requested, that the animal was ready to be picked up and that the animal would be delivered to a humane officer if not picked up within 7 days.
2. The veterinarian retained the animal for 7 days after the day on which the return receipt was signed or until the letter was returned to the veterinarian as undeliverable.
3. The veterinarian certifies in writing to the humane officer or law enforcement officer that subs. 1. and 2 apply.

(b) If an animal is accepted under par. (a), the veterinarian shall provide the person accepting the animal with any requested records concerning the animal's ownership, health or licensure.

(3) Notification of owner.

(a) If a humane officer or law enforcement officer takes custody of an animal with the knowledge of the owner, the humane officer or law enforcement officer shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner.

(b) If a humane officer or law enforcement officer takes custody of an animal without the knowledge of the owner, the humane officer or law enforcement officer shall promptly notify the owner in writing if he or she can be identified and located with reasonable effort. The notice shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner. The notice shall also inform the owner that the owner must notify any person with a lien on the animal that the animal has been taken into custody.

(c) If the owner informs the humane officer or law enforcement officer in writing that he or she will not claim the animal, it may be treated as an unclaimed animal under s. 173.23 (1m).

WIS. STAT. §173.21 (2012). Holding animals for cause.

(1) Grounds. A political subdivision may withhold, or direct a person contracting under s. 173.15 (1) to withhold, an animal in custody from an owner who makes an otherwise adequate claim for the animal under s. 173.23 (1) on any of the following grounds:

(a) There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.

(b) There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.

(c) The animal may be used as evidence in a pending prosecution.

(d) A court has ordered the animal withheld for any reason.

(2) Examination permitted. If an animal is withheld under sub. (1), upon request by the owner, a veterinarian retained by the owner may examine the animal.

(3) Costs. The owner of an animal withheld under sub. (1) is not liable for any costs of custody, care or treatment except as provided by court order.

(4) Return. A political subdivision or person contracting under s. 173.15 (1) having custody of an animal withheld under sub. (1) shall release the animal to the owner at the direction of the humane officer or law enforcement officer that took custody of the animal if the requirements of s. 173.23 (1)(a) to (c) are satisfied.

WIS. STAT. §173.22 (2012). Review of seizure or withholding.

(1) Petition. A person claiming that an animal that he or she owns was improperly taken into custody under s. 173.13 (1)(a)3., 4., 5., 6. or 8. or is wrongfully withheld under s. 173.21 (1) may seek return of the animal by petitioning for an order from the circuit court for the county in which the animal was taken into custody or in which it is held.

(2) Notice and hearing. The court shall provide notice of a petition under sub. (1) to the humane officer or law enforcement officer who took the animal into custody or to the political subdivision that withheld the animal and shall hold a hearing on the issue of whether the animal was improperly taken into custody or is wrongfully withheld.

(3) Order. (a) If the animal was taken into custody under s. 173.13 (1)(a) 8. or is withheld under s. 173.21 (1), the court shall order the animal returned to the owner unless it determines that one of the following conditions is satisfied:

1. There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.

2. There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.

3. The animal may be used as evidence in a pending prosecution.

4. A court has ordered the animal withheld for any reason.

(b) If the animal was taken into custody under s. 173.13 (1)(a)3., the court shall order the animal returned to its owner if the court determines that the animal was tagged or was not required to be tagged under ch. 174.

(c) If the animal was taken into custody under s. 173.13 (1)(a)4., the court shall order the animal returned to its owner if the court determines that the animal was licensed or was not required to be licensed.

(d) If the animal was taken into custody under s. 173.13 (1)(a)5., the court shall order the animal returned to its owner if the court determines that the animal was not subject to a quarantine order or was confined as required by a quarantine order.

(e) If the animal was taken into custody under s. 173.13 (1)(a)6., the court shall order the animal returned to its owner if the court determines that the animal did not cause damage to persons or property.

8. FORFEITURE / POSSESSION

WIS. STAT. § 173.19 (2012). Animals considered unclaimed.

A political subdivision or person contracting under s. 173.15 (1) may treat any animal taken into custody under s. 173.13 (1)(a)1., 3., 4. or 9. as an unclaimed animal subject to s. 173.23 (1m) if, within 7 days after custody is taken of the animal, it is not claimed by and returned to its owner under s. 173.23 (1), except that an animal taken into custody under s. 173.13 (1)(a)3. or 4. may not be treated as unclaimed if its owner files a petition under s. 173.22 (1) within 7 days after custody is taken.

WIS. STAT. § 173.23 (2012).Disposition of animals.

(1) Claim and return. Except as provided in sub. (4) or s. 173.21 (1), a political subdivision or person contracting under s. 173.15 (1) shall return an animal described in s. 173.13 (1)(a)1., 3., 4., 6., 8. or 9. to its owner upon the happening of all of the following:

- (a) The owner claims the animal and provides reasonable evidence of ownership.
- (b) If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure by prepayment is given.
- (c) If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination by prepayment is given.
- (d) All charges for custody, care, vaccination and treatment are paid.

(1m) Unclaimed animals. A political subdivision or a person contracting under s. 173.15 (1) that has custody of an animal considered unclaimed under sub. (5)(c) or (6) or s. 173.13 (3)(c) or 173.19 or an unwanted animal may do any of the following:

(a) Release the animal to any person other than the owner if all of the following apply:

- 1. The person provides his or her name and address.*
- 2. If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure is given by evidence of prepayment.*
- 3. If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination is given by evidence of prepayment.*
- 4. Any charges imposed by the political subdivision or person contracting under s. 173.15 (1) for custody, care, vaccination and treatment are paid or waived.*

(b) If the animal is not a dog or cat, sell the animal at public auction, including sale at a licensed animal market.

(c) Euthanize the animal.

(d) If the animal is a stray or abandoned dog, release the dog under s. 174.13.

(1s) Proceeds of sale. If the owner of an animal sold under sub. (1m)(b) files a claim and provides proof of ownership within 30 days after the sale, the sale proceeds, less the cost of custody, care, treatment and sale, shall be returned to the owner.

(2) Animals not returned to owner. If an animal in the custody of a political subdivision, other than an animal to which sub. (1m) applies, is not returned to the owner under sub. (1) or (5)(b) or s. 173.12(2), 173.21(4) or 173.22 or disposed of under sub. (4) or (5)(a) or s. 173.12 (3), it shall be disposed of under a court order under sub. (3) or s. 951.18(4).

(3) Court order.

(a) A political subdivision may petition the circuit court for an order doing any of the following with respect to an animal taken into custody by a law enforcement officer or a humane officer or withheld under s. 173.21(1):

1. Providing for payment for the custody, care or treatment of the animal.
2. Requiring the owner of the animal to post bond for the costs of custody, care or treatment of the animal pending the outcome of any other proceeding.
3. Authorizing the sale, destruction or other disposal of the animal.

(b) The petition shall set forth the basis for the petitioned-for relief.

(c) The political subdivision shall serve a copy of the petition, in the manner provided in s. 801.11, upon the owner of the animal, if known.

(d) The court shall conduct a hearing on the petition. The petitioner and any person upon whom a copy of the petition was served may appear as a party.

(e) The court shall issue its order after hearing and may grant, modify and grant or deny the petitioned-for relief, after considering the interests of the animal, the owner of the animal, the political subdivision and the public.

(4) Injured or dangerous animals. A political subdivision or person contracting under s. 173.15(1) who has custody of an animal may have the animal euthanized if there are reasonable grounds to believe that any of the following applies:

(a) The animal is hopelessly injured beyond any reasonable chance of recovery.

(b) The animal poses an imminent threat to public health or safety.

(c) The animal poses an imminent threat to the health or safety of itself or its custodian.

(5) Animal not confined as required by quarantine order.

(a) A political subdivision or person contracting under s. 173.15(1) that has custody of an animal that was not confined as required by a quarantine order issued under any statute, rule or ordinance relating to the control of any animal disease shall confine the animal for the duration of the quarantine or shall euthanize the animal with the written permission of the owner or, if the animal is determined to be diseased, at the direction of the person issuing the quarantine order.

(b) Unless the person issuing the quarantine order directs that the animal be euthanized because it is diseased, at the end of the quarantine period the political subdivision or person contracting under s. 173.15(1) shall return the animal to its owner if the owner complies with sub. (1)(a) to (d) no later than the 7th day after the day on which the political subdivision or person contracting under s. 173.15(1) demands that the owner claim the animal and pay for its custody, care and treatment.

(c) If an owner does not comply with sub. (1)(a) to (d) within the time provided in par. (b), the animal is considered an unclaimed animal under sub. (1m).

(d) Before euthanizing an animal that is in custody because it was not confined as required by a quarantine order, the person with custody of the animal shall notify the person who issued the order. If the person who issued the order determines that testing of specimens is necessary to determine the disease status of the animal, the person with custody shall collect the specimens.

(6) Noncompliance by owner. If an owner is ordered under sub. (3) to pay, or post bond for the payment of, costs of custody, care or treatment of an animal, and refuses to do so upon demand, the animal shall be treated as an unclaimed animal subject to sub. (1m).

WIS. STAT. § 951.18 (2012). Penalties.

(1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class I felony.

(2) Any person who violates s. 951.08(2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08(1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

(2s) Any person who violates s. 951.097(1)(b)1. or (2)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any person who violates s. 951.097(1)(b)2., (2)(b), or (3)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who violates s. 951.097(3)(b) or (4)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class I felony. Any person who violates s. 951.097(4)(b) or (5), knowing that the dog that is the victim is a service dog, is guilty of a Class H felony.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

(4) In addition to penalties applicable to this chapter under this section:

(a)

1. In this paragraph, “pecuniary loss” means any of the following:

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, the medical expenses of the animal's user, the cost of training the animal's user, and compensation for income lost by the animal's user.

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.

(b)

1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound or, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a

dog, the release or disposal shall be in accordance with s. 173.23(1m), except that the fees under s. 173.23(1m)(a)4. do not apply if the expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12 (3)(a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12 (3).

(c) Except as provided in s. 951.08(2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

WIS. STAT. §173.12 (2012). Animal fighting; seizure.

(1) Any veterinarian who has reason to believe that an animal has been in a fight in violation of s. 951.08 shall report the matter to the local humane officer or to a local law enforcement agency. The report shall be in writing and shall include a description and the location of the animal, any injuries suffered by the animal and the name and address of the owner or person in charge of the animal, if known.

(1m) If an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime specified in s. 951.08, the animal may not be returned to the owner by an officer under s. 968.20 (2). In any hearing under s. 968.20 (1), the court shall determine if the animal is needed as evidence or there is reason to believe that the animal has participated in or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody.

(2) If the charges under s. 951.08 are dismissed or if the owner is found not guilty of a crime specified in s. 951.08, the animal shall be returned to the owner unless he or she is subject to the restrictions under s. 951.08(2m).

(3)(a) If the owner is convicted under s. 951.08 or is subject to the restrictions under s. 951.08 (2m), the animal shall be delivered to the local humane officer or county or municipal pound. If there is no local humane officer or pound, the animal may be delivered to a local humane society or to another person designated by the court. If the animal is one year old or older or shows indication of having participated in fighting, the animal shall be disposed of in a proper and humane manner.

(b) If the animal is less than one year old and shows no indication of having participated in fighting, the animal shall be released to a person other than the owner or disposed of in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23 (1m), except that the fees under s. 173.23 (1m)(a)4. are covered under s. 173.24.

11. LAW ENFORCEMENT POLICIES

WIS. STAT. §173.07 (2012). Powers and duties of humane officers.

(1) Enforcement. A humane officer shall enforce s. 95.21, this chapter, chs. 174 and 951 and ordinances relating to animals enacted by political subdivisions in which the humane officer has jurisdiction under s. 173.03(3).

(2) Investigation. A humane officer shall investigate alleged violations of statutes and ordinances relating to animals and, in the course of the investigations, may execute inspection warrants under s. 66.0119.

(3) Seek subpoenas. A humane officer may request the district attorney for the county to obtain subpoenas to compel testimony and obtain documents in aid of investigations.

(4) Issue citations. If authorized by the appointing political subdivision, a humane officer shall issue citations under s. 66.0113 for violations of ordinances relating to animals.

(4m) Request prosecutions. A humane officer may request law enforcement officers and district attorneys to enforce and prosecute violations of state law and may cooperate in those prosecutions.

(5) Prohibited actions. Unless also a law enforcement officer, a humane officer may not in the course of his or her duties do any of the following:

(a) Execute a search warrant.

(b) Carry firearms.

(c) Stop or arrest persons.

(d) Stop, search, or detain vehicles, except under an inspection warrant under s. 66.0119.

(e) Enter any place or vehicle by force or without the consent of the owner, except in an emergency occasioned by fire or other circumstance in which that entry is reasonable and is necessary to save an animal from imminent death or a person from imminent death or injury.

(f) Remove any animal from the custody of another person by force.

(6) Conflict of interest prohibited. No humane officer may sell or otherwise dispose of any animal that came into the humane officer's custody in the course of his or her duties.

WIS. STAT. § 173.11 (2012). Abatement of violations.

(1) Issuance of order. If a humane officer or law enforcement officer after investigation has reasonable grounds to believe that a violation of a statute or ordinance is occurring and the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order of abatement directed to named persons. An official designated in an ordinance under s. 173.03 (2) may not participate in the decision to issue the order or in any activity leading to that decision.

(1m) Content of order. An abatement order issued under sub. (1) shall contain all of the following:

(a) The name and address of the person to whom directed.

(b) The statute or ordinance alleged to be violated.

(c) A prohibition on further violations.

(d) A description of measures necessary to correct the alleged violation.

(e) A description of the hearing and appeal provisions under subs. (2) and (4).

(2) Hearing. Any person named in an abatement order issued under sub. (1) may, within the 10-day period following service of the order, request a hearing before an official designated in an ordinance under s. 173.03 (2). The hearing shall be held within 10 days after the request is made, unless the requester agrees to a later date. The hearing shall be informal in nature.

(3) Decision. Within 10 days after a hearing under sub. (2), the official who conducts the hearing shall affirm the order, modify and affirm the order or withdraw the order.

(4) Appeal. Any person adversely affected by a decision under sub. (3) may seek judicial review by commencing an action in circuit court within 30 days after the day that the decision is issued.

WIS. STAT. § 951.18 (2012). Penalties.

(1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class I felony.

(2) Any person who violates s. 951.08(2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08(1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

(2s) Any person who violates s. 951.097(1)(b)1. or (2)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any person who violates s. 951.097(1)(b)2., (2)(b), or (3)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who violates s. 951.097(3)(b) or (4)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class I felony. Any person who violates s. 951.097(4)(b) or (5), knowing that the dog that is the victim is a service dog, is guilty of a Class H felony.

(3) *In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.*

(4) In addition to penalties applicable to this chapter under this section:

(a)

1. In this paragraph, “pecuniary loss” means any of the following:

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, the medical expenses of the animal's user, the cost of training the animal's user, and compensation for income lost by the animal's user.

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.

(b)

1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound or, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23(1m), except that the fees under s. 173.23(1m)(a)4. do not apply if the expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12 (3)(a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12 (3).

(c) Except as provided in s. 951.08(2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

12. SEXUAL ASSAULT

WIS. STAT. §944.17 (2012). Sexual gratification.

(1) In this section, “in public” means in a place where or in a manner such that the person knows or has reason to know that his or her conduct is observable by or in the presence of persons other than the person with whom he or she is having sexual gratification.

(2) *Whoever does any of the following is guilty of a Class A misdemeanor:*

(a) Commits an act of sexual gratification in public involving the sex organ of one person and the mouth or anus of another.

[(b) empty]

(c) *Commits an act of sexual gratification involving his or her sex organ and the sex organ, mouth or anus of an animal.*

(d) *Commits an act of sexual gratification involving his or her sex organ, mouth or anus and the sex organ of an animal.*

(3) Subsection (2) does not apply to a mother’s breast-feeding of her child.

13. FIGHTING

WIS. STAT. §173.12 (2012). Animal fighting; seizure.

(1) Any veterinarian who has reason to believe that an animal has been in a fight in violation of s. 951.08 shall report the matter to the local humane officer or to a local law enforcement agency. The report shall be in writing and shall include a description and the location of the animal, any injuries suffered by the animal and the name and address of the owner or person in charge of the animal, if known.

(1m) If an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime specified in s. 951.08, the animal may not be returned to the owner by an officer under s. 968.20(2). In any hearing under s. 968.20(1), the court shall determine if the animal is needed as evidence or there is reason to believe that the animal has participated in or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody .

(2) If the charges under s. 951.08 are dismissed or if the owner is found not guilty of a crime specified in s. 951.08, the animal shall be returned to the owner unless he or she is subject to the restrictions under s. 951.08(2m).

(3)(a) If the owner is convicted under s. 951.08 or is subject to the restrictions under s. 951.08 (2m), the animal shall be delivered to the local humane officer or county or municipal pound. If there is no local humane officer or pound, the animal may be delivered to a local humane society or to another person designated by the court. If the animal is one year old or older or shows indication of having participated in fighting, the animal shall be disposed of in a proper and humane manner.

(b) If the animal is less than one year old and shows no indication of having participated in fighting, the animal shall be released to a person other than the owner or disposed of in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23(1m), except that the fees under s. 173.23(1m)(a)4. are covered under s. 173.24.

WIS. STAT. §951.08 (2012). Instigating fights between animals.

(1) No person may intentionally instigate, promote, aid or abet as a principal, agent or employee, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person. This section does not prohibit events or exhibitions commonly featured at rodeos or bloodless bullfights.

(2) No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

(2m) If a person has been convicted under sub. (1) or (2), the person may not own, possess, keep or train any animal for a period of 5 years after the conviction. In computing the 5-year period, time which the person spent in actual confinement serving a criminal sentence shall be excluded. The person may move the sentencing court to have this requirement waived. The court may waive the requirement except that the waiver may not authorize the person to own, possess, keep or train animals of the species involved in the offense under sub. (1) or (2).

(3) No person may intentionally be a spectator at a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person.

Wis. Stat. § 951.18 (2012). Penalties.

(1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class I felony.

(2) Any person who violates s. 951.08(2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08(1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

(2s) Any person who violates s. 951.097(1)(b)1. or (2)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any person who violates s. 951.097(1)(b)2., (2)(b), or (3)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who violates s. 951.097(3)(b) or (4)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class I felony. Any person who violates s. 951.097(4)(b) or (5), knowing that the dog that is the victim is a service dog, is guilty of a Class H felony.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

(4) In addition to penalties applicable to this chapter under this section:

(a)

1. In this paragraph, “pecuniary loss” means any of the following:

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, the medical expenses of the animal’s user, the cost of training the animal’s user, and compensation for income lost by the animal’s user.

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.

(b)

1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound or, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23(1m), except that the fees under s. 173.23(1m)(a)4. do not apply if the expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12 (3)(a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12 (3).

(c) Except as provided in s. 951.08(2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

14. REFERENCED STATUTES

WIS. STAT. §173.07 (2012). Powers and duties of humane officers.

(1) Enforcement. A humane officer shall enforce s. 95.21, this chapter, chs. 174 and 951 and ordinances relating to animals enacted by political subdivisions in which the humane officer has jurisdiction under s. 173.03(3).

(2) Investigation. A humane officer shall investigate alleged violations of statutes and ordinances relating to animals and, in the course of the investigations, may execute inspection warrants under s. 66.0119.

(3) Seek subpoenas. A humane officer may request the district attorney for the county to obtain subpoenas to compel testimony and obtain documents in aid of investigations.

(4) Issue citations. If authorized by the appointing political subdivision, a humane officer shall issue citations under s. 66.0113 for violations of ordinances relating to animals.

(4m) Request prosecutions. A humane officer may request law enforcement officers and district attorneys to enforce and prosecute violations of state law and may cooperate in those prosecutions.

(5) Prohibited actions. Unless also a law enforcement officer, a humane officer may not in the course of his or her duties do any of the following:

(a) Execute a search warrant.

(b) Carry firearms.

(c) Stop or arrest persons.

(d) Stop, search, or detain vehicles, except under an inspection warrant under s. 66.0119.

(e) Enter any place or vehicle by force or without the consent of the owner, except in an emergency occasioned by fire or other circumstance in which that entry is reasonable and is necessary to save an animal from imminent death or a person from imminent death or injury.

(f) Remove any animal from the custody of another person by force.

(6) Conflict of interest prohibited. No humane officer may sell or otherwise dispose of any animal that came into the humane officer's custody in the course of his or her duties.

WIS. STAT. §173.09 (2012). Investigations.

In the course of investigation of suspected violations of statutes or ordinances, a humane officer may enter any building, vehicle, or place where animals may be present for the purpose of inspection, examination of animals, or the gathering of evidence. If the building, vehicle, or place to be entered is not public, and consent of the owner or person in charge is not obtained, entry shall be under authority of a special inspection warrant issued under s. 66.0119 or a search warrant.

WIS. STAT. §173.10 (2012). Investigation of cruelty complaints.

A person may apply for a search warrant under s. 968.12 if there is reason to believe that a violation of ch. 951 has taken place or is taking place. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. If the person applying for the search warrant is a humane officer, the warrant shall direct that the humane officer accompany the law enforcement officer who is directed to perform the search. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. This section does not affect other powers and duties of law enforcement officers.

WIS. STAT. § 173.11 (2012). Abatement of violations.

(1) Issuance of order. If a humane officer or law enforcement officer after investigation has reasonable grounds to believe that a violation of a statute or ordinance is occurring and the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order of abatement directed to named persons. An official designated in an ordinance under s. 173.03(2) may not participate in the decision to issue the order or in any activity leading to that decision.

(1m) Content of order. An abatement order issued under sub. (1) shall contain all of the following:

- (a) The name and address of the person to whom directed.
- (b) The statute or ordinance alleged to be violated.
- (c) A prohibition on further violations.
- (d) A description of measures necessary to correct the alleged violation.

(e) A description of the hearing and appeal provisions under subs. (2) and (4).

(2) Hearing. Any person named in an abatement order issued under sub. (1) may, within the 10-day period following service of the order, request a hearing before an official designated in an ordinance under s. 173.03(2). The hearing shall be held within 10 days after the request is made, unless the requester agrees to a later date. The hearing shall be informal in nature.

(3) Decision. Within 10 days after a hearing under sub. (2), the official who conducts the hearing shall affirm the order, modify and affirm the order or withdraw the order.

(4) Appeal. Any person adversely affected by a decision under sub. (3) may seek judicial review by commencing an action in circuit court within 30 days after the day that the decision is issued.

WIS. STAT. §173.12 (2012). Animal fighting; seizure.

(1) Any veterinarian who has reason to believe that an animal has been in a fight in violation of s. 951.08 shall report the matter to the local humane officer or to a local law enforcement agency. The report shall be in writing and shall include a description and the location of the animal, any injuries suffered by the animal and the name and address of the owner or person in charge of the animal, if known.

(1m) If an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime specified in s. 951.08, the animal may not be returned to the owner by an officer under s. 968.20(2). In any hearing under s. 968.20(1), the court shall determine if the animal is needed as evidence or there is reason to believe that the animal has participated in or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody.

(2) If the charges under s. 951.08 are dismissed or if the owner is found not guilty of a crime specified in s. 951.08, the animal shall be returned to the owner unless he or she is subject to the restrictions under s. 951.08(2m).

(3)(a) If the owner is convicted under s. 951.08 or is subject to the restrictions under s. 951.08 (2m), the animal shall be delivered to the local humane officer or county or municipal pound. If there is no local humane officer or pound, the animal may be delivered to a local humane society or to another person designated by the court. If the animal is one year old or older or shows indication of having participated in fighting, the animal shall be disposed of in a proper and humane manner.

(b) If the animal is less than one year old and shows no indication of having participated in fighting, the animal shall be released to a person other than the owner or disposed of in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23 (1m), except that the fees under s. 173.23 (1m)(a)4. are covered under s. 173.24.

WIS. STAT. § 173.13 (2012). Taking custody of animals.

(1) Intake.

(a) A humane officer, on behalf of a political subdivision in which the humane officer has jurisdiction under s. 173.01 (3), or a law enforcement officer, on behalf of a political subdivision, may take custody of an animal if the humane officer or law enforcement officer has reasonable grounds to believe that the animal is one of the following:

1. An abandoned or stray animal.
2. An unwanted animal delivered to the humane officer or law enforcement officer.
3. A dog not tagged as required by ch. 174.
4. An animal not licensed in compliance with any ordinance.
5. An animal not confined as required by a quarantine order under any statute, rule or ordinance relating to the control of any animal disease.
6. An animal that has caused damage to persons or property.
7. A participant in an animal fight intentionally instigated by any person.
8. An animal mistreated in violation of ch. 951.
9. An animal delivered by a veterinarian under sub. (2).

(b) A humane officer shall accept into custody any animal delivered by a law enforcement officer or delivered under a court order.

(c) A person other than a humane officer or a law enforcement officer may not take an animal into custody on behalf of a political subdivision unless the animal is an abandoned or stray animal. If a person other than a humane officer or a law enforcement officer takes custody of an abandoned or stray animal on behalf of a political subdivision, he or she shall deliver the animal to a person contracting under s. 173.15(1), to a humane officer or law enforcement officer for disposition under s. 173.23 or to a pound.

(2) Delivery of animal by veterinarian.

(a) A humane officer or law enforcement officer or a person contracting under s. 173.15 (1) may accept an animal delivered by a veterinarian, or his or her employee, if the animal has not been picked up by its owner and all of the following apply:

1. The veterinarian notified the owner of the animal by certified mail, return receipt requested, that the animal was ready to be picked up and that the animal would be delivered to a humane officer if not picked up within 7 days.

2. The veterinarian retained the animal for 7 days after the day on which the return receipt was signed or until the letter was returned to the veterinarian as undeliverable.

3. The veterinarian certifies in writing to the humane officer or law enforcement officer that subs. 1. and 2 apply.

(b) If an animal is accepted under par. (a), the veterinarian shall provide the person accepting the animal with any requested records concerning the animal's ownership, health or licensure.

(3) Notification of owner.

(a) If a humane officer or law enforcement officer takes custody of an animal with the knowledge of the owner, the humane officer or law enforcement officer shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner.

(b) If a humane officer or law enforcement officer takes custody of an animal without the knowledge of the owner, the humane officer or law enforcement officer shall promptly notify the owner in writing if he or she can be identified and located with reasonable effort. The notice shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner. The notice shall also inform the owner that the owner must notify any person with a lien on the animal that the animal has been taken into custody.

(c) If the owner informs the humane officer or law enforcement officer in writing that he or she will not claim the animal, it may be treated as an unclaimed animal under s. 173.23 (1m).

WIS. STAT. § 173.19 (2012). Animals considered unclaimed.

A political subdivision or person contracting under s. 173.15 (1) may treat any animal taken into custody under s. 173.13 (1)(a)1., 3., 4. or 9. as an unclaimed animal subject to s. 173.23 (1m) if, within 7 days after custody is taken of the animal, it is not claimed by and returned to its owner under s. 173.23(1), except that an animal taken into custody under s. 173.13 (1)(a)3. or 4. may not be treated as unclaimed if its owner files a petition under s. 173.22 (1) within 7 days after custody is taken.

WIS. STAT. § 173.21 (2012). Holding animals for cause.

(1) Grounds. A political subdivision may withhold, or direct a person contracting under s. 173.15 (1) to withhold, an animal in custody from an owner who makes an otherwise adequate claim for the animal under s. 173.23(1) on any of the following grounds:

(a) There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.

(b) There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.

(c) The animal may be used as evidence in a pending prosecution.

(d) A court has ordered the animal withheld for any reason.

(2) Examination permitted. If an animal is withheld under sub. (1), upon request by the owner, a veterinarian retained by the owner may examine the animal.

(3) Costs. The owner of an animal withheld under sub. (1) is not liable for any costs of custody, care or treatment except as provided by court order.

(4) Return. A political subdivision or person contracting under s. 173.15(1) having custody of an animal withheld under sub. (1) shall release the animal to the owner at the direction of the humane officer or law enforcement officer that took custody of the animal if the requirements of s. 173.23(1)(a) to (c) are satisfied.

WIS. STAT. § 173.22 (2012). Review of seizure or withholding.

(1) Petition. A person claiming that an animal that he or she owns was improperly taken into custody under s. 173.13(1)(a)3., 4., 5., 6. or 8. or is wrongfully withheld under s. 173.21(1) may seek return of the animal by petitioning for an order from the circuit court for the county in which the animal was taken into custody or in which it is held.

(2) Notice and hearing. The court shall provide notice of a petition under sub. (1) to the humane officer or law enforcement officer who took the animal into custody or to the political subdivision that withheld the animal and shall hold a hearing on the issue of whether the animal was improperly taken into custody or is wrongfully withheld.

(3) Order. (a) If the animal was taken into custody under s. 173.13(1)(a) 8. or is withheld under s. 173.21(1), the court shall order the animal returned to the owner unless it determines that one of the following conditions is satisfied:

1. There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.
2. There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.
3. The animal may be used as evidence in a pending prosecution.
4. A court has ordered the animal withheld for any reason.

(b) If the animal was taken into custody under s. 173.13(1)(a)3., the court shall order the animal returned to its owner if the court determines that the animal was tagged or was not required to be tagged under ch. 174.

(c) If the animal was taken into custody under s. 173.13(1)(a)4., the court shall order the animal returned to its owner if the court determines that the animal was licensed or was not required to be licensed.

(d) If the animal was taken into custody under s. 173.13(1)(a)5., the court shall order the animal returned to its owner if the court determines that the animal was not subject to a quarantine order or was confined as required by a quarantine order.

(e) If the animal was taken into custody under s. 173.13(1)(a)6., the court shall order the animal returned to its owner if the court determines that the animal did not cause damage to persons or property.

WIS. STAT. §173.23(2012). Disposition of animals.

(1) Claim and return. Except as provided in sub. (4) or s. 173.21(1), a political subdivision or person contracting under s. 173.15(1) shall return an animal described in s. 173.13(1)(a)1., 3., 4., 6., 8. or 9. to its owner upon the happening of all of the following:

- (a) The owner claims the animal and provides reasonable evidence of ownership.

(b) If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure by prepayment is given.

(c) If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination by prepayment is given.

(d) All charges for custody, care, vaccination and treatment are paid.

(1m) Unclaimed animals. A political subdivision or a person contracting under s. 173.15(1) that has custody of an animal considered unclaimed under sub. (5)(c) or (6) or s. 173.13(3)(c) or 173.19 or an unwanted animal may do any of the following:

(a) Release the animal to any person other than the owner if all of the following apply:

1. The person provides his or her name and address.

2. If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure is given by evidence of prepayment.

3. If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination is given by evidence of prepayment.

4. Any charges imposed by the political subdivision or person contracting under s. 173.15 (1) for custody, care, vaccination and treatment are paid or waived.

(b) If the animal is not a dog or cat, sell the animal at public auction, including sale at a licensed animal market.

(c) Euthanize the animal.

(d) If the animal is a stray or abandoned dog, release the dog under s. 174.13.

(1s) Proceeds of sale. If the owner of an animal sold under sub. (1m)(b) files a claim and provides proof of ownership within 30 days after the sale, the sale proceeds, less the cost of custody, care, treatment and sale, shall be returned to the owner.

(2) Animals not returned to owner. If an animal in the custody of a political subdivision, other than an animal to which sub. (1m) applies, is not returned to the owner under sub. (1) or (5)(b) or s. 173.12 (2), 173.21 (4) or 173.22 or disposed of under sub. (4) or (5)(a) or s. 173.12 (3), it shall be disposed of under a court order under sub. (3) or s. 951.18 (4).

(3) Court order.

(a) A political subdivision may petition the circuit court for an order doing any of the following with respect to an animal taken into custody by a law enforcement officer or a humane officer or withheld under s. 173.21(1):

1. Providing for payment for the custody, care or treatment of the animal.
2. Requiring the owner of the animal to post bond for the costs of custody, care or treatment of the animal pending the outcome of any other proceeding.
3. Authorizing the sale, destruction or other disposal of the animal.

(b) The petition shall set forth the basis for the petitioned-for relief.

(c) The political subdivision shall serve a copy of the petition, in the manner provided in s. 801.11, upon the owner of the animal, if known.

(d) The court shall conduct a hearing on the petition. The petitioner and any person upon whom a copy of the petition was served may appear as a party.

(e) The court shall issue its order after hearing and may grant, modify and grant or deny the petitioned-for relief, after considering the interests of the animal, the owner of the animal, the political subdivision and the public.

(4) Injured or dangerous animals. A political subdivision or person contracting under s. 173.15(1) who has custody of an animal may have the animal euthanized if there are reasonable grounds to believe that any of the following applies:

- (a) The animal is hopelessly injured beyond any reasonable chance of recovery.
- (b) The animal poses an imminent threat to public health or safety.
- (c) The animal poses an imminent threat to the health or safety of itself or its custodian.

(5) Animal not confined as required by quarantine order.

(a) A political subdivision or person contracting under s. 173.15(1) that has custody of an animal that was not confined as required by a quarantine order issued under any statute, rule or ordinance relating to the control of any animal disease shall confine the animal for the duration of the quarantine or shall euthanize the animal with the written permission of the owner or, if the animal is determined to be diseased, at the direction of the person issuing the quarantine order.

(b) Unless the person issuing the quarantine order directs that the animal be euthanized because it is diseased, at the end of the quarantine period the political subdivision or person contracting under s. 173.15(1) shall return the animal to its owner if the owner complies with sub. (1)(a) to (d) no later than the 7th day after the day on which the political subdivision or person contracting under s. 173.15(1) demands that the owner claim the animal and pay for its custody, care and treatment.

(c) If an owner does not comply with sub. (1)(a) to (d) within the time provided in par. (b), the animal is considered an unclaimed animal under sub. (1m).

(d) Before euthanizing an animal that is in custody because it was not confined as required by a quarantine order, the person with custody of the animal shall notify the person who issued the order. If the person who issued the order determines that testing of specimens is necessary to determine the disease status of the animal, the person with custody shall collect the specimens.

(6) Noncompliance by owner. If an owner is ordered under sub. (3) to pay, or post bond for the payment of, costs of custody, care or treatment of an animal, and refuses to do so upon demand, the animal shall be treated as an unclaimed animal subject to sub. (1m).

Wis. STAT. §173.24 (2012). Reimbursement for expenses.

(1) A court shall assess the expenses under this section in any case in which there has been a search authorized under s. 173.10 or in which an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime under ch. 951.

(2) Expenses covered under this section include:

(a) Investigative expenses of any search under s. 173.10 or any seizure under this chapter.

(b) Any fees of a doctor of veterinary medicine.

(c) Expenses of taking any animal into custody under this chapter, including expenses reasonably incident to taking the animal into custody.

(d) Expenses of keeping or disposing of any animal taken into custody.

(3) If the person alleged to have violated ch. 951 is found guilty of the violation, the person shall be assessed the expenses under subs. (1) and (2). If the person is not found guilty, the county treasurer shall pay the expenses from the general fund of the county.

WIS. STAT. §939.50 (2012). Classification of felonies.

(1) Felonies in the statutes are classified as follows:

- (a) Class A felony.
- (b) Class B felony.
- (c) Class C felony.
- (d) Class D felony.
- (e) Class E felony.
- (f) Class F felony.
- (g) Class G felony.
- (h) Class H felony.
- (i) Class I felony.

(2) A felony is a Class A, B, C, D, E, F, G, H, or I felony when it is so specified in the statutes.

(3) Penalties for felonies are as follows:

- (a) For a Class A felony, life imprisonment.
- (b) For a Class B felony, imprisonment not to exceed 60 years.
- (c) For a Class C felony, a fine not to exceed \$100,000 or imprisonment not to exceed 40 years, or both.
- (d) For a Class D felony, a fine not to exceed \$100,000 or imprisonment not to exceed 25 years, or both.
- (e) For a Class E felony, a fine not to exceed \$50,000 or imprisonment not to exceed 15 years, or both.
- (f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both.
- (g) For a Class G felony, a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both.

(h) For a Class H felony, a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

(i) For a Class I felony, a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both.

WIS. STAT. § 939.51 (2012). Classification of misdemeanors.

(1) Misdemeanors in chs. 939 to 951 are classified as follows:

(a) Class A misdemeanor.

(b) Class B misdemeanor.

(c) Class C misdemeanor.

(2) A misdemeanor is a Class A, B or C misdemeanor when it is so specified in chs. 939 to 951.

(3) Penalties for misdemeanors are as follows:

(a) For a Class A misdemeanor, a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

(b) For a Class B misdemeanor, a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.

(c) For a Class C misdemeanor, a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

WIS. STAT. § 939.52 (2012). Classification of forfeitures.

(1) Except as provided in ss. 946.86 and 946.87, forfeitures in chs. 939 to 951 are classified as follows:

(a) Class A forfeiture.

(b) Class B forfeiture.

(c) Class C forfeiture.

(d) Class D forfeiture.

(e) Class E forfeiture.

(2) A forfeiture is a Class A, B, C, D or E forfeiture when it is so specified in chs. 939 to 951

(3) Penalties for forfeitures are as follows:

(a) For a Class A forfeiture, a forfeiture not to exceed \$10,000.

(b) For a Class B forfeiture, a forfeiture not to exceed \$1,000.

(c) For a Class C forfeiture, a forfeiture not to exceed \$500.

(d) For a Class D forfeiture, a forfeiture not to exceed \$200.

(e) For a Class E forfeiture, a forfeiture not to exceed \$25.

WIS. STAT. §944.17 (2012).Sexual gratification.

(1) In this section, “in public” means in a place where or in a manner such that the person knows or has reason to know that his or her conduct is observable by or in the presence of persons other than the person with whom he or she is having sexual gratification.

(2) Whoever does any of the following is guilty of a Class A misdemeanor:

(a) Commits an act of sexual gratification in public involving the sex organ of one person and the mouth or anus of another.

[(b) empty]

(c) Commits an act of sexual gratification involving his or her sex organ and the sex organ, mouth or anus of an animal.

(d) Commits an act of sexual gratification involving his or her sex organ, mouth or anus and the sex organ of an animal.

(3) Subsection (2) does not apply to a mother’s breast-feeding of her child.

WIS. STAT. § 951.01 (2012).Definitions.

In this chapter:

(1) “Animal” includes every living:

(a) Warm-blooded creature, except a human being;

(b) Reptile; or

(c) Amphibian.

(1m) “Conservation warden” means a warden appointed under s. 23.10.

(2) “Cruel” means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(3) “Farm animal” means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.

(3e) “Humane officer” means an officer appointed under s. 173.03.

(3f) “Fire department” includes a volunteer fire department and a department under s. 60.553, 61.66, or 62.13(2e).

(3m) “Law enforcement agency” has the meaning given in s. 165.83(1)(b).

(4) “Law enforcement officer” has the meaning assigned under s. 967.02(5) but does not include a conservation warden appointed under s. 23.10.

(5) “Service dog” means a dog that is trained for the purpose of assisting a person with a sensory, mental, or physical disability or accommodating such a disability.

WIS. STAT. § 951.015 (2012).Construction and application.

(1) This chapter may not be interpreted as controverting any law regulating wild animals that are subject to regulation under ch. 169, the taking of wild animals, as defined in s. 29.001(90), or the slaughter of animals by persons acting under state or federal law.

(2) For purposes of enforcing this chapter as to wild animals subject to regulation under ch. 169, a conservation warden has the same powers and duties that a law enforcement officer has under this chapter.

(3) This chapter does not apply to:

(a) Teaching, research, or experimentation conducted pursuant to a protocol or procedure approved by an educational or research institution, and related incidental animal care activities, at facilities that are regulated under 7 USC 2131 to 2159 or 42 USC 289d.

(b) Bona fide scientific research involving species unregulated by federal law.

WIS. STAT. § 951.02 (2012). Mistreating animals.

No person may treat any animal, whether belonging to the person or another, in a cruel manner. This section does not prohibit normal and accepted veterinary practices.

WIS. STAT. § 951.05 (2012). Transportation of animals.

No person may transport any animal in or upon any vehicle in a cruel manner.

WIS. STAT. § 951.06 (2012). Use of poisonous and controlled substances.

No person may expose any domestic animal owned by another to any known poisonous substance, any controlled substance included in schedule I, II, III, IV or V of ch. 961, or any controlled substance analog of a controlled substance included in schedule I or II of ch. 961, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of a controlled substance in accepted veterinary practices.

WIS. STAT. § 951.08 (2012). Instigating fights between animals.

(1) No person may intentionally instigate, promote, aid or abet as a principal, agent or employee, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person. This section does not prohibit events or exhibitions commonly featured at rodeos or bloodless bullfights.

(2) No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

(2m) If a person has been convicted under sub. (1) or (2), the person may not own, possess, keep or train any animal for a period of 5 years after the conviction. In computing the 5-year period, time which the person spent in actual confinement serving a criminal sentence shall be excluded. The person may move the sentencing court to have this requirement waived. The court may waive the requirement except that the waiver may not authorize the person to own, possess, keep or train animals of the species involved in the offense under sub. (1) or (2).

(3) No person may intentionally be a spectator at a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person.

WIS. STAT. § 951.13 (2012). Providing proper food and drink to confined animals.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) Food. The food shall be sufficient to maintain all animals in good health.

(2) Water. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

WIS. STAT. § 951.14 (2012). Providing proper shelter.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) Indoor standards. Minimum indoor standards of shelter shall include:

(a) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.

(b) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) Outdoor standards. Minimum outdoor standards of shelter shall include:

(a) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.

(b) Shelter from inclement weather.

1. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include:

(a) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(b) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) Sanitation standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

WIS. STAT. § 951.15 (2012). Abandoning animals.

No person may abandon any animal.

WIS. STAT. § 951.18 (2012). Penalties.

(1) Any person violating s. 951.02, 951.025, 951.03, 951.04, 951.05, 951.06, 951.07, 951.09, 951.10, 951.11, 951.13, 951.14 or 951.15 is subject to a Class C forfeiture. Any person who violates any of these provisions within 3 years after a humane officer issues an abatement order under s. 173.11 prohibiting the violation of that provision is subject to a Class A forfeiture. Any person who intentionally or negligently violates any of those sections is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.02, resulting in the mutilation, disfigurement or death of an animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.02 or 951.06, knowing that the animal that is the victim is used by a law enforcement agency to perform agency functions or duties and causing injury to the animal, is guilty of a Class I felony.

(2) Any person who violates s. 951.08(2m) or (3) is guilty of a Class A misdemeanor. Any person who violates s. 951.08(1) or (2) is guilty of a Class I felony for the first violation and is guilty of a Class H felony for the 2nd or subsequent violation.

(2m) Any person who violates s. 951.095 is subject to a Class B forfeiture. Any person who intentionally or negligently violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties, is guilty of a Class A misdemeanor. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing injury to the animal, is guilty of a Class I felony. Any person who intentionally violates s. 951.095, knowing that the animal that is the victim is used by a law enforcement agency or fire department to perform agency or department functions or duties and causing death to the animal, is guilty of a Class H felony.

(2s) Any person who violates s. 951.097(1)(b)1. or (2)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class B misdemeanor. Any person who violates s. 951.097(1)(b)2., (2)(b), or (3)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class A misdemeanor. Any person who violates s. 951.097(3)(b) or (4)(a), knowing that the dog that is the victim is a service dog, is guilty of a Class I felony. Any person who violates s. 951.097(4)(b) or (5), knowing that the dog that is the victim is a service dog, is guilty of a Class H felony.

(3) In addition to penalties applicable to this chapter under this section, a district attorney may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

(4) In addition to penalties applicable to this chapter under this section:

(a)

1. In this paragraph, “pecuniary loss” means any of the following:

a. All special damages, but not general damages, including the money equivalent of loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses, such as medical expenses.

b. Reasonable out-of-pocket expenses incurred by the victim resulting from the filing of charges or cooperating in the investigation and prosecution of an offense under this chapter.

c. Expenses in keeping any animal that is involved in the crime.

d. In a case under s. 951.095 or 951.097, the value of a replacement animal, if the affected animal is incapacitated or dead; the cost of training a replacement animal; or the cost of retraining the affected animal. The court shall base any determination of the value of a replacement service dog on the value of the service dog to the user and not on its cost or fair market value.

e. In a case under s. 951.095 or 951.097, all related veterinary and care expenses.

f. In a case under s. 951.095 or 951.097, the medical expenses of the animal’s user, the cost of training the animal’s user, and compensation for income lost by the animal’s user.

2. A sentencing court shall require a criminal violator to pay restitution to a person, including any local humane officer or society or county or municipal pound or a law enforcement officer or conservation warden, for any pecuniary loss suffered by the person as a result of the crime. This requirement applies regardless of whether the criminal violator is placed on probation under s. 973.09. If restitution is ordered, the court shall consider the financial resources and future ability of the criminal violator to pay and shall determine the method of payment. Upon the application of any interested party, the court shall schedule and hold an evidentiary hearing to determine the value of any pecuniary loss under this paragraph.

(b)

1. A sentencing court may order that an animal be delivered to the local humane officer or society or the county or municipal pound or to a law enforcement officer if a person commits a crime under this chapter, the person is the owner of the animal that is involved in the crime and the court considers the order to be reasonable and appropriate. A sentencing court may order that an animal be delivered to the department of natural resources, if the animal is a wild animal that is subject to regulation under ch. 169 and the court considers the order to be reasonable and appropriate. The society, pound or, officer or department of natural resources shall release the animal to a person other than the owner or dispose of the animal in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23(1m), except that the fees under s. 173.23(1m)(a)4. do not apply if the expenses are covered under s. 173.24. If the animal is not a dog, the society, pound or officer may charge a fee for the release of the animal.

2. If the court is sentencing a person covered under s. 173.12(3)(a) and an animal has been seized under s. 173.12, the court shall act in accordance with s. 173.12(3).

(c) Except as provided in s. 951.08(2m), a sentencing court may order that the criminal violator may not own, possess or train any animal or type or species of animal for a period specified by the court, but not to exceed 5 years. In computing the time period, time which the person spent in actual confinement serving a sentence shall be excluded.

ANIMAL PROTECTION LAWS OF WYOMING

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES

This chapter contains Wyoming's general animal protection and related statutes with an effective date on or before July 15, 2012. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Wyoming may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

WYOMING

1. GENERAL PROHIBITIONS*	(1) Cruel treatment, neglect, abandonment WYO. STAT. ANN. §§ 6-3-203(a),(b) (2) Cruelly beating, torturing, tormenting, injuring or mutilating an animal resulting in its death or required euthanasia WYO. STAT. ANN. § 6-3-203(n) (3) Household pet animal cruelty WYO. STAT. ANN. § 6-3-203(p)
<i>Animals Covered in Definition</i>	“Livestock animal” means “[a]ny bovine, including domestic bison, equine, swine, sheep, goat, domesticated camelid animal, ratite bird, rabbit or poultry”; “[a]ny animal used or harvested for any good and proper purpose including but not limited to food, fiber, fur, leather, medical research and byproducts”; or “[a]ny animal used or trained for work, sport, exhibit or entertainment.” WYO. STAT. ANN. § 11-29-101(a)(vi)
<i>Classification of Crimes</i>	(1), (3) [1 st offense]: Misdemeanor [Subsequent offenses]: High misdemeanor (2) Felony

WYOMING*continued*

<p>2. MAXIMUM PENALTIES**</p>	<p>(1), (3) [1st offense]: 6 months imprisonment <i>and/or</i> \$750 fine WYO. STAT.ANN.§ 6-3-203(e)</p> <p>[Subsequent offenses]: 1 year imprisonment <i>and/or</i> \$5,000 fine WYO. STAT.ANN.§ 6-3-203(e)</p> <p>(2) 2 years imprisonment <i>and/or</i> \$5,000 fine WYO. STAT. ANN.§ 6-3-203(n)</p>
<p>3. EXEMPTIONS***</p>	<p>3, 4, 7, 9 WYO. STAT. ANN.§ 6-3-203(m)</p> <p>1, 4, 5, 7 WYO. STAT. ANN. § 11-29-115</p>
<p>4. COUNSELING / EVALUATIONS^H</p>	<p>-----</p>
<p>5. PROTECTIVE ORDERS^H</p>	<p>-----</p>
<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H</p>	<p>Court may require defendant to pay all reasonable costs of care for seized animals. WYO. STAT. ANN.§ 6-3-203(j)(i)</p> <p>State cruelty to household pet animals protection account is established. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses. WYO. STAT. ANN. § 6-3-203(o)</p>

WYOMING*continued*

<p>6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS^H<i>continued</i></p>	<p>Local government or livestock board shall have a lien on cruelly treated livestock animals that are seized. WYO. STAT. ANN. § 11-29-108</p> <p>Costs of care isa lien on livestock animal. WYO. STAT. ANN. § 11-29-109</p> <p>A person entitled to a lien may dispose of the animal at auction to enforce the lien. WYO. STAT. ANN. § 11-29-110</p> <p>A bond for costs of care for an impounded livestock animal is required; owner of animal is liable for all costs associated with final disposition of animal when bond is not posted or renewed. WYO. STAT. ANN. § 11-29-114</p>
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>Any peace officer, agent or officer of the livestock board may seize cruelly treated animals that are drawing or in any vehicle. WYO. STAT. ANN.§ 11-29-108</p> <p>Law enforcement officers or authorized humane agents may take charge of any abandoned, neglected, or cruelly treated livestock animal. WYO. STAT. ANN.§ 11-29-109</p> <p>Any peace officer, agent or officer of the livestock board may take possession of any livestock animal determined to be cruelly treated by a veterinarian. WYO. STAT. ANN. § 11-29-114</p>

WYOMING*continued*

<p>8. FORFEITURE / POSSESSION^H</p>	<p>Court may order forfeiture of cruelly treated animal upon conviction of animal’s owner. WYO. STAT. ANN. § 6-3-203(h)</p> <p>Court may prohibit future ownership of animals. WYO. STAT. ANN. § 6-3-203(j)(ii)</p> <p>If a bond for costs of care for an impounded livestock animal is not posted or renewed, the animal is forfeited. WYO. STAT. ANN. § 11-29-114</p>
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>-----</p>
<p>10. VETERINARIAN REPORTING / IMMUNITY</p>	<p>-----</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>Any peace officer, agent or officer of the livestock board may lawfully interfere to prevent the perpetration of any act of cruelty upon any livestock animal in his presence. WYO. STAT. ANN. § 11-29-106</p>
<p>12. SEXUAL ASSAULT</p>	<p>-----</p>
<p>13. FIGHTING</p>	<p>Various dogfighting and fowl fighting activities are felonies. WYO. STAT. ANN.§§ 6-3-203(c),(g),(n)</p> <p>The training of dogs or raptors or the use of them in hunting; and the use of dogs in the management of livestock are activities not in violation of this provision. WYO. STAT. ANN.§ 6-3-203(f)</p>
<p><i>Other Felony Provisions Affecting Animals^I</i></p>	<p>-----</p>

* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
 ** Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
 *** Exemptions:1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.
 HThis table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.
 I This list is not exhaustive; states may authorize felony penalties for other crimes involving animals not included in this table.

1. GENERAL PROHIBITIONS

WYO. STAT. ANN. § 6-3-203 (2012).Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

(i) Overrides an animal or drives an animal when overloaded; or

(ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or

(iii) Carries an animal in a manner that poses undue risk of injury or death.

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

(c) A person commits aggravated cruelty to animals if he:

(i) Repealed by Laws 1987, ch. 91, § 2.

(ii) Owns, possesses, keeps or trains fowls or dogs with the intent to allow the dog or fowl to engage in an exhibition of fighting with another dog or fowl;

(iii) Repealed by Laws 1987, ch. 91, § 2.

(iv) For gain causes or allows any dog or fowl to fight with another dog or fowl;

(v) Knowingly permits any act prohibited under paragraphs (ii) or (iv) of this subsection on any premises under his charge or control; or

(vi) Promotes any act prohibited under paragraphs (ii) or (iv) of this subsection.

(d) A person shall not destroy an animal by the use of a high-altitude decompression chamber or a carbon monoxide gas chamber utilizing a gasoline engine. This subsection is uniformly applicable to all cities and towns.

(e) *Unless punishable under subsection (n) of this section, a violation of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both except that a subsequent offense is a high misdemeanor punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.*

(f) Nothing in subsection (c) of this section may be construed to prohibit:

(i) The use of dogs in the management of livestock by the owner of the livestock, his employees or agents or other persons in lawful custody of the livestock;

(ii) The use of dogs or raptors in hunting; or

(iii) The training of dogs or raptors or the use of equipment in the training of dogs or raptors for any purpose not prohibited by law;

(iv) Repealed by Laws 2000, ch. 86, § 2.

(v) Repealed by Laws 2000, ch. 86, § 2.

(vi) Repealed by Laws 2000, ch. 86, § 2.

(g) A person commits cruelty to animals if he is knowingly present at any place where an exhibition of fighting of fowls or dogs is occurring for amusement or gain.

(h) If a person convicted of a violation of this section is also the owner of the animal, the court may require the person to forfeit ownership of the animal to the county in which the person is convicted. This subsection shall not affect the interest of any secured party or other person who has not participated in the offense.

(j) In addition to any sentence and penalties imposed under subsections (e), (h) and (n) of this section, the court may:

(i) Require the defendant to pay all reasonable costs incurred in providing necessary food and water, veterinary attention and treatment for any animal affected; and

(ii) Prohibit or limit the defendant's ownership, possession or custody of animals, as the court deems appropriate.

(k) Each animal affected by the defendant's conduct may constitute a separate count for the purposes of prosecution, conviction, sentencing and penalties under this section.

(m) Nothing in subsection (a), (b) or (n) of this section shall be construed to prohibit:

(i) A person from humanely destroying an animal;

- (ii) The use of industry accepted agricultural and livestock practices on livestock;
- (iii) Rodeo events, whether the event is performed in a rodeo, jackpot or otherwise; or
- (iv) The hunting, capture or destruction of any predatory animal or other wildlife in any manner not otherwise prohibited by law.

(n) A person commits a felony if he commits aggravated cruelty to animals as defined in subsection (c) of this section or knowingly and with intent to cause death, injury or undue suffering, cruelly beats, tortures, torments, injures or mutilates an animal resulting in the death or required euthanasia of the animal. A felony under this subsection or subsection (c) of this section is punishable by not more than two (2) years imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(o) There is created the “cruelty to household pet animals protection account.” Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses regarding household pet animal cruelty cases under subsection (p) of this section. The attorney general shall develop rules and regulations to establish eligible expenses and to determine how county law enforcement agencies will be reimbursed for the costs of any household pet animal cruelty case, in an amount not to exceed ninety percent (90%) in any particular case. Any reimbursement under this subsection shall be contingent upon available funding and upon a showing that the agency has made reasonable efforts to seek reimbursement from the offender of expenses incurred by the agency, as permitted by law. All funds in the account may be used for and are continuously appropriated for eligible expenses authorized to be made under this subsection. The cruelty to household pet animals protection account shall be a permanent, nonreversion account within the state auditor’s office. As used in this subsection and subsection (p) of this section, “household pet” means any privately owned dog, cat, rabbit, guinea pig, hamster, mouse, gerbil, ferret, bird, fish, reptile, amphibian, invertebrate or any other species of domesticated animal sold, transferred or retained for the purpose of being kept as a pet in or near a house. “Household pet” shall not include any livestock as defined in W.S. 23–1–102(a)(xvi).

(p) A person commits household pet animal cruelty if he:

(i) Keeps any household pet in a manner that results in chronic or repeated serious physical harm to the household pet; or

(ii) Keeps the household pet confined in conditions which constitute a public health hazard.

WYO. STAT. ANN. § 11-29-101 (2012).Definitions.

§ 11-29-101. Definitions.

(a) As used in this act:

(i) Repealed by Laws 2011, ch. 100, § 3.

(ii) "Owner" or "person" means any individual including the agents and employees of corporations;

(iii) "Torture" or "cruelty" means every act, omission or neglect whereby the willful and malicious infliction of pain or suffering is caused, permitted or allowed to continue when there is a reasonable remedy or relief;

(iv) "Disposal" means as defined in W.S. 11-24-101(a)(iv);

(v) "Livestock" means as defined in W.S. 23-1-102(a)(xvi);

(vi) "Livestock animal" means:

(A) Any bovine, including domestic bison, equine, swine, sheep, goat, domesticated camelid animal, ratite bird, rabbit or poultry; or

(B) Any animal used or harvested for any good and proper purpose including but not limited to food, fiber, fur, leather, medical research and byproducts; or

(C) Any animal used or trained for work, sport, exhibit or entertainment.

(vii) "This act" means W.S. 11-29-101 through 11-29-115.

2. PENALTIES

WYO. STAT. ANN. § 6-3-203 (2012).Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

- (i) Overrides an animal or drives an animal when overloaded; or
- (ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or
- (iii) Carries an animal in a manner that poses undue risk of injury or death.

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

(c) A person commits aggravated cruelty to animals if he:

- (i) Repealed by Laws 1987, ch. 91, § 2.
- (ii) Owns, possesses, keeps or trains fowls or dogs with the intent to allow the dog or fowl to engage in an exhibition of fighting with another dog or fowl;
- (iii) Repealed by Laws 1987, ch. 91, § 2.
- (iv) For gain causes or allows any dog or fowl to fight with another dog or fowl;
- (v) Knowingly permits any act prohibited under paragraphs (ii) or (iv) of this subsection on any premises under his charge or control; or
- (vi) Promotes any act prohibited under paragraphs (ii) or (iv) of this subsection.

(d) A person shall not destroy an animal by the use of a high-altitude decompression chamber or a carbon monoxide gas chamber utilizing a gasoline engine. This subsection is uniformly applicable to all cities and towns.

(e) Unless punishable under subsection (n) of this section, a violation of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both except that a subsequent offense is a high misdemeanor punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(f) Nothing in subsection (c) of this section may be construed to prohibit:

(i) The use of dogs in the management of livestock by the owner of the livestock, his employees or agents or other persons in lawful custody of the livestock;

(ii) The use of dogs or raptors in hunting; or

(iii) The training of dogs or raptors or the use of equipment in the training of dogs or raptors for any purpose not prohibited by law;

(iv) Repealed by Laws 2000, ch. 86, § 2.

(v) Repealed by Laws 2000, ch. 86, § 2.

(vi) Repealed by Laws 2000, ch. 86, § 2.

(g) A person commits cruelty to animals if he is knowingly present at any place where an exhibition of fighting of fowls or dogs is occurring for amusement or gain.

(h) If a person convicted of a violation of this section is also the owner of the animal, the court may require the person to forfeit ownership of the animal to the county in which the person is convicted. This subsection shall not affect the interest of any secured party or other person who has not participated in the offense.

(j) In addition to any sentence and penalties imposed under subsections (e), (h) and (n) of this section, the court may:

(i) Require the defendant to pay all reasonable costs incurred in providing necessary food and water, veterinary attention and treatment for any animal affected; and

(ii) Prohibit or limit the defendant's ownership, possession or custody of animals, as the court deems appropriate.

(k) Each animal affected by the defendant's conduct may constitute a separate count for the purposes of prosecution, conviction, sentencing and penalties under this section.

(m) Nothing in subsection (a), (b) or (n) of this section shall be construed to prohibit:

(i) A person from humanely destroying an animal;

- (ii) The use of industry accepted agricultural and livestock practices on livestock;
- (iii) Rodeo events, whether the event is performed in a rodeo, jackpot or otherwise; or
- (iv) The hunting, capture or destruction of any predatory animal or other wildlife in any manner not otherwise prohibited by law.

(n) A person commits a felony if he commits aggravated cruelty to animals as defined in subsection (c) of this section or knowingly and with intent to cause death, injury or undue suffering, cruelly beats, tortures, torments, injures or mutilates an animal resulting in the death or required euthanasia of the animal. *A felony under this subsection or subsection (c) of this section is punishable by not more than two (2) years imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.*

(o) There is created the “cruelty to household pet animals protection account.” Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses regarding household pet animal cruelty cases under subsection (p) of this section. The attorney general shall develop rules and regulations to establish eligible expenses and to determine how county law enforcement agencies will be reimbursed for the costs of any household pet animal cruelty case, in an amount not to exceed ninety percent (90%) in any particular case. Any reimbursement under this subsection shall be contingent upon available funding and upon a showing that the agency has made reasonable efforts to seek reimbursement from the offender of expenses incurred by the agency, as permitted by law. All funds in the account may be used for and are continuously appropriated for eligible expenses authorized to be made under this subsection. The cruelty to household pet animals protection account shall be a permanent, nonreversion account within the state auditor’s office. As used in this subsection and subsection (p) of this section, “household pet” means any privately owned dog, cat, rabbit, guinea pig, hamster, mouse, gerbil, ferret, bird, fish, reptile, amphibian, invertebrate or any other species of domesticated animal sold, transferred or retained for the purpose of being kept as a pet in or near a house. “Household pet” shall not include any livestock as defined in W.S. 23–1–102(a)(xvi).

(p) A person commits household pet animal cruelty if he:

- (i) Keeps any household pet in a manner that results in chronic or repeated serious physical harm to the household pet; or
- (ii) Keeps the household pet confined in conditions which constitute a public health hazard.

3. EXEMPTIONS

WYO. STAT. ANN. § 6-3-203 (2012).Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

- (i) Overrides an animal or drives an animal when overloaded; or
- (ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or
- (iii) Carries an animal in a manner that poses undue risk of injury or death.

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

(c) A person commits aggravated cruelty to animals if he:

- (i) Repealed by Laws 1987, ch. 91, § 2.
- (ii) Owns, possesses, keeps or trains fowls or dogs with the intent to allow the dog or fowl to engage in an exhibition of fighting with another dog or fowl;
- (iii) Repealed by Laws 1987, ch. 91, § 2.
- (iv) For gain causes or allows any dog or fowl to fight with another dog or fowl;
- (v) Knowingly permits any act prohibited under paragraphs (ii) or (iv) of this subsection on any premises under his charge or control; or
- (vi) Promotes any act prohibited under paragraphs (ii) or (iv) of this subsection.

(d) A person shall not destroy an animal by the use of a high-altitude decompression chamber or a carbon monoxide gas chamber utilizing a gasoline engine. This subsection is uniformly applicable to all cities and towns.

(e) Unless punishable under subsection (n) of this section, a violation of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both except that a subsequent offense is a high misdemeanor punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(f) Nothing in subsection (c) of this section may be construed to prohibit:

(i) The use of dogs in the management of livestock by the owner of the livestock, his employees or agents or other persons in lawful custody of the livestock;

(ii) The use of dogs or raptors in hunting; or

(iii) The training of dogs or raptors or the use of equipment in the training of dogs or raptors for any purpose not prohibited by law;

(iv) Repealed by Laws 2000, ch. 86, § 2.

(v) Repealed by Laws 2000, ch. 86, § 2.

(vi) Repealed by Laws 2000, ch. 86, § 2.

(g) A person commits cruelty to animals if he is knowingly present at any place where an exhibition of fighting of fowls or dogs is occurring for amusement or gain.

(h) If a person convicted of a violation of this section is also the owner of the animal, the court may require the person to forfeit ownership of the animal to the county in which the person is convicted. This subsection shall not affect the interest of any secured party or other person who has not participated in the offense.

(j) In addition to any sentence and penalties imposed under subsections (e), (h) and (n) of this section, the court may:

(i) Require the defendant to pay all reasonable costs incurred in providing necessary food and water, veterinary attention and treatment for any animal affected; and

(ii) Prohibit or limit the defendant's ownership, possession or custody of animals, as the court deems appropriate.

(k) Each animal affected by the defendant's conduct may constitute a separate count for the purposes of prosecution, conviction, sentencing and penalties under this section.

(m) Nothing in subsection (a), (b) or (n) of this section shall be construed to prohibit:

(i) A person from humanely destroying an animal;

(ii) The use of industry accepted agricultural and livestock practices on livestock;

(iii) Rodeo events, whether the event is performed in a rodeo, jackpot or otherwise; or

(iv) The hunting, capture or destruction of any predatory animal or other wildlife in any manner not otherwise prohibited by law.

(n) A person commits a felony if he commits aggravated cruelty to animals as defined in subsection (c) of this section or knowingly and with intent to cause death, injury or undue suffering, cruelly beats, tortures, torments, injures or mutilates an animal resulting in the death or required euthanasia of the animal. A felony under this subsection or subsection (c) of this section is punishable by not more than two (2) years imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(o) There is created the “cruelty to household pet animals protection account.” Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses regarding household pet animal cruelty cases under subsection (p) of this section. The attorney general shall develop rules and regulations to establish eligible expenses and to determine how county law enforcement agencies will be reimbursed for the costs of any household pet animal cruelty case, in an amount not to exceed ninety percent (90%) in any particular case. Any reimbursement under this subsection shall be contingent upon available funding and upon a showing that the agency has made reasonable efforts to seek reimbursement from the offender of expenses incurred by the agency, as permitted by law. All funds in the account may be used for and are continuously appropriated for eligible expenses authorized to be made under this subsection. The cruelty to household pet animals protection account shall be a permanent, nonreversion account within the state auditor’s office. As used in this subsection and subsection (p) of this section, “household pet” means any privately owned dog, cat, rabbit, guinea pig, hamster, mouse, gerbil, ferret, bird, fish, reptile, amphibian, invertebrate or any other species of domesticated animal sold, transferred or retained for the purpose of being kept as a pet in or near a house. “Household pet” shall not include any livestock as defined in W.S. 23–1–102(a)(xvi).

(p) A person commits household pet animal cruelty if he:

(i) Keeps any household pet in a manner that results in chronic or repeated serious physical harm to the household pet; or

(ii) Keeps the household pet confined in conditions which constitute a public health hazard.

WYO. STAT. ANN. § 11-29-115 (2012).Use of agricultural and livestock management practices.

(a) Nothing in this chapter prohibits:

(i) The use of Wyoming industry accepted agricultural or livestock management practices or any other commonly practiced animal husbandry procedure used on livestock animals, as defined by W.S. 11-29-101(a)(vi);

(ii) A Wyoming licensed veterinarian from treating a livestock animal as authorized by the Wyoming Veterinary Medical Practice Act;

(iii) Any rodeo event employing animal care practices generally accepted within the rodeo industry, whether the event is performed in a rodeo, jackpot or similar arena;

(iv) A person from humanely destroying a livestock animal.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

WYO. STAT. ANN. § 6-3-203 (2012). Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

(i) Overrides an animal or drives an animal when overloaded; or

(ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or

(iii) Carries an animal in a manner that poses undue risk of injury or death.

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

(c) A person commits aggravated cruelty to animals if he:

(i) Repealed by Laws 1987, ch. 91, § 2.

(ii) Owns, possesses, keeps or trains fowls or dogs with the intent to allow the dog or fowl to engage in an exhibition of fighting with another dog or fowl;

(iii) Repealed by Laws 1987, ch. 91, § 2.

(iv) For gain causes or allows any dog or fowl to fight with another dog or fowl;

(v) Knowingly permits any act prohibited under paragraphs (ii) or (iv) of this subsection on any premises under his charge or control; or

(vi) Promotes any act prohibited under paragraphs (ii) or (iv) of this subsection.

(d) A person shall not destroy an animal by the use of a high-altitude decompression chamber or a carbon monoxide gas chamber utilizing a gasoline engine. This subsection is uniformly applicable to all cities and towns.

(e) Unless punishable under subsection (n) of this section, a violation of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both except that a subsequent offense is a high misdemeanor punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(f) Nothing in subsection (c) of this section may be construed to prohibit:

(i) The use of dogs in the management of livestock by the owner of the livestock, his employees or agents or other persons in lawful custody of the livestock;

(ii) The use of dogs or raptors in hunting; or

(iii) The training of dogs or raptors or the use of equipment in the training of dogs or raptors for any purpose not prohibited by law;

(iv) Repealed by Laws 2000, ch. 86, § 2.

(v) Repealed by Laws 2000, ch. 86, § 2.

(vi) Repealed by Laws 2000, ch. 86, § 2.

(g) A person commits cruelty to animals if he is knowingly present at any place where an exhibition of fighting of fowls or dogs is occurring for amusement or gain.

(h) If a person convicted of a violation of this section is also the owner of the animal, the court may require the person to forfeit ownership of the animal to the county in which the person is convicted. This subsection shall not affect the interest of any secured party or other person who has not participated in the offense.

(j) In addition to any sentence and penalties imposed under subsections (e), (h) and (n) of this section, the court may:

(i) Require the defendant to pay all reasonable costs incurred in providing necessary food and water, veterinary attention and treatment for any animal affected; and

(ii) Prohibit or limit the defendant's ownership, possession or custody of animals, as the court deems appropriate.

(k) Each animal affected by the defendant's conduct may constitute a separate count for the purposes of prosecution, conviction, sentencing and penalties under this section.

(m) Nothing in subsection (a), (b) or (n) of this section shall be construed to prohibit:

(i) A person from humanely destroying an animal;

- (ii) The use of industry accepted agricultural and livestock practices on livestock;
- (iii) Rodeo events, whether the event is performed in a rodeo, jackpot or otherwise; or
- (iv) The hunting, capture or destruction of any predatory animal or other wildlife in any manner not otherwise prohibited by law.

(n) A person commits a felony if he commits aggravated cruelty to animals as defined in subsection (c) of this section or knowingly and with intent to cause death, injury or undue suffering, cruelly beats, tortures, torments, injures or mutilates an animal resulting in the death or required euthanasia of the animal. A felony under this subsection or subsection (c) of this section is punishable by not more than two (2) years imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(o) There is created the “cruelty to household pet animals protection account.” Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses regarding household pet animal cruelty cases under subsection (p) of this section. The attorney general shall develop rules and regulations to establish eligible expenses and to determine how county law enforcement agencies will be reimbursed for the costs of any household pet animal cruelty case, in an amount not to exceed ninety percent (90%) in any particular case. Any reimbursement under this subsection shall be contingent upon available funding and upon a showing that the agency has made reasonable efforts to seek reimbursement from the offender of expenses incurred by the agency, as permitted by law. All funds in the account may be used for and are continuously appropriated for eligible expenses authorized to be made under this subsection. The cruelty to household pet animals protection account shall be a permanent, nonreversion account within the state auditor’s office. As used in this subsection and subsection (p) of this section, “household pet” means any privately owned dog, cat, rabbit, guinea pig, hamster, mouse, gerbil, ferret, bird, fish, reptile, amphibian, invertebrate or any other species of domesticated animal sold, transferred or retained for the purpose of being kept as a pet in or near a house. “Household pet” shall not include any livestock as defined in W.S. 23–1–102(a)(xvi).

(p) A person commits household pet animal cruelty if he:

- (i) Keeps any household pet in a manner that results in chronic or repeated serious physical harm to the household pet; or
- (ii) Keeps the household pet confined in conditions which constitute a public health hazard.

WYO. STAT. ANN. § 11-29-108 (2012). Livestock board; seized animals and vehicles; lien on seized chattels; civil action for unpaid expenses.

When any person arrested under this act is in charge of any vehicle drawn by or containing any livestock animal cruelly treated as defined in W.S. 6-3-203 at the time of arrest, any peace officer, agent or officer of the board may take charge of the livestock animal and vehicle and its contents, and give notice thereof to the owner, if known, and shall provide for them until their owner takes possession of them. *The board or local government shall have a lien on the livestock animals, the vehicle and its contents for the expense of the care and provision. The expense or any part remaining unpaid may be recovered by the board or local government in a civil action.*

WYO. STAT. ANN. § 11-29-109 (2012). Livestock board; care of abandoned animals; civil action for expenses; lien.

Any peace officer, agent or officer of the board may take charge of any livestock animal found abandoned, neglected or cruelly treated as defined in W.S. 6-3-203. He shall give notice to the owner, if known, and may care and provide for the livestock animal until the livestock animal is released or destroyed. *The expenses of care and provision is a charge against the owner of the livestock animal and collectible from the owner by the board or by the local government employing the peace officer taking charge of the livestock animal in a civil action. The board or local government may detain the livestock animals until the expense for food, shelter and care is paid and shall have a lien upon the livestock animals therefor. This lien shall be filed as provided pursuant to W.S. 29-7-101 through 29-7-106.*

WYO. STAT. ANN. § 11-29-110 (2012). Livestock board; enforcement of liens; notice to owner.

Any person entitled to a lien under this act may enforce the lien by disposing of the livestock animals and other personal property upon which the lien is given, at public auction, upon giving written notice to the owner, if he is known, of the time and place of the disposal, at least five (5) days previous thereto, and by posting three (3) notices of the time and place of the disposal in three (3) public places within the county at least five (5) days previous thereto. If the owner is not known, the notice shall be posted at least ten (10) days previous to the disposal.

WYO. STAT. ANN. § 11-29-114 (2012). Impoundment of animals; cost of care for animals; providing for bond.

(a) Any peace officer, agent or officer of the board may take possession of any livestock animal treated cruelly as determined by a Wyoming licensed veterinarian or veterinarian employed by the board.

(b) The owner of the livestock animal impounded under subsection (a) of this section, and who has been cited under W.S. 6-3-203, shall be required to post a bond with the circuit court in the county where the livestock animal was impounded. The bond shall be:

(i) In an amount the circuit court determines is sufficient to provide for the livestock animal's board, nutritional care, veterinary care and diagnostic testing for at least ninety (90) days including the day on which the livestock animal was impounded; and

(ii) Filed with the circuit court within ten (10) days after the animal is impounded.

(c) When the bond expires, if the owner of the livestock animal desires to prevent disposition of the livestock animal by the board, the owner shall post a new bond with the court as described in subsection (b) of this section.

(d) If a bond is not posted under subsection (b) or (c) of this section, the board shall dispose of the livestock animal as defined in W.S. 11-24-101(a)(iv). *The owner of the livestock animal shall be liable for all costs associated with the final disposition of the livestock animal under this subsection.*

(e) If a bond has been posted in accordance with subsection (b) or (c) of this section, the agency employing the officer, or the board, may draw from the bond the actual costs as described in subsection (b) of this section, from the date of initial impoundment to the date of final disposition of the livestock animal.

7. SEIZURE / ON-SITE SUPERVISION

WYO. STAT. ANN. § 11-29-108 (2012). Livestock board; seized animals and vehicles; lien on seized chattels; civil action for unpaid expenses.

When any person arrested under this act is in charge of any vehicle drawn by or containing any livestock animal cruelly treated as defined in W.S. 6-3-203 at the time of arrest, any peace officer, agent or officer of the board may take charge of the livestock animal and vehicle and its contents, and give notice thereof to the owner, if known, and shall provide for them until their owner takes possession of them. The board or local government shall have a lien on the livestock animals, the vehicle and its contents for the expense of the care and provision. The expense or any part remaining unpaid may be recovered by the board or local government in a civil action.

WYO. STAT. ANN. § 11-29-109 (2012).Livestock board; care of abandoned animals; civil action for expenses; lien.

Any peace officer, agent or officer of the board may take charge of any livestock animal found abandoned, neglected or cruelly treated as defined in W.S. 6-3-203. He shall give notice to the owner, if known, and may care and provide for the livestock animal until the livestock animal is released or destroyed. The expenses of care and provision is a charge against the owner of the livestock animal and collectible from the owner by the board or by the local government employing the peace officer taking charge of the livestock animal in a civil action. The board or local government may detain the livestock animals until the expense for food, shelter and care is paid and shall have a lien upon the livestock animals therefor. This lien shall be filed as provided pursuant to W.S. 29-7-101 through 29-7-106.

WYO. STAT. ANN. § 11-29-114 (2012).Impoundment of animals; cost of care for animals; providing for bond.

(a) Any peace officer, agent or officer of the board may take possession of any livestock animal treated cruelly as determined by a Wyoming licensed veterinarian or veterinarian employed by the board.

(b) The owner of the livestock animal impounded under subsection (a) of this section, and who has been cited under W.S. 6-3-203, shall be required to post a bond with the circuit court in the county where the livestock animal was impounded. The bond shall be:

- (i) In an amount the circuit court determines is sufficient to provide for the livestock animal's board, nutritional care, veterinary care and diagnostic testing for at least ninety (90) days including the day on which the livestock animal was impounded; and*
- (ii) Filed with the circuit court within ten (10) days after the animal is impounded.*

(c) When the bond expires, if the owner of the livestock animal desires to prevent disposition of the livestock animal by the board, the owner shall post a new bond with the court as described in subsection (b) of this section.

(d) If a bond is not posted under subsection (b) or (c) of this section, the board shall dispose of the livestock animal as defined in W.S. 11-24-101(a)(iv). The owner of the livestock animal shall be liable for all costs associated with the final disposition of the livestock animal under this subsection.

(e) If a bond has been posted in accordance with subsection (b) or (c) of this section, the agency employing the officer, or the board, may draw from the bond the actual costs as described in subsection (b) of this section, from the date of initial impoundment to the date of final disposition of the livestock animal.

8. FORFEITURE / POSSESSION

WYO. STAT. ANN. § 6-3-203 (2012).Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

(i) Overrides an animal or drives an animal when overloaded; or

(ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or

(iii) Carries an animal in a manner that poses undue risk of injury or death.

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

(c) A person commits aggravated cruelty to animals if he:

(i) Repealed by Laws 1987, ch. 91, § 2.

(ii) Owns, possesses, keeps or trains fowls or dogs with the intent to allow the dog or fowl to engage in an exhibition of fighting with another dog or fowl;

(iii) Repealed by Laws 1987, ch. 91, § 2.

(iv) For gain causes or allows any dog or fowl to fight with another dog or fowl;

(v) Knowingly permits any act prohibited under paragraphs (ii) or (iv) of this subsection on any premises under his charge or control; or

(vi) Promotes any act prohibited under paragraphs (ii) or (iv) of this subsection.

(d) A person shall not destroy an animal by the use of a high-altitude decompression chamber or a carbon monoxide gas chamber utilizing a gasoline engine. This subsection is uniformly applicable to all cities and towns.

(e) Unless punishable under subsection (n) of this section, a violation of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both except that a subsequent offense is a high misdemeanor punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(f) Nothing in subsection (c) of this section may be construed to prohibit:

(i) The use of dogs in the management of livestock by the owner of the livestock, his employees or agents or other persons in lawful custody of the livestock;

(ii) The use of dogs or raptors in hunting; or

(iii) The training of dogs or raptors or the use of equipment in the training of dogs or raptors for any purpose not prohibited by law;

(iv) Repealed by Laws 2000, ch. 86, § 2.

(v) Repealed by Laws 2000, ch. 86, § 2.

(vi) Repealed by Laws 2000, ch. 86, § 2.

(g) A person commits cruelty to animals if he is knowingly present at any place where an exhibition of fighting of fowls or dogs is occurring for amusement or gain.

(h) If a person convicted of a violation of this section is also the owner of the animal, the court may require the person to forfeit ownership of the animal to the county in which the person is convicted. This subsection shall not affect the interest of any secured party or other person who has not participated in the offense.

(j) In addition to any sentence and penalties imposed under subsections (e), (h) and (n) of this section, the court may:

(i) Require the defendant to pay all reasonable costs incurred in providing necessary food and water, veterinary attention and treatment for any animal affected; and

(ii) Prohibit or limit the defendant's ownership, possession or custody of animals, as the court deems appropriate.

(k) Each animal affected by the defendant's conduct may constitute a separate count for the purposes of prosecution, conviction, sentencing and penalties under this section.

(m) Nothing in subsection (a), (b) or (n) of this section shall be construed to prohibit:

(i) A person from humanely destroying an animal;

- (ii) The use of industry accepted agricultural and livestock practices on livestock;
- (iii) Rodeo events, whether the event is performed in a rodeo, jackpot or otherwise; or
- (iv) The hunting, capture or destruction of any predatory animal or other wildlife in any manner not otherwise prohibited by law.

(n) A person commits a felony if he commits aggravated cruelty to animals as defined in subsection (c) of this section or knowingly and with intent to cause death, injury or undue suffering, cruelly beats, tortures, torments, injures or mutilates an animal resulting in the death or required euthanasia of the animal. A felony under this subsection or subsection (c) of this section is punishable by not more than two (2) years imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(o) There is created the “cruelty to household pet animals protection account.” Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses regarding household pet animal cruelty cases under subsection (p) of this section. The attorney general shall develop rules and regulations to establish eligible expenses and to determine how county law enforcement agencies will be reimbursed for the costs of any household pet animal cruelty case, in an amount not to exceed ninety percent (90%) in any particular case. Any reimbursement under this subsection shall be contingent upon available funding and upon a showing that the agency has made reasonable efforts to seek reimbursement from the offender of expenses incurred by the agency, as permitted by law. All funds in the account may be used for and are continuously appropriated for eligible expenses authorized to be made under this subsection. The cruelty to household pet animals protection account shall be a permanent, nonreversion account within the state auditor’s office. As used in this subsection and subsection (p) of this section, “household pet” means any privately owned dog, cat, rabbit, guinea pig, hamster, mouse, gerbil, ferret, bird, fish, reptile, amphibian, invertebrate or any other species of domesticated animal sold, transferred or retained for the purpose of being kept as a pet in or near a house. “Household pet” shall not include any livestock as defined in W.S. 23–1–102(a)(xvi).

(p) A person commits household pet animal cruelty if he:

- (i) Keeps any household pet in a manner that results in chronic or repeated serious physical harm to the household pet; or
- (ii) Keeps the household pet confined in conditions which constitute a public health hazard.

WYO. STAT. ANN. § 11-29-114 (2012). Impoundment of animals; cost of care for animals; providing for bond.

(a) Any peace officer, agent or officer of the board may take possession of any livestock animal treated cruelly as determined by a Wyoming licensed veterinarian or veterinarian employed by the board.

(b) The owner of the livestock animal impounded under subsection (a) of this section, and who has been cited under W.S. 6-3-203, shall be required to post a bond with the circuit court in the county where the livestock animal was impounded. The bond shall be:

(i) In an amount the circuit court determines is sufficient to provide for the livestock animal's board, nutritional care, veterinary care and diagnostic testing for at least ninety (90) days including the day on which the livestock animal was impounded; and

(ii) Filed with the circuit court within ten (10) days after the animal is impounded.

(c) When the bond expires, if the owner of the livestock animal desires to prevent disposition of the livestock animal by the board, the owner shall post a new bond with the court as described in subsection (b) of this section.

(d) If a bond is not posted under subsection (b) or (c) of this section, the board shall dispose of the livestock animal as defined in W.S. 11-24-101(a)(iv). The owner of the livestock animal shall be liable for all costs associated with the final disposition of the livestock animal under this subsection.

(e) If a bond has been posted in accordance with subsection (b) or (c) of this section, the agency employing the officer, or the board, may draw from the bond the actual costs as described in subsection (b) of this section, from the date of initial impoundment to the date of final disposition of the livestock animal.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

WYO. STAT. ANN. § 11-29-106 (2012). Livestock board; authority to prevent cruelty; penalty for interference with officer.

Any peace officer, agent or officer of the board may lawfully interfere to prevent the perpetration of any act of cruelty upon any livestock animal in his presence. Any person who interferes with, obstructs or resists any peace officer or officer or agent of the board in the discharge of his duty shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand five hundred dollars (\$1,500.00), or imprisoned not more than one (1) year, or both.

12. SEXUAL ASSAULT

13. FIGHTING

WYO. STAT. ANN. § 6-3-203 (2012).Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

(i) Overrides an animal or drives an animal when overloaded; or

(ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or

(iii) Carries an animal in a manner that poses undue risk of injury or death.

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

(c) *A person commits aggravated cruelty to animals if he:*

(i) Repealed by Laws 1987, ch. 91, § 2.

(ii) Owns, possesses, keeps or trains fowls or dogs with the intent to allow the dog or fowl to engage in an exhibition of fighting with another dog or fowl;

(iii) Repealed by Laws 1987, ch. 91, § 2.

(iv) For gain causes or allows any dog or fowl to fight with another dog or fowl;

(v) Knowingly permits any act prohibited under paragraphs (ii) or (iv) of this subsection on any premises under his charge or control; or

(vi) Promotes any act prohibited under paragraphs (ii) or (iv) of this subsection.

(d) A person shall not destroy an animal by the use of a high-altitude decompression chamber or a carbon monoxide gas chamber utilizing a gasoline engine. This subsection is uniformly applicable to all cities and towns.

(e) Unless punishable under subsection (n) of this section, a violation of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both except that a subsequent offense is a high misdemeanor punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(f) *Nothing in subsection (c) of this section may be construed to prohibit:*

(i) The use of dogs in the management of livestock by the owner of the livestock, his employees or agents or other persons in lawful custody of the livestock;

(ii) The use of dogs or raptors in hunting; or

(iii) The training of dogs or raptors or the use of equipment in the training of dogs or raptors for any purpose not prohibited by law;

(iv) Repealed by Laws 2000, ch. 86, § 2.

(v) Repealed by Laws 2000, ch. 86, § 2.

(vi) Repealed by Laws 2000, ch. 86, § 2.

(g) A person commits cruelty to animals if he is knowingly present at any place where an exhibition of fighting of fowls or dogs is occurring for amusement or gain.

(h) If a person convicted of a violation of this section is also the owner of the animal, the court may require the person to forfeit ownership of the animal to the county in which the person is convicted. This subsection shall not affect the interest of any secured party or other person who has not participated in the offense.

(j) In addition to any sentence and penalties imposed under subsections (e), (h) and (n) of this section, the court may:

(i) Require the defendant to pay all reasonable costs incurred in providing necessary food and water, veterinary attention and treatment for any animal affected; and

(ii) Prohibit or limit the defendant's ownership, possession or custody of animals, as the court deems appropriate.

(k) Each animal affected by the defendant's conduct may constitute a separate count for the purposes of prosecution, conviction, sentencing and penalties under this section.

(m) Nothing in subsection (a), (b) or (n) of this section shall be construed to prohibit:

(i) A person from humanely destroying an animal;

(ii) The use of industry accepted agricultural and livestock practices on livestock;

(iii) Rodeo events, whether the event is performed in a rodeo, jackpot or otherwise; or

(iv) The hunting, capture or destruction of any predatory animal or other wildlife in any manner not otherwise prohibited by law.

(n) A person commits a felony if he commits aggravated cruelty to animals as defined in subsection (c) of this section or knowingly and with intent to cause death, injury or undue suffering, cruelly beats, tortures, torments, injures or mutilates an animal resulting in the death or required euthanasia of the animal. A felony under this subsection or subsection (c) of this section is punishable by not more than two (2) years imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(o) There is created the “cruelty to household pet animals protection account.” Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses regarding household pet animal cruelty cases under subsection (p) of this section. The attorney general shall develop rules and regulations to establish eligible expenses and to determine how county law enforcement agencies will be reimbursed for the costs of any household pet animal cruelty case, in an amount not to exceed ninety percent (90%) in any particular case. Any reimbursement under this subsection shall be contingent upon available funding and upon a showing that the agency has made reasonable efforts to seek reimbursement from the offender of expenses incurred by the agency, as permitted by law. All funds in the account may be used for and are continuously appropriated for eligible expenses authorized to be made under this subsection. The cruelty to household pet animals protection account shall be a permanent, nonreversion account within the state auditor’s office. As used in this subsection and subsection (p) of this section, “household pet” means any privately owned dog, cat, rabbit, guinea pig, hamster, mouse, gerbil, ferret, bird, fish, reptile, amphibian, invertebrate or any other species of domesticated animal sold, transferred or retained for the purpose of being kept as a pet in or near a house. “Household pet” shall not include any livestock as defined in W.S. 23–1–102(a)(xvi).

(p) A person commits household pet animal cruelty if he:

(i) Keeps any household pet in a manner that results in chronic or repeated serious physical harm to the household pet; or

(ii) Keeps the household pet confined in conditions which constitute a public health hazard.

14. REFERENCED STATUTES

WYO. STAT. ANN. § 6-3-203 (2012).Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

(i) Overrides an animal or drives an animal when overloaded; or

(ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or

(iii) Carries an animal in a manner that poses undue risk of injury or death.

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

(c) A person commits aggravated cruelty to animals if he:

(i) Repealed by Laws 1987, ch. 91, § 2.

(ii) Owns, possesses, keeps or trains fowls or dogs with the intent to allow the dog or fowl to engage in an exhibition of fighting with another dog or fowl;

(iii) Repealed by Laws 1987, ch. 91, § 2.

(iv) For gain causes or allows any dog or fowl to fight with another dog or fowl;

(v) Knowingly permits any act prohibited under paragraphs (ii) or (iv) of this subsection on any premises under his charge or control; or

(vi) Promotes any act prohibited under paragraphs (ii) or (iv) of this subsection.

(d) A person shall not destroy an animal by the use of a high-altitude decompression chamber or a carbon monoxide gas chamber utilizing a gasoline engine. This subsection is uniformly applicable to all cities and towns.

(e) Unless punishable under subsection (n) of this section, a violation of this section is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both except that a subsequent offense is a high misdemeanor punishable by not more than one (1) year imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(f) Nothing in subsection (c) of this section may be construed to prohibit:

(i) The use of dogs in the management of livestock by the owner of the livestock, his employees or agents or other persons in lawful custody of the livestock;

(ii) The use of dogs or raptors in hunting; or

(iii) The training of dogs or raptors or the use of equipment in the training of dogs or raptors for any purpose not prohibited by law;

(iv) Repealed by Laws 2000, ch. 86, § 2.

(v) Repealed by Laws 2000, ch. 86, § 2.

(vi) Repealed by Laws 2000, ch. 86, § 2.

(g) A person commits cruelty to animals if he is knowingly present at any place where an exhibition of fighting of fowls or dogs is occurring for amusement or gain.

(h) If a person convicted of a violation of this section is also the owner of the animal, the court may require the person to forfeit ownership of the animal to the county in which the person is convicted. This subsection shall not affect the interest of any secured party or other person who has not participated in the offense.

(j) In addition to any sentence and penalties imposed under subsections (e), (h) and (n) of this section, the court may:

(i) Require the defendant to pay all reasonable costs incurred in providing necessary food and water, veterinary attention and treatment for any animal affected; and

(ii) Prohibit or limit the defendant's ownership, possession or custody of animals, as the court deems appropriate.

(k) Each animal affected by the defendant's conduct may constitute a separate count for the purposes of prosecution, conviction, sentencing and penalties under this section.

(m) Nothing in subsection (a), (b) or (n) of this section shall be construed to prohibit:

(i) A person from humanely destroying an animal;

- (ii) The use of industry accepted agricultural and livestock practices on livestock;
- (iii) Rodeo events, whether the event is performed in a rodeo, jackpot or otherwise; or
- (iv) The hunting, capture or destruction of any predatory animal or other wildlife in any manner not otherwise prohibited by law.

(n) A person commits a felony if he commits aggravated cruelty to animals as defined in subsection (c) of this section or knowingly and with intent to cause death, injury or undue suffering, cruelly beats, tortures, torments, injures or mutilates an animal resulting in the death or required euthanasia of the animal. A felony under this subsection or subsection (c) of this section is punishable by not more than two (2) years imprisonment, a fine of not more than five thousand dollars (\$5,000.00), or both.

(o) There is created the “cruelty to household pet animals protection account.” Funds shall be credited to the account as provided by law. Funds in the account are continuously appropriated to the attorney general to reimburse county law enforcement agencies for eligible expenses regarding household pet animal cruelty cases under subsection (p) of this section. The attorney general shall develop rules and regulations to establish eligible expenses and to determine how county law enforcement agencies will be reimbursed for the costs of any household pet animal cruelty case, in an amount not to exceed ninety percent (90%) in any particular case. Any reimbursement under this subsection shall be contingent upon available funding and upon a showing that the agency has made reasonable efforts to seek reimbursement from the offender of expenses incurred by the agency, as permitted by law. All funds in the account may be used for and are continuously appropriated for eligible expenses authorized to be made under this subsection. The cruelty to household pet animals protection account shall be a permanent, nonreversion account within the state auditor’s office. As used in this subsection and subsection (p) of this section, “household pet” means any privately owned dog, cat, rabbit, guinea pig, hamster, mouse, gerbil, ferret, bird, fish, reptile, amphibian, invertebrate or any other species of domesticated animal sold, transferred or retained for the purpose of being kept as a pet in or near a house. “Household pet” shall not include any livestock as defined in W.S. 23–1–102(a)(xvi).

(p) A person commits household pet animal cruelty if he:

- (i) Keeps any household pet in a manner that results in chronic or repeated serious physical harm to the household pet; or
- (ii) Keeps the household pet confined in conditions which constitute a public health hazard.

WYO. STAT. ANN. § 11-29-101 (2012).Definitions.

§ 11-29-101. Definitions.

(a) As used in this act:

- (i) Repealed by Laws 2011, ch. 100, § 3.
- (ii) “Owner” or “person” means any individual including the agents and employees of corporations;
- (iii) “Torture” or “cruelty” means every act, omission or neglect whereby the willful and malicious infliction of pain or suffering is caused, permitted or allowed to continue when there is a reasonable remedy or relief;
- (iv) “Disposal” means as defined in W.S. 11-24-101(a)(iv);
- (v) “Livestock” means as defined in W.S. 23-1-102(a)(xvi);
- (vi) “Livestock animal” means:
 - (A) Any bovine, including domestic bison, equine, swine, sheep, goat, domesticated camelid animal, ratite bird, rabbit or poultry; or
 - (B) Any animal used or harvested for any good and proper purpose including but not limited to food, fiber, fur, leather, medical research and byproducts; or
 - (C) Any animal used or trained for work, sport, exhibit or entertainment.
- (vii) “This act” means W.S. 11-29-101 through 11-29-115.

WYO. STAT. ANN. § 11-29-106 (2012).Livestock board; authority to prevent cruelty; penalty for interference with officer.

Any peace officer, agent or officer of the board may lawfully interfere to prevent the perpetration of any act of cruelty upon any livestock animal in his presence. Any person who interferes with, obstructs or resists any peace officer or officer or agent of the board in the discharge of his duty shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand five hundred dollars (\$1,500.00), or imprisoned not more than one (1) year, or both.

WYO. STAT. ANN. § 11-29-108 (2012). Livestock board; seized animals and vehicles; lien on seized chattels; civil action for unpaid expenses.

When any person arrested under this act is in charge of any vehicle drawn by or containing any livestock animal cruelly treated as defined in W.S. 6-3-203 at the time of arrest, any peace officer, agent or officer of the board may take charge of the livestock animal and vehicle and its contents, and give notice thereof to the owner, if known, and shall provide for them until their owner takes possession of them. The board or local government shall have a lien on the livestock animals, the vehicle and its contents for the expense of the care and provision. The expense or any part remaining unpaid may be recovered by the board or local government in a civil action.

WYO. STAT. ANN. § 11-29-109 (2012).Livestock board; care of abandoned animals; civil action for expenses; lien.

Any peace officer, agent or officer of the board may take charge of any livestock animal found abandoned, neglected or cruelly treated as defined in W.S. 6-3-203. He shall give notice to the owner, if known, and may care and provide for the livestock animal until the livestock animal is released or destroyed. The expenses of care and provision is a charge against the owner of the livestock animal and collectible from the owner by the board or by the local government employing the peace officer taking charge of the livestock animal in a civil action. The board or local government may detain the livestock animals until the expense for food, shelter and care is paid and shall have a lien upon the livestock animals therefor. This lien shall be filed as provided pursuant to W.S. 29-7-101 through 29-7-106.

WYO. STAT. ANN. § 11-29-110 (2012).Livestock board; enforcement of liens; notice to owner.

Any person entitled to a lien under this act may enforce the lien by disposing of the livestock animals and other personal property upon which the lien is given, at public auction, upon giving written notice to the owner, if he is known, of the time and place of the disposal, at least five (5) days previous thereto, and by posting three (3) notices of the time and place of the disposal in three (3) public places within the county at least five (5) days previous thereto. If the owner is not known, the notice shall be posted at least ten (10) days previous to the disposal.

WYO. STAT. ANN. § 11-29-114 (2012). Impoundment of animals; cost of care for animals; providing for bond.

(a) Any peace officer, agent or officer of the board may take possession of any livestock animal treated cruelly as determined by a Wyoming licensed veterinarian or veterinarian employed by the board.

(b) The owner of the livestock animal impounded under subsection (a) of this section, and who has been cited under W.S. 6-3-203, shall be required to post a bond with the circuit court in the county where the livestock animal was impounded. The bond shall be:

(i) In an amount the circuit court determines is sufficient to provide for the livestock animal's board, nutritional care, veterinary care and diagnostic testing for at least ninety (90) days including the day on which the livestock animal was impounded; and

(ii) Filed with the circuit court within ten (10) days after the animal is impounded.

(c) When the bond expires, if the owner of the livestock animal desires to prevent disposition of the livestock animal by the board, the owner shall post a new bond with the court as described in subsection (b) of this section.

(d) If a bond is not posted under subsection (b) or (c) of this section, the board shall dispose of the livestock animal as defined in W.S. 11-24-101(a)(iv). The owner of the livestock animal shall be liable for all costs associated with the final disposition of the livestock animal under this subsection.

(e) If a bond has been posted in accordance with subsection (b) or (c) of this section, the agency employing the officer, or the board, may draw from the bond the actual costs as described in subsection (b) of this section, from the date of initial impoundment to the date of final disposition of the livestock animal.

WYO. STAT. ANN. § 11-29-115 (2012). Use of agricultural and livestock management practices.

(a) Nothing in this chapter prohibits:

(i) The use of Wyoming industry accepted agricultural or livestock management practices or any other commonly practiced animal husbandry procedure used on livestock animals, as defined by W.S. 11-29-101(a)(vi);

(ii) A Wyoming licensed veterinarian from treating a livestock animal as authorized by the Wyoming Veterinary Medical Practice Act;

(iii) Any rodeo event employing animal care practices generally accepted within the rodeo industry, whether the event is performed in a rodeo, jackpot or similar arena;

(iv) A person from humanely destroying a livestock animal.

ANIMAL PROTECTION LAWS OF YUKON

1. GENERAL PROHIBITIONS
2. PENALTIES
3. EXEMPTIONS
4. COUNSELING / EVALUATIONS
5. PROTECTIVE ORDERS
6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS
7. SEIZURE / ON-SITE SUPERVISION
8. FORFEITURE / POSSESSION
9. CROSS ENFORCEMENT / REPORTING
10. VETERINARIAN REPORTING / IMMUNITY
11. LAW ENFORCEMENT POLICIES
12. SEXUAL ASSAULT
13. FIGHTING
14. REFERENCED STATUTES & REGULATIONS

This chapter contains Yukon's general animal protection and related laws enacted prior to July 2012. It begins with an overview of the provisions contained in these laws, followed by the full text of the statutes and regulations themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each law is italicized. Category 14 provides a non-italicized version of each of the previously referenced laws, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

Yukon may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of other animal-related regulations in effect. Canada's federal animal protection laws also apply in Yukon. Because the law is continually evolving, always review an official source for the most current language of any statute.

ANIMAL PROTECTION LAWS OF THE USA & CANADA (7TH EDITION)
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1. GENERAL PROHIBITIONS*	Causing or permitting distress R.S.Y., c. 6, s. 3
<i>Animals Covered in Definition</i>	“[I]ncludes mammals, birds, fish, reptiles, and amphibians but excludes wildlife, other than wildlife in captivity” R.S.Y., c. 6, s. 1
<i>Classification of Crimes</i>	Summary conviction offence
2. MAXIMUM PENALTIES**	\$10,000 fine <i>and</i> 2 years imprisonment R.S.Y., c. 6, s. 12(1)
3. EXEMPTIONS***	3 R.S.Y., c. 6, s. 1 4, 5 R.S.Y., c. 6, s. 3
4. COUNSELING / EVALUATIONS^H	-----
5. PROTECTIVE ORDERS^H	-----

YUKON*continued*

**6. RESTITUTION / REIMBURSEMENT
OF COSTS / BONDING & LIENS^H**

An official animal keeper has a lien on any impounded animal for transportation, food, care, shelter and medical treatment expenses, and may require the owner to pay those expenses before releasing the animal
R.S.Y., c. 6, s.6

Owner is responsible for costs of euthanasia
R.S.Y., c. 6, s.6

Expenses properly incurred may be recovered by the official animal keeper in an action in debt against the owner of the animal or person who, with the consent, express or implied, of the owner of the animal, was in charge of the animal at the time the animal was taken into custody
R.S.Y., c. 6, s.6

Any money paid to the official animal keeper with respect to an impounded animal that is sold or given to a person, shall first go towards expenses incurred for the cost of the animal's care
R.S.Y., c. 6, s.7(6)

A humane society may charge the owner of a seized animal the costs for transportation, food, shelter, medical treatment and other care of the animal
Y.C.O. 1978/162, s. 6

YUKON <i>continued</i>	
<p>7. SEIZURE / ON-SITE SUPERVISION</p>	<p>An animal protection officer may take steps to relieve a distressed animal, including attempting to find the owner, taking the animal into custody, arranging for any necessary care, food, water or transportation for the animal, and may deliver the animal into the custody of an official animal keeper. R.S.Y., c. 6, s. 2</p> <p>An animal protection officer may take custody of an abandoned animal R.S.Y., c. 6, s. 2.1</p> <p>An animal protection officer may, instead of seizing an animal in distress, order the owner of an animal to take necessary steps to relieve animal of its distress R.S.Y., c. 6, s. 2.2</p> <p>An animal protection officer may, without a warrant, enter any premises or vehicle, other than a dwelling house, to aid an animal in distress, if every reasonable effort to obtain a warrant has failed R.S.Y., c. 6, s. 4(1)</p> <p>A court may issue a warrant for an animal protection officer to enter any premises, using reasonable force if necessary, when there are reasonable and probable grounds for believing there is an animal in distress R.S.Y., c. 6, s. 4.1</p> <p>A member of the RCMP may exercise the powers of entry, search and seizure without a warrant if the conditions for obtaining a warrant exist, but due to exigent circumstances it would not be feasible to obtain one R.S.Y., c. 6, s. 4.2</p>

YUKON <i>continued</i>	
7. SEIZURE / ON-SITE SUPERVISION <i>continued</i>	<p>An animal protection officer who is lawfully on any premises, may without a warrant, seize any thing they believe, on reasonable grounds, was involved or obtained through an offence of this Act R.S.Y., c. 6, s. 4.3</p> <p>An animal protection officer may, if authorized, inspect without a warrant, premises, other than a dwelling house, that exhibit or sell animals R.S.Y., c. 6, s. 10</p>
8. FORFEITURE / POSSESSION^H	<p>Under certain circumstances when an animal may not be relieved of distress, the animal protection officer or official animal keeper having the custody may cause the animal to be euthanized R.S.Y., c. 6, s. 5</p> <p>If the owner of a seized animal is known, the official animal keeper may sell, give away or euthanize the animal 14 days after giving required notice; if the owner objects within 14 days, the keeper shall consider the objection before disposing of the animal R.S.Y., c. 6, s.7</p> <p>If the the owner of a seized animal is unknown, the animal is forfeited to the keeper after 5 days R.S.Y., c. 6, s.7(3)</p> <p>Upon conviction for an animal in distress offence, the court may, as a part of sentencing, order that the offender be prohibited from owning an animal or from having charge of an animal for any time the</p>

	<p>court considers advisable R.S.Y., c. 6, s. 12(2)</p>
<p>YUKON<i>continued</i></p>	
<p>9. CROSS ENFORCEMENT / REPORTING</p>	<p>An action does not lie against a person acting in good faith for anything done or purporting to be done under this <i>Act</i> or the regulations. R.S.Y., c. 6, s. 13</p>
<p>10. VETERINARIAN REPORTING/ IMMUNITY</p>	<p>An action does not lie against a person acting in good faith for anything done or purporting to be done under this <i>Act</i> or the regulations. R.S.Y., c. 6, s. 13</p>
<p>11. LAW ENFORCEMENT POLICIES</p>	<p>An animal protection officer may use as much force as is necessary to execute a warrant or to exercise any authority given by section 4. R.S.Y., c. 6, s. 4.1(8)</p> <p>The Minister may, by order, appoint a person or class of persons as animal protection officers to enforce the provisions of this Act R.S.Y., c. 6, s. 10.4</p> <p>An action does not lie against a person acting in good faith for anything done or purporting to be done under this <i>Act</i> or the regulations. R.S.Y., c. 6, s. 13</p> <p>Peace officers may be granted special humane agent powers Y.C.O. 1978/162, s. 7</p>
<p>12. SEXUAL ASSAULT</p>	<p>-----</p>
<p>13. FIGHTING</p>	<p>-----</p>

YUKON <i>continued</i>	
NOTES	Unsafe transportation of animals is prohibited R.S.Y., c. 6, s. 10.2

* Jurisdictions may have other more specific statutes in addition to the general animal protection statutes referenced in this table.

** Despite statutory maximums, jurisdictions may employ sentencing guidelines that may significantly alter the allowable sentence.

*** Exemptions: 1-veterinary practice, 2-research animals, 3-wildlife, 4-traditional farm animal husbandry practices, 5-slaughter, 6-pest control, 7-rodeo, 8-zoos/circuses, 9-other.

H This table generally references only those provisions that are within each jurisdiction's animal protection statutes. Jurisdictions may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

1. GENERAL PROHIBITIONS

Animal Protection Act, R.S.Y. 2002, c. 6, ss. 1, 3(2012)

Interpretation

1

In this Act,

“abandoned animal” includes an animal that

(a) is left for more than 24 hours without adequate food, water or shelter;

(b) is left for five days or more after the animal is to be retrieved from a veterinarian or from a person who, for consideration, stables, boards or cares for the animal; or

(c) is found on premises for which the tenancy agreement has been terminated.

“animal” includes mammals, birds, fish, reptiles, and amphibians but excludes wildlife, other than wildlife in captivity.

“animal protection officer” means

(a) a person appointed by the Minister to enforce the provisions of this Act; or

(b) a member of the Royal Canadian Mounted Police.

“distress” means the state of

(a) being in need of proper care, food, shelter or water,

(b) being injured, sick or in pain or suffering, or

(c) being abused or subject to undue or unnecessary hardship, privation or neglect,

(d) suffering from a lack of veterinary treatment;

“humane society” means an organization that is approved as a humane society under section 9;

“official animal keeper” means a person designated as an official animal keeper by the Minister for the purposes of this Act;

“owner” includes a person who possesses or harbours an animal and if the owner is a minor or someone in the care of a guardian, the person responsible for the custody of the minor or of the individual under the person's care;

“peace officer” [Repealed 2008, c. 13, s. 5.]

“veterinarian” means a person who is entitled to practise veterinary medicine in a province or in the State of Alaska;

“wildlife” means any vertebrate animal of any species that is wild by nature.

Prohibition against causing or permitting distress

3(1)

No person shall cause an animal to be or to continue to be in distress.

3(2)

No person who is the owner or the person in charge of an animal shall permit the animal to be or continue to be in distress.

3(3)

Subsections (1) and (2) do not apply if the distress results from an activity carried on in accordance with reasonable and generally accepted practices of animal management, husbandry or slaughter provided that these practices are carried out in a humane manner.

2. PENALTIES

Animal Protection Act, R.S.Y. 2002, c. 6, s. 12(2012)

Offence and penalty

12(1)

A person who contravenes this Act or the regulations by doing an act that is forbidden or by omitting to do an act that is required to be done commits an offence, and is liable on summary conviction to a fine of up to \$10,000 or imprisonment of up to 24 months, or to both.

12(1.1)

If an offence under this Act is committed or continued on more than one day, the person who committed the offence is liable on summary conviction to be convicted for a separate offence for each day on which the offence is committed or continued.

12(2)

A judge of the Territorial Court or a justice may, when sentencing a person convicted of an offence under this Act, order that the person be prohibited from owning an animal or from having charge of an animal for any time the judge or justice considers advisable.

12(3)

A judge of the Territorial Court or a justice may, in a proceeding for an offence against this Act, make an order of custody of an animal in respect of which the charge has been laid.

3. EXEMPTIONS

Animal Protection Act, R.S.Y. 2002, c. 6, ss. 1, 3(2012)

Interpretation

1

In this Act,

“abandoned animal” includes an animal that

- (a) is left for more than 24 hours without adequate food, water or shelter;
- (b) is left for five days or more after the animal is to be retrieved from a veterinarian or from a person who, for consideration, stables, boards or cares for the animal; or
- (c) is found on premises for which the tenancy agreement has been terminated.

“*animal*” includes mammals, birds, fish, reptiles, and amphibians but *excludes wildlife, other than wildlife in captivity.*

“animal protection officer” means

- (a) a person appointed by the Minister to enforce the provisions of this *Act*; or
- (b) a member of the Royal Canadian Mounted Police.

“distress” means the state of

- (a) being in need of proper care, food, shelter or water,
- (b) being injured, sick or in pain or suffering, or
- (c) being abused or subject to undue or unnecessary hardship, privation or neglect,
- (d) suffering from a lack of veterinary treatment;

“humane society” means an organization that is approved as a humane society under section 9;

“official animal keeper” means a person designated as an official animal keeper by the Minister for the purposes of this *Act*;

“owner” includes a person who possesses or harbours an animal and if the owner is a minor or someone in the care of a guardian, the person responsible for the custody of the minor or of the individual under the person's care;

“peace officer” [Repealed 2008, c. 13, s. 5.]

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Subsections (1) and (2) do not apply if the distress results from an activity carried on in accordance with reasonable and generally accepted practices of animal management, husbandry or slaughter provided that these practices are carried out in a humane manner.

4. COUNSELING / EVALUATIONS

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

Animal Protection Act, R.S.Y. 2002, c. 6, s. 6(2012)

Recovery of expenses by official animal keeper

6(1)

An official animal keeper has a lien on any animal delivered or taken into its custody under this Act for any expenses properly incurred with respect to the animal for transportation, food, care, shelter and medical treatment and may require the owner to pay those expenses before delivering the animal to the owner.

6(1.1)

If an animal is euthanized in accordance with this Act, the owner of the animal is responsible for the expenses properly incurred by the official animal keeper in euthanizing the animal and disposing of the remains.

6(2)

Expenses properly incurred may be recovered by the official animal keeper in an action in debt against the owner of the animal or person who, with the consent, express or implied, of the owner of the animal, was in charge of the animal at the time the animal was taken into custody pursuant to section 2.

6(3)

A lien held by the official animal keeper ranks ahead of any other security interest in the animal referred to in subsection (1).

6(4)

The Personal Property Security Act does not apply to the animal referred to in subsection (1).

Animals in custody of official animal keeper

7(1)

If an animal is in the custody of an official animal keeper pursuant to this Act and the owner of the animal is known, the keeper may sell or give the animal to a person or euthanize the animal, 14 days after the keeper has given notice to the owner in accordance with this section.

7(2)

If an animal in the custody of an official animal keeper pursuant to this Act bears an obvious identification tattoo, brand, mark, tag, licence or a readable microchip, the keeper may sell or give the animal to a person or euthanize the animal after the keeper has held the animal in custody for at least 14 days.

7(3)

If an animal is in the custody of an official animal keeper pursuant to this Act and the owner of the animal is unknown, the keeper may sell or give the animal to a person or euthanize the animal, after the keeper has held the animal in custody for a period of at least five days.

7(4)

The notice referred to in subsection (1) shall be in writing and

- (a) mailed to or served personally on the owner; or
- (b) if it cannot be mailed to or served personally on the owner,
 - (i) published at least three times in a newspaper circulating in the area in which the animal was taken into custody, or
 - (ii) posted in a conspicuous place at either the owner's last known address or the location at which the animal was taken into custody.

7(5)

If, within the 14 day period referred to in subsection (1), the owner of the animal provides an objection in writing to the official animal keeper regarding the proposed disposition of the animal, the keeper shall consider the objection before disposing of the animal.

7(6)

Any money paid to the official animal keeper with respect to an animal that is sold or given to a person under this section shall be disbursed as follows

- (a) the keeper shall retain an amount equal to the expenses properly incurred by the keeper with respect to the animal; and*
- (b) the person who owned the animal at the time it was taken into the custody of the official animal keeper may, within 6 months of the date the animal was taken into custody, claim the balance of the proceeds from the keeper.

7(7)

If the person who owned the animal at the time it was taken into the custody of the official animal keeper does not apply for the proceeds in accordance with paragraph (6)(b), the balance of the proceeds referred to in paragraph (6)(b) shall be retained by the official animal keeper and forfeited to the Government of Yukon.

7(8)

If an animal has been sold or given to a person under this section, all rights and interests in the animal

- (a) vest in the person to whom it has been sold or given; and
- (b) the former owner ceases to have any of those rights or interests.

Animal Protection Regulations, Y.C.O. 1978/162, s. 6 (2012)

6

(1) A humane society may, in respect of a horse, cow, sheep, pig or other large animal taken into custody under the Act, charge the owner thereof any actual expenses incurred by the society for the transportation, food, shelter, medical treatment and other care of the animal.

(2) A humane society may charge the owner of any other animal taken into custody under the Act

(a) for the reasonably necessary transportation of the animal

(i) if by hired vehicle, the actual cost thereof to the society, or

(ii) if by vehicle of the society, at the rate of 12 cents per kilometre or, where the transportation is entirely within a city, town, or village, the sum of \$5.00 regardless of the distance travelled therein,

(b) for the food, care and shelter of the animal

(i) if provided in a shelter operated by the society, at the rate of \$5.00 per day, or

(ii) if provided elsewhere, the actual cost thereof to the society, and

(c) for medical treatment of the animal

(i) if provided by an employee of the society, the actual cost thereof to the society if that cost exceeds \$1.00, or

(ii) if otherwise provided, the actual cost thereof to the society.

7. SEIZURE / ON-SITE SUPERVISION

Animal Protection Act, R.S.Y. 2002, c. 6, ss. 2, 4, 10 (2012)

Powers of Animal Protection Officer

2(1)

If an animal is found in distress in a public place or, subject to sections 4 to 4.3, in any other place, and

(a) the owner or person in charge of the animal does not immediately take appropriate steps to relieve its distress; or

(b) the owner or person in charge of the animal is not present and cannot be found promptly, an animal control officer may, subject to this Act, take the action the officer considers necessary or desirable to relieve its distress, and for that purpose may

(c) take custody of the animal;

(d) arrange for any necessary transportation, food, care, shelter and medical treatment of the animal; and

(e) deliver the animal into the custody of an official animal keeper.

2(2)

Before acting under subsection (1) an animal protection officer shall take reasonable steps to find the owner or person in charge of the animal and, if found, shall endeavour to obtain their cooperation to relieve the animal's distress.

2(3)

If the owner of the animal is not present or promptly found and informed of the animal's distress by an animal protection officer pursuant to subsection (2), the official animal keeper into whose custody the animal is delivered shall take reasonable steps to find the owner and, if found, to inform the owner of the action taken.

Abandoned animals

2.1(1)

An animal protection officer may take custody of an abandoned animal whether or not it is in distress.

2.1(2)

An animal protection officer who takes custody of an abandoned animal shall deliver the animal to an official animal keeper.

Order by animal protection officer

2.2(1)

If an animal protection officer has reasonable grounds to believe that an animal is in distress and the owner of the animal is present or may be found promptly, the animal protection officer may order the owner to

(a) take such action as may, in the opinion of the animal protection officer, be necessary to relieve the animal of its distress; or

(b) have the animal examined and, if necessary in the opinion of the animal protection officer, treated by a veterinarian at the expense of the owner.

2.2(2)

Every order under subsection (1) shall

(a) be in writing;

*(b) specify the time within which any action required by the order shall be performed;
and*

(c) be served upon the owner personally.

2.2(3)

Every person who is served with an order shall comply with the order.

Entry of premises

4(1)

If an animal protection officer has reasonable grounds to believe that an animal is in distress,

(a) in or on any premises, other than a dwelling place; or

(b) in any vehicle, aircraft or vessel

and if every reasonable effort has been made to first obtain a warrant but the animal protection officer has been unable to do so, for any reason other than the refusal of a justice to issue the warrant, the animal protection officer may, without a warrant, enter

(c) in or on the premises, other than a dwelling place, or

(d) in any vehicle, aircraft or vessel

and search for the animal, and may exercise the officer's powers under section 2 and section 2.2 with respect to any animal in distress found therein.

4(2)

[Repealed 2008, c. 13, s. 16]

4(3)

[Repealed 2008, c. 13, s. 16]

4(4)

[Repealed 2008, c. 13, s. 16]

Application for a warrant

4.1(1)

If an animal protection officer believes, on reasonable grounds

(a) that there is an animal in distress in any premises, vehicle, aircraft or vessel; or

(b) that an offence under this Act has been committed and that there is in any premises, vehicle, aircraft or vessel, any thing that will afford evidence of that offence

the officer may apply to a justice for a warrant to enter the premises, vehicle, aircraft or vessel for the purposes of

(c) determining whether any action authorized by this Act should be taken to relieve the animal's distress; or

(d) searching for, and seizing, any thing that will afford evidence of an offence under this Act.

4.1(2)

If the justice is satisfied that the animal protection officer has reasonable grounds under paragraph (1)(a), the justice may issue a warrant

(a) authorizing the officer to enter the premises, vehicle, aircraft or vessel specified in the warrant for the purpose of taking any action authorized by this Act to relieve the animal's distress; and

(b) requiring a person in the premises, vehicle, aircraft or vessel to produce any animal there located to the officer for examination.

4.1(3)

If the justice is satisfied that the animal protection officer has reasonable grounds under paragraph (1)(b), the justice may issue a warrant authorizing the officer to enter the premises, vehicle, aircraft or vessel specified in the warrant for the purpose of searching for, and seizing, a thing that will afford evidence of an offence under this Act.

4.1(4)

If an animal protection officer believes that it would be impracticable to appear personally before a justice to apply for a warrant, the warrant may be issued on an information submitted by telephone or other means of telecommunication in the manner provided for under section 487.1 of the Criminal Code (Canada) with such modifications as the circumstances require.

4.1(5)

The application for the warrant may be made without notice to any person.

4.1(6)

A justice may issue a warrant for either or both of the purposes referred to in subsections (2) and (3).

4.1(7)

A warrant is subject to the conditions specified in the warrant.

4.1(8)

An animal protection officer may use as much force as is necessary to execute a warrant or to exercise any authority given by section 4.

Entry without warrant by R.C.M.P.

4.2

A member of the Royal Canadian Mounted Police may exercise the powers of entry, search and seizure pursuant to section 4.1 without a warrant if the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be feasible to obtain a warrant.

Seizures without warrant

4.3(1)

An animal protection officer who is lawfully in any premises, vehicle, aircraft or vessel may, without a warrant, seize any thing that they believe on reasonable grounds

(a) has been obtained by the commission of an offence under this Act;

(b) has been used in the commission of an offence under this Act;

(c) will afford evidence of the commission of an offence under this Act;

(d) has been the subject of the commission of an offence under this Act; or

(e) is intermixed with a thing referred to in paragraphs (a), (b), (c) or (d).

4.3(2)

If an animal protection officer is in any premises, vehicle, aircraft or vessel pursuant to a warrant, subsection (1) applies to any thing, whether or not it is specified in the warrant.

Report to a justice

4.4(1)

When an animal protection officer seizes a thing in the execution of a warrant issued under this Act the officer shall, as soon as practicable, report to a justice that the thing has been seized.

4.4(2)

When an animal protection officer in the execution of duties under this Act seizes a thing without a warrant, the officer shall, as soon as practicable, report to a justice that the thing has been seized.

Requirement to assist

4.5(1)

The owner or person in charge of any premises, vehicle, aircraft or vessel entered by an animal protection officer under sections 4 or 4.1 or a member of the Royal Canadian Mounted Police under section 4.2, and any person found therein, shall

(a) give the officer or member reasonable assistance to enable them to carry out any authorized action under this Act; and

(b) furnish the officer or member with any information they may reasonably require to carry out any authorized action under this Act.

Liability for seized things

No liability attaches to the Government of Yukon, to the Minister, to an animal protection officer, to an official animal keeper, or to the Royal Canadian Mountain Police for loss or damage arising from the seizure, disposal or return in accordance with this Act of anything that has been seized, or from the deterioration of anything while it is being held under a seizure, other than loss or damage resulting from negligence or willful neglect in its care, custody or return.

Inspection of animal exhibitions, sales

10

If authorized by or under the regulations, and subject thereto, an animal protection officer,

(a) without a warrant and in ordinary business hours; and

(b) for the purpose of enforcing this Act and the regulations,

may enter and inspect any premises other than a dwelling place where animals are kept for sale, hire or exhibition.

8. FORFEITURE / POSSESSION

Animal Protection Act, R.S.Y. 2002, c. 6, ss.5, 7, 8, 12(2012)

Relieving of distress of animals

5(1)

Despite anything in this Act to the contrary, if an animal taken into custody pursuant to section 2 or section 2.1 is in such distress that,

(a) in the opinion of a veterinarian;

(b) if a veterinarian is not readily available, in the unanimous opinion of an animal protection officer and two reputable citizens; or

(c) in a critical situation when a veterinarian or two reputable citizens are not readily available, in the opinion of an animal protection officer,

the animal cannot be relieved of its distress so as to live thereafter without undue suffering, the animal protection officer or official animal keeper having the custody may cause the animal to be euthanized.

5(2)

If an animal is to be euthanized pursuant to this section but the animal's suffering will not be unduly prolonged thereby, the animal protection officer or the official animal keeper having custody of the animal shall take reasonable steps to find the owner of the animal and endeavour to obtain the owner's consent to its euthanization.

Animals in custody of official animal keeper

7(1)

If an animal is in the custody of an official animal keeper pursuant to this Act and the owner of the animal is known, the keeper may sell or give the animal to a person or euthanize the animal, 14 days after the keeper has given notice to the owner in accordance with this section.

7(2)

If an animal in the custody of an official animal keeper pursuant to this Act bears an obvious identification tattoo, brand, mark, tag, licence or a readable microchip, the keeper may sell or give the animal to a person or euthanize the animal after the keeper has held the animal in custody for at least 14 days.

7(3)

If an animal is in the custody of an official animal keeper pursuant to this Act and the owner of the animal is unknown, the keeper may sell or give the animal to a person or euthanize the animal, after the keeper has held the animal in custody for a period of at least five days.

7(4)

The notice referred to in subsection (1) shall be in writing and

(a) mailed to or served personally on the owner; or

(b) if it cannot be mailed to or served personally on the owner,

(i) published at least three times in a newspaper circulating in the area in which the animal was taken into custody, or

(ii) posted in a conspicuous place at either the owner's last known address or the location at which the animal was taken into custody.

7(5)

If, within the 14 day period referred to in subsection (1), the owner of the animal provides an objection in writing to the official animal keeper regarding the proposed disposition of the animal, the keeper shall consider the objection before disposing of the animal.

7(6)

Any money paid to the official animal keeper with respect to an animal that is sold or given to a person under this section shall be disbursed as follows

(a) the keeper shall retain an amount equal to the expenses properly incurred by the keeper with respect to the animal; and

(b) the person who owned the animal at the time it was taken into the custody of the official animal keeper may, within 6 months of the date the animal was taken into custody, claim the balance of the proceeds from the keeper.

7(7)

If the person who owned the animal at the time it was taken into the custody of the official animal keeper does not apply for the proceeds in accordance with paragraph (6)(b), the balance of the proceeds referred to in paragraph (6)(b) shall be retained by the official animal keeper and forfeited to the Government of Yukon.

7(8)

If an animal has been sold or given to a person under this section, all rights and interests in the animal

(a) vest in the person to whom it has been sold or given; and

(b) the former owner ceases to have any of those rights or interests.

Offence and penalty

12(1)

A person who contravenes this *Act* or the regulations by doing an act that is forbidden or by omitting to do an act that is required to be done commits an offence, and is liable on summary conviction to a fine of up to \$10,000 or imprisonment of up to 24 months, or to both.

12(1.1)

If an offence under this *Act* is committed or continued on more than one day, the person who committed the offence is liable on summary conviction to be convicted for a separate offence for each day on which the offence is committed or continued.

12(2)

A judge of the Territorial Court or a justice may, when sentencing a person convicted of an offence under this Act, order that the person be prohibited from owning an animal or from having charge of an animal for any time the judge or justice considers advisable.

12(3)

A judge of the Territorial Court or a justice may, in a proceeding for an offence against this Act, make an order of custody of an animal in respect of which the charge has been laid.

9. CROSS ENFORCEMENT / REPORTING

Immunity

13

An action does not lie against a person acting in good faith for anything done or purporting to be done under this Act or the regulations.

10. VETERINARIAN REPORTING / IMMUNITY

Animal Protection Act, R.S.Y. 2002, c. 6, s. 13(2012)

Immunity

13

An action does not lie against a person acting in good faith for anything done or purporting to be done under this Act or the regulations.

11. LAW ENFORCEMENT POLICIES

Animal Protection Act, R.S.Y. 2002, c. 6, ss.4.1, 13(2012)

Application for a warrant

4.1(1)

If an animal protection officer believes, on reasonable grounds

- (a) that there is an animal in distress in any premises, vehicle, aircraft or vessel; or
- (b) that an offence under this Act has been committed and that there is in any premises, vehicle, aircraft or vessel, any thing that will afford evidence of that offence

the officer may apply to a justice for a warrant to enter the premises, vehicle, aircraft or vessel for the purposes of

- (c) determining whether any action authorized by this Act should be taken to relieve the animal's distress; or
- (d) searching for, and seizing, any thing that will afford evidence of an offence under this Act.

4.1(2)

If the justice is satisfied that the animal protection officer has reasonable grounds under paragraph (1)(a), the justice may issue a warrant

- (a) authorizing the officer to enter the premises, vehicle, aircraft or vessel specified in the warrant for the purpose of taking any action authorized by this Act to relieve the animal's distress; and
- (b) requiring a person in the premises, vehicle, aircraft or vessel to produce any animal there located to the officer for examination.

4.1(3)

If the justice is satisfied that the animal protection officer has reasonable grounds under paragraph (1)(b), the justice may issue a warrant authorizing the officer to enter the premises, vehicle, aircraft or vessel specified in the warrant for the purpose of searching for, and seizing, a thing that will afford evidence of an offence under this Act.

4.1(4)

If an animal protection officer believes that it would be impracticable to appear personally before a justice to apply for a warrant, the warrant may be issued on an information submitted by telephone or other means of telecommunication in the manner provided for under section 487.1 of the *Criminal Code* (Canada) with such modifications as the circumstances require.

4.1(5)

The application for the warrant may be made without notice to any person.

4.1(6)

A justice may issue a warrant for either or both of the purposes referred to in subsections (2) and (3).

4.1(7)

A warrant is subject to the conditions specified in the warrant.

4.1(8)

An animal protection officer may use as much force as is necessary to execute a warrant or to exercise any authority given by section 4.

Appointment or designation by Minister

10.4(1)

The Minister may, by order, appoint a person or class of persons as animal protection officers to enforce the provisions of this Act.

10.4(2)

The Minister may designate in writing any person as an official animal keeper for the purposes of this Act.

Immunity of officers and official animal keepers from prosecution

13

No action lies against a peace officer or an official animal keeper or any officer or employee of an official animal keeper for any thing done in good faith and purporting to be done under this Act or the regulations thereunder.

Animal Protection Regulations, Y.C.O. 1978/162, s. 7 (2012)

7

(1) The Commissioner or his designate may grant special authority to a peace officer who may exercise the powers given by section 10 of the Act.

(2) A peace officer acting under subsection (1) shall, when reasonably possible, inform any person in actual or apparent control of the premises or building in question that he is acting under authority of the Act and these regulations.

12. SEXUAL ASSAULT

13. FIGHTING

14. REFERENCED STATUTES & REGULATIONS

Animal Protection Act, R.S.Y. 2002, c. 6, ss. 1-14 (2012)

Interpretation

1

In this Act,

“abandoned animal” includes an animal that

- (a) is left for more than 24 hours without adequate food, water or shelter;
- (b) is left for five days or more after the animal is to be retrieved from a veterinarian or from a person who, for consideration, stables, boards or cares for the animal; or
- (c) is found on premises for which the tenancy agreement has been terminated.

“animal” includes mammals, birds, fish, reptiles, and amphibians but excludes wildlife, other than wildlife in captivity.

“animal protection officer” means

- (a) a person appointed by the Minister to enforce the provisions of this *Act*; or
- (b) a member of the Royal Canadian Mounted Police.

“distress” means the state of

- (a) being in need of proper care, food, shelter or water,
- (b) being injured, sick or in pain or suffering, or
- (c) being abused or subject to undue or unnecessary hardship, privation or neglect,
- (d) suffering from a lack of veterinary treatment;

“humane society” means an organization that is approved as a humane society under section 9;

“official animal keeper” means a person designated as an official animal keeper by the Minister for the purposes of this *Act*;

“owner” includes a person who possesses or harbours an animal and if the owner is a minor or someone in the care of a guardian, the person responsible for the custody of the minor or of the individual under the person's care;

“peace officer” [Repealed 2008, c. 13, s. 5.]

“veterinarian” means a person who is entitled to practise veterinary medicine in a province or in the State of Alaska;

“wildlife” means any vertebrate animal of any species that is wild by nature.

Powers of Animal Protection Officer

2(1)

If an animal is found in distress in a public place or, subject to sections 4 to 4.3, in any other place, and

(a) the owner or person in charge of the animal does not immediately take appropriate steps to relieve its distress; or

(b) the owner or person in charge of the animal is not present and cannot be found promptly, an animal control officer may, subject to this Act, take the action the officer considers necessary or desirable to relieve its distress, and for that purpose may

(c) take custody of the animal;

(d) arrange for any necessary transportation, food, care, shelter and medical treatment of the animal; and

(e) deliver the animal into the custody of an official animal keeper.

2(2)

Before acting under subsection (1) an animal protection officer shall take reasonable steps to find the owner or person in charge of the animal and, if found, shall endeavour to obtain their cooperation to relieve the animal's distress.

2(3)

If the owner of the animal is not present or promptly found and informed of the animal's distress by an animal protection officer pursuant to subsection (2), the official animal keeper into whose custody the animal is delivered shall take reasonable steps to find the owner and, if found, to inform the owner of the action taken.

Abandoned animals

2.1(1)

An animal protection officer may take custody of an abandoned animal whether or not it is in distress.

2.1(2)

An animal protection officer who takes custody of an abandoned animal shall deliver the animal to an official animal keeper.

Order by animal protection officer

2.2(1)

If an animal protection officer has reasonable grounds to believe that an animal is in distress and the owner of the animal is present or may be found promptly, the animal protection officer may order the owner to

- (a) take such action as may, in the opinion of the animal protection officer, be necessary to relieve the animal of its distress; or
- (b) have the animal examined and, if necessary in the opinion of the animal protection officer, treated by a veterinarian at the expense of the owner.

2.2(2)

Every order under subsection (1) shall

- (a) be in writing;
- (b) specify the time within which any action required by the order shall be performed; and
- (c) be served upon the owner personally.

2.2(3)

Every person who is served with an order shall comply with the order.

Frivolous or vexatious complaints

2.3(1)

No person shall make a frivolous or vexatious complaint to an animal protection officer regarding an animal in distress.

2.3(2)

An animal protection officer may refuse to investigate a complaint if the officer is satisfied that

- (a) the complaint is frivolous or vexatious; or
- (b) there is insufficient evidence to warrant further action.

2.3(3)

If expenses are incurred by the Government of Yukon or the Royal Canadian Mounted Police in connection with an investigation by an animal protection officer of a complaint which is later determined by a court of competent jurisdiction to be a frivolous or vexatious complaint, such expenses are a debt due to the Government of Yukon or the Royal Canadian Mounted Police, as the case may be, by the person who made the complaint and may be recovered by the Government of Yukon or the Royal Canadian Mounted Police in an action in debt against the person.

Prohibition against causing or permitting distress

3(1)

No person shall cause an animal to be or to continue to be in distress.

3(2)

No person who is the owner or the person in charge of an animal shall permit the animal to be or continue to be in distress.

3(3)

Subsections (1) and (2) do not apply if the distress results from an activity carried on in accordance with reasonable and generally accepted practices of animal management, husbandry or slaughter provided that these practices are carried out in a humane manner.

Entry of premises

4(1)

If an animal protection officer has reasonable grounds to believe that an animal is in distress,

(a) in or on any premises, other than a dwelling place; or

(b) in any vehicle, aircraft or vessel

and if every reasonable effort has been made to first obtain a warrant but the animal protection officer has been unable to do so, for any reason other than the refusal of a justice to issue the warrant, the animal protection officer may, without a warrant, enter

(c) in or on the premises, other than a dwelling place, or

(d) in any vehicle, aircraft or vessel

and search for the animal, and may exercise the officer's powers under section 2 and section 2.2 with respect to any animal in distress found therein.

4(2)

[Repealed 2008, c. 13, s. 16]

4(3)

[Repealed 2008, c. 13, s. 16]

4(4)

[Repealed 2008, c. 13, s. 16]

Application for a warrant

4.1(1)

If an animal protection officer believes, on reasonable grounds

(a) that there is an animal in distress in any premises, vehicle, aircraft or vessel; or

(b) that an offence under this Act has been committed and that there is in any premises, vehicle, aircraft or vessel, any thing that will afford evidence of that offence

the officer may apply to a justice for a warrant to enter the premises, vehicle, aircraft or vessel for the purposes of

(c) determining whether any action authorized by this Act should be taken to relieve the animal's distress; or

(d) searching for, and seizing, any thing that will afford evidence of an offence under this Act.

4.1(2)

If the justice is satisfied that the animal protection officer has reasonable grounds under paragraph (1)(a), the justice may issue a warrant

(a) authorizing the officer to enter the premises, vehicle, aircraft or vessel specified in the warrant for the purpose of taking any action authorized by this Act to relieve the animal's distress; and

(b) requiring a person in the premises, vehicle, aircraft or vessel to produce any animal there located to the officer for examination.

4.1(3)

If the justice is satisfied that the animal protection officer has reasonable grounds under paragraph (1)(b), the justice may issue a warrant authorizing the officer to enter the premises, vehicle, aircraft or vessel specified in the warrant for the purpose of searching for, and seizing, a thing that will afford evidence of an offence under this Act.

4.1(4)

If an animal protection officer believes that it would be impracticable to appear personally before a justice to apply for a warrant, the warrant may be issued on an information submitted by telephone or other means of telecommunication in the manner provided for under section 487.1 of the *Criminal Code* (Canada) with such modifications as the circumstances require.

4.1(5)

The application for the warrant may be made without notice to any person.

4.1(6)

A justice may issue a warrant for either or both of the purposes referred to in subsections (2) and (3).

4.1(7)

A warrant is subject to the conditions specified in the warrant.

4.1(8)

An animal protection officer may use as much force as is necessary to execute a warrant or to exercise any authority given by section 4.

Entry without warrant by R.C.M.P.

4.2

A member of the Royal Canadian Mounted Police may exercise the powers of entry, search and seizure pursuant to section 4.1 without a warrant if the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be feasible to obtain a warrant.

Seizures without warrant

4.3(1)

An animal protection officer who is lawfully in any premises, vehicle, aircraft or vessel may, without a warrant, seize any thing that they believe on reasonable grounds

- (a) has been obtained by the commission of an offence under this *Act*;
- (b) has been used in the commission of an offence under this *Act*;
- (c) will afford evidence of the commission of an offence under this *Act*;
- (d) has been the subject of the commission of an offence under this *Act*; or
- (e) is intermixed with a thing referred to in paragraphs (a), (b), (c) or (d).

4.3(2)

If an animal protection officer is in any premises, vehicle, aircraft or vessel pursuant to a warrant, subsection (1) applies to any thing, whether or not it is specified in the warrant.

Report to a justice

4.4(1)

When an animal protection officer seizes a thing in the execution of a warrant issued under this *Act* the officer shall, as soon as practicable, report to a justice that the thing has been seized.

4.4(2)

When an animal protection officer in the execution of duties under this *Act* seizes a thing without a warrant, the officer shall, as soon as practicable, report to a justice that the thing has been seized.

Requirement to assist

4.5(1)

The owner or person in charge of any premises, vehicle, aircraft or vessel entered by an animal protection officer under sections 4 or 4.1 or a member of the Royal Canadian Mounted Police under section 4.2, and any person found therein, shall

- (a) give the officer or member reasonable assistance to enable them to carry out any authorized action under this *Act*; and
- (b) furnish the officer or member with any information they may reasonably require to carry out any authorized action under this *Act*.

Liability for seized things

4.6

No liability attaches to the Government of Yukon, to the Minister, to an animal protection officer, to an official animal keeper, or to the Royal Canadian Mountain Police for loss or damage arising from the seizure, disposal or return in accordance with this Act of anything that has been seized, or from the deterioration of anything while it is being held under a seizure, other than loss or damage resulting from negligence or willful neglect in its care, custody or return.

Relieving of distress of animals

5(1)

Despite anything in this Act to the contrary, if an animal taken into custody pursuant to section 2 or section 2.1 is in such distress that,

- (a) in the opinion of a veterinarian;
- (b) if a veterinarian is not readily available, in the unanimous opinion of an animal protection officer and two reputable citizens; or
- (c) in a critical situation when a veterinarian or two reputable citizens are not readily available, in the opinion of an animal protection officer,

the animal cannot be relieved of its distress so as to live thereafter without undue suffering, the animal protection officer or official animal keeper having the custody may cause the animal to be euthanized.

5(2)

If an animal is to be euthanized pursuant to this section but the animal's suffering will not be unduly prolonged thereby, the animal protection officer or the official animal keeper having custody of the animal shall take reasonable steps to find the owner of the animal and endeavour to obtain the owner's consent to its euthanization.

Recovery of expenses by official animal keeper

6(1)

An official animal keeper has a lien on any animal delivered or taken into its custody under this Act for any expenses properly incurred with respect to the animal for transportation, food, care, shelter and medical treatment and may require the owner to pay those expenses before delivering the animal to the owner.

6(1.1)

If an animal is euthanized in accordance with this Act, the owner of the animal is responsible for the expenses properly incurred by the official animal keeper in euthanizing the animal and disposing of the remains.

6(2)

Expenses properly incurred may be recovered by the official animal keeper in an action in debt against the owner of the animal or person who, with the consent, express or implied, of the owner of the animal, was in charge of the animal at the time the animal was taken into custody pursuant to section 2.

6(3)

A lien held by the official animal keeper ranks ahead of any other security interest in the animal referred to in subsection (1).

6(4)

The *Personal Property Security Act* does not apply to the animal referred to in subsection (1).

Animals in custody of official animal keeper

7(1)

If an animal is in the custody of an official animal keeper pursuant to this Act and the owner of the animal is known, the keeper may sell or give the animal to a person or euthanize the animal, 14 days after the keeper has given notice to the owner in accordance with this section.

7(2)

If an animal in the custody of an official animal keeper pursuant to this Act bears an obvious identification tattoo, brand, mark, tag, licence or a readable microchip, the keeper may sell or give the animal to a person or euthanize the animal after the keeper has held the animal in custody for at least 14 days.

7(3)

If an animal is in the custody of an official animal keeper pursuant to this Act and the owner of the animal is unknown, the keeper may sell or give the animal to a person or euthanize the animal, after the keeper has held the animal in custody for a period of at least five days.

7(4)

The notice referred to in subsection (1) shall be in writing and

- (a) mailed to or served personally on the owner; or
- (b) if it cannot be mailed to or served personally on the owner,

(i) published at least three times in a newspaper circulating in the area in which the animal was taken into custody, or

(ii) posted in a conspicuous place at either the owner's last known address or the location at which the animal was taken into custody.

7(5)

If, within the 14 day period referred to in subsection (1), the owner of the animal provides an objection in writing to the official animal keeper regarding the proposed disposition of the animal, the keeper shall consider the objection before disposing of the animal.

7(6)

Any money paid to the official animal keeper with respect to an animal that is sold or given to a person under this section shall be disbursed as follows

(a) the keeper shall retain an amount equal to the expenses properly incurred by the keeper with respect to the animal; and

(b) the person who owned the animal at the time it was taken into the custody of the official animal keeper may, within 6 months of the date the animal was taken into custody, claim the balance of the proceeds from the keeper.

7(7)

If the person who owned the animal at the time it was taken into the custody of the official animal keeper does not apply for the proceeds in accordance with paragraph (6)(b), the balance of the proceeds referred to in paragraph (6)(b) shall be retained by the official animal keeper and forfeited to the Government of Yukon.

7(8)

If an animal has been sold or given to a person under this section, all rights and interests in the animal

(a) vest in the person to whom it has been sold or given; and

(b) the former owner ceases to have any of those rights or interests.

8

[Repealed 2008, c. 13, s. 22.]

Approval of humane society

9(1)

The Commissioner in Executive Council

(a) may approve as a humane society for the purposes of this Act any organization having as a principal object the prevention of cruelty to animals; and

(b) may suspend or revoke the approval.

9(2)

[Repealed 2008, c. 13, s. 23.]

Inspection of animal exhibitions, sales

10

If authorized by or under the regulations, and subject thereto, an animal protection officer,

(a) without a warrant and in ordinary business hours; and

(b) for the purpose of enforcing this Act and the regulations,

may enter and inspect any premises other than a dwelling place where animals are kept for sale, hire or exhibition.

Obstruction of officer

10.1

No person shall

(a) knowingly make a false or misleading statement to an animal protection officer who is acting under this Act; or

(b) obstruct or interfere with an animal protection officer who is acting under this Act.

Unsafe transportation of animals

10.2(1)

No person shall transport an animal outside the passenger compartment of any motor vehicle or trailer unless the animal is adequately confined or unless it is secured in a body harness or by another method of fastening which is adequate to prevent the animal from falling off the vehicle or otherwise injuring itself.

10.2(2)

An animal protection officer who sees a motor vehicle or trailer carrying an animal in contravention of subsection (1) may stop the vehicle or trailer.

10.2(3)

Where an animal protection officer signals or requests a driver driving a vehicle to stop, the person shall immediately bring the vehicle to a stop and shall not proceed until they are permitted to do so by the animal protection officer.

Striking animal with vehicle

10.3

A person operating a vehicle that strikes and injures or kills an animal shall stop and use reasonable diligence to notify the owner or an animal protection officer and take such other reasonable and appropriate action so that the animal may receive proper care, if injured, or be appropriately disposed of, if killed.

Appointment or designation by Minister

10.4(1)

The Minister may, by order, appoint a person or class of persons as animal protection officers to enforce the provisions of this Act.

10.4(2)

The Minister may designate in writing any person as an official animal keeper for the purposes of this Act.

Regulations

11

The Commissioner in Executive Council may make regulations

- (a) governing the approval and the suspension and revocation of approval of organizations as humane societies;
- (b) prescribing the qualifications required of persons to be appointed animal protection officers for the purposes of this Act;
- (c) respecting the manner of taking an animal into custody;
- (d) defining what constitutes taking reasonable steps to find the owner of an animal in distress;
- (e) prescribing a tariff of expenses which may be charged to the owner of an animal taken into custody under this Act for transportation, food, care, shelter and medical treatment of the animal;
- (f) prescribing, with respect to animals kept for sale, hire or exhibition, the standard of care with which the animals shall be maintained;
- (g) respecting the authorization of animal protection officers, in general or, in particular, to exercise the powers specified in section 10 subject to those conditions and restrictions that are considered desirable in the public interest;
- (h) respecting any other matter necessary or desirable to give effect to the intent of this Act.

Offence and penalty

12(1)

A person who contravenes this *Act* or the regulations by doing an act that is forbidden or by omitting to do an act that is required to be done commits an offence, and is liable on summary conviction to a fine of up to \$10,000 or imprisonment of up to 24 months, or to both.

12(1.1)

If an offence under this *Act* is committed or continued on more than one day, the person who committed the offence is liable on summary conviction to be convicted for a separate offence for each day on which the offence is committed or continued.

12(2)

A judge of the Territorial Court or a justice may, when sentencing a person convicted of an offence under this Act, order that the person be prohibited from owning an animal or from having charge of an animal for any time the judge or justice considers advisable.

12(3)

A judge of the Territorial Court or a justice may, in a proceeding for an offence against this Act, make an order of custody of an animal in respect of which the charge has been laid.

Immunity

13

An action does not lie against a person acting in good faith for anything done or purporting to be done under this *Act* or the regulations.

Conflict with *Pounds Act*

14.

If there is a conflict between a provision of this *Act* and a provision of the *Pounds Act*, the provision of this *Act* prevails to the extent of the conflict.

Animal Protection Regulations, Y.C.O. 1978/162, ss. 6, 7 (2012)

6

(1) A humane society may, in respect of a horse, cow, sheep, pig or other large animal taken into custody under the Act, charge the owner thereof any actual expenses incurred by the society for the transportation, food, shelter, medical treatment and other care of the animal.

(2) A humane society may charge the owner of any other animal taken into custody under the Act

(a) for the reasonably necessary transportation of the animal

(i) if by hired vehicle, the actual cost thereof to the society, or

(ii) if by vehicle of the society, at the rate of 12 cents per kilometre or, where the transportation is entirely within a city, town, or village, the sum of \$5.00

regardless of the distance travelled therein,

(b) for the food, care and shelter of the animal

(i) if provided in a shelter operated by the society, at the rate of \$5.00 per day, or

(ii) if provided elsewhere, the actual cost thereof to the society, and

(c) for medical treatment of the animal

(i) if provided by an employee of the society, the actual cost thereof to the society if that cost exceeds \$1.00, or

(ii) if otherwise provided, the actual cost thereof to the society.

7

(1) The Commissioner or his designate may grant special authority to a peace officer who may exercise the powers given by section 10 of the Act.

(2) A peace officer acting under subsection (1) shall, when reasonably possible, inform any person in actual or apparent control of the premises or building in question that he is acting under authority of the Act and these regulations.