Confronting Animal Neglect in America:
Current Law and Future Possibilities

By Stephan K. Otto
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I. Introduction

One of the principal dangers facing animals in America today is neglect. According to ALDF’s National Cruelty Case Database, “neglect” is among the most common forms of animal abuse reported.\(^1\) Whether it is a case involving a single animal or one involving dozens or even hundreds of animals,\(^2\) the net effect of such abuse on each individual animal is often staggering and irreparable.

Those who neglect animals range from the uneducated or uncaring owner of a single animal to animal hoarders and breeders engaged in neglect on a massive scale, often due to mental illness\(^3\) or the drive for profits. Regardless of the number of animals involved in any one case, the essential elements of all forms of animal neglect are the same – a failure to provide for an animal’s basic needs.\(^4\)

This report reviews the status of the laws of each state in the country by chronicling both their statutes and caselaw as they relate to animal neglect.\(^5\) Some states have strong statutory provisions, others strong caselaw, and some have the benefit of both. The report then focuses on examples of additional statutory options that have the potential for reducing the incidence of neglect in the future.

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1 More than one-third of the thousands of cases in the ALDF National Cruelty Case database involve animal neglect.
3 Currently, there is a proposal to add “compulsive hoarding” (including a subtype for animal hoarding) to the Diagnostic and Statistical Manual for Mental Disorders (DSM). Gail Steketee, *Compulsive Hoarding and Acquiring* 9 (2007).
4 These basic requirements include proper food, water, veterinary care, space and shelter.
5 My sincere thanks to the valuable contributions of Toshya Kauffman to this report.
II. Overview of Neglect-Related Statutes and Caselaw

An essential component in combatting animal neglect is comprehensive criminal prohibitions which include objective standards of care with well-defined neglect-related terms. These provisions both serve as an educational tool by letting those who have animals know the basic minimal levels of care that they must provide them, and help make the job of law enforcement less burdensome by providing objective criteria for determining when the law is violated. States have approached this issue through both legislation and caselaw.

In this chapter, these definitions and basic standards of care for each state, together with the principal neglect prohibitions, are detailed.\(^6\)

The following model provisions are presented for comparative purposes and include such elements as felony-level penalties for aggravated neglect offenses, minimal criminal culpability for lowest level offenses, and enhanced penalties when offenses involve multiple animals.\(^7\)

**Definitions**

A. **ANIMAL**

“Animal” means any nonhuman living creature.

B. **GUARDIAN**

“Guardian” means a person who has control, custody, possession, title or other legal interest in an animal.

C. **MINIMUM CARE**

“Minimum care” means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the guardian, includes, but is not limited to, the following requirements:

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\(^6\) Because the law is continually evolving, always review an official source for the most complete and current language of any statute.

\(^7\) For a complete copy of the ALDF MODEL ANIMAL PROTECTION LAWS collection, visit: http://aldf.org/resources/details.php?id=88
1. Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

2. Open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the animal's needs.

3. Access to a barn, house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun, and which has adequate bedding to protect against cold and dampness.

4. Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

5. Continuous access to an area:
   a. With adequate space for exercise necessary for the health of the animal. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
   b. With air temperature suitable for the health of the animal.
   c. With adequate ventilation.
   d. With regular diurnal lighting cycles of either natural or artificial light.
   e. Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.

D. PERSON

"Person" means an individual, corporation, trust, partnership, association, or any other legal entity.

E. PHYSICAL INJURY

"Physical injury" means physical trauma, impairment of condition, or pain inconsistent with reasonable handling or training techniques.

F. PHYSICAL TRAUMA

"Physical trauma" means fractures, cuts, burns, punctures, bruises, or other wounds or illnesses produced by violence or by a thermal or chemical agent.

G. POSSESSION

"Possession" means to have physical custody or to exercise dominion or control over an animal.

H. SERIOUS PHYSICAL INJURY

"Serious physical injury" means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.

I. TORTURE

"Torture" means an action taken for the primary purpose of inflicting or prolonging pain.
ANIMAL NEGLECT IN THE SECOND DEGREE

1. A person commits the crime of ANIMAL NEGLECT IN THE SECOND DEGREE if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in the person's possession.

2. ANIMAL NEGLECT IN THE SECOND DEGREE is a [Class ___ misdemeanor].

3. Notwithstanding subsection (2), ANIMAL NEGLECT IN THE SECOND DEGREE is a [more serious misdemeanor] if the offense occurred on premises where there were eight or more animals, including the victim.\(^8\)

4. Each act or omission in violation of subsection (1) shall constitute a separate offense.

ANIMAL NEGLECT IN THE FIRST DEGREE

1. A person commits the crime of ANIMAL NEGLECT IN THE FIRST DEGREE if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence:
   a. Fails to provide minimum care for an animal in the person's possession; and
   b. The failure to provide care results in serious physical injury to the animal.

2. ANIMAL NEGLECT IN THE FIRST DEGREE is a [Class ___ misdemeanor].

3. Notwithstanding subsection (2), ANIMAL NEGLECT IN THE FIRST DEGREE is a [felony] if the offense occurred on premises where there were eight or more animals, including the victim.\(^9\)

4. Each act or omission in violation of subsection (1) shall constitute a separate offense.

AGGRAVATED ANIMAL NEGLECT

1. A person commits the crime of AGGRAVATED ANIMAL NEGLECT if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence:
   a. Fails to provide minimum care for an animal in the person's possession; and
   b. The failure to provide care results in the death of the animal.

2. AGGRAVATED ANIMAL NEGLECT is a [Class ___ felony].

3. Notwithstanding subsection (2), AGGRAVATED ANIMAL NEGLECT is a [more serious felony] if the offense occurred on premises where there were eight or more animals, including the victim.\(^10\)

4. Each act or omission in violation of subsection (1) shall constitute a separate offense.

---

\(^8\) Alternative language: “Notwithstanding subsection (___), ANIMAL NEGLECT IN THE ___ DEGREE is a [more serious penalty] if the offense was part of a single criminal episode involving ___ or more animals, where each animal was subjected to one or more violations of the [animal neglect laws].”

\(^9\) Id.

\(^10\) Id.
ANIMAL ABANDONMENT

1. A person commits the crime of ANIMAL ABANDONMENT if the person intentionally, knowingly, recklessly or with criminal negligence leaves an animal at a location without providing for the animal's continued care.

2. ANIMAL ABANDONMENT is a [Class ___ misdemeanor].

3. Each act in violation of subsection (1) shall constitute a separate offense.
ALABAMA

SUMMARY: Neglect falls within the crime of cruelty to a dog or cat in the second degree and is defined as depriving of necessary sustenance or shelter.

STATUTES:


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

(1) Subjects any animal to cruel mistreatment; or

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

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

* * * * *


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

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


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

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

CASE LAW: n/a
CONFRONTING ANIMAL NEGLECT IN AMERICA

ALASKA

SUMMARY: Alaska has a standards-of-care statute which includes food, water, environment and medical care and specifies the minimum requirements of each. “[F]ailure to care for an animal” is criminalized under the “cruelty to animals” statute.

STATUTES:


(a) The minimum standards of care for animals include

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

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

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

* * * * *


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

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

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

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

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

* * * * *

(d) In (a)(4) of this section, failure to provide the minimum standards of care for an animal under AS 03.55.100 is prime facie evidence of failure to care for an animal.

* * * * *

CASE LAW: n/a
ARIZONA

SUMMARY: “Cruel neglect” falls within the crime of “cruelty to animals” and means failure to provide an animal with necessary food water or shelter. Providing necessary veterinary care is also a requirement under the “cruelty to animals” statute.

STATUTES:

ARIZ. REV. STAT. § 13-2910 (2004). Cruelty to animals; interference with working or service animal; classification; definitions.

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

1. Intentionally, knowingly or recklessly subjects any animal under the person’s custody or control to cruel neglect or abandonment.

2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person’s custody or control.

3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.

4. Recklessly subjects any animal to cruel mistreatment.

5. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.

6. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.

7. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.

8. Intentionally or knowingly subjects any animal under the person’s custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.

* * * *

H. For the purposes of this section:

1. "Animal" means a mammal, bird, reptile or amphibian.

2. "Cruel mistreatment" means to torture or otherwise inflict unnecessary serious physical injury upon an animal or to kill an animal in a manner that causes protracted suffering to the animal.

3. "Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.

* * * *

CASE LAW: n/a
ARKANSAS

SUMMARY: “Cruelty” is defined as including every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. “Cruel neglect” falls under the crime of cruelty to animals but is undefined.

Existing case law indicates that convictions for cruel neglect may be based on evidence of lack of grooming or veterinary care that leads to physical discomfort or pain, unsanitary conditions, lack of proper ventilation, and malnourishment.

Additionally, a lack of financial ability to care for animals in one’s care will not preclude a finding that animals were knowingly subjected to cruel neglect.

STATUTES:


(a) A person commits the offense of cruelty to animals if, except as authorized by law, he or she knowingly:

(1) Abandons any animal;
(2) Subjects any animal to cruel mistreatment;
(3) Subjects any animal in his or her custody to cruel neglect; or
(4) Kills or injures any animal belonging to another without legal privilege or consent of the owner.

* * * *


(a) As used in this act, unless the context otherwise requires:

(1) “Animal” or “dumb animal” includes every living creature;
(2) “Torture”, “torment”, or “cruelty” include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted;
(3) “Owner” and “person” include corporations as well as individuals.

* * * *

(a) Any person who shall impound or cause to be impounded in any pound or other place any creature shall supply to it, during such confinement a sufficient quantity of good wholesome food and water, and in default thereof shall upon conviction be adjudged guilty of a misdemeanor.

(b) In case any creature shall be at any time impounded as aforesaid and continues to be without necessary food and water for more than twelve (12) successive hours, it shall be lawful for any person, from time to time and as often as it shall be necessary, to enter into and upon any pound or other place in which any such creature shall be so confined and to supply it with necessary food and water so long as it shall remain so confined. Such person shall not be liable to any action for the entry, and the reasonable cost of the food and water may be collected by him from the owner of the creature, and the creature shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

CASE LAW:

Defendant’s conviction for cruelty to animals was supported by evidence that goats which she owned were in such discomfort from long hooves that many were walking on their knees, that walking on the knees also causes pain to animals, that rabbits found alive in cages were in discomfort, and that there were many dead rabbits.

Fact that defendant did not have the financial ability to care for her goats and rabbits did not preclude finding that she "knowingly" subjected the animals to cruel neglect.

A person acts knowingly with respect to his conduct or the attendant circumstances when he is aware that his conduct is of that nature or that such circumstances exist. A person acts knowingly with respect to a result of his conduct when he is aware that it is practically certain that his conduct will cause such a result.

Ford v. City of Hot Springs, 294 Ark. 435, 743 S.W.2d 394 (Ark.1988)
The evidence supporting a cruelty to animals charge included unsanitary conditions in the home, dogs confined in one room with no ventilation, floor and furniture had been soiled by the animals and food particles were attracting flies and rats, one kitten was malnourished and another had an eye injury that was left unattended.
CALIFORNIA

SUMMARY: “Neglect” is included under the offense of cruelty to animals. The offense includes the failure to provide proper sustenance, water, shelter and protection from inclement weather. The statute does not specifically mention proper veterinary care, however, some of the case law does refer to the failure to give proper veterinary treatment as a basis for a finding of neglect.

STATUTES:


(b) Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any mannerabusescanymecommissionerasthealleviationormakesuresuchananimalisrelieved, is guilty of a crime punishable as a misdemeanor or as a felony and by a fine of not more than twenty thousand dollars ($20,000).


Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor. In case any domestic animal is at any time so impounded and continues to be without necessary food and water for more than 12 consecutive hours, it is lawful for any person, from time to time, as may be deemed necessary, to enter into and upon any pound in which the animal is confined, and supply it with necessary food and water so long as it remains so confined. Such person is not liable for the entry and may collect the reasonable cost of the food and water from the owner of the animal, and the animal is subject to enforcement of a money judgment for the reasonable cost of such food and water.
CAL. PENAL CODE § 597f (2004). Abandoned or neglected animals; Duties of public authorities; Euthanasia.

(a) Every owner, driver, or possessor of any animal, who permits the animal to be in any building, enclosure, lane, street, square, or lot, of any city, city and county, or judicial district, without proper care and attention, shall, on conviction, be deemed guilty of a misdemeanor. And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefore, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and, if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

* * * * *


(a) Every person who willfully abandons any animal is guilty of a misdemeanor.

(b) This section shall not apply to the release or rehabilitation and release of native California wildlife pursuant to statute or regulations of the California Department of Fish and Game.


Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured and permit the animal’s access to adequate shelter, food, and water. Violation of this section constitutes a misdemeanor. This section shall not apply to an animal which is in transit, in a vehicle, or in the immediate control of a person.

CAL. PENAL CODE § 597.1 (2004). Animals in specified places without proper care or attention

(a) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The cost of caring for and treating any animal properly seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

* * * * *

In this title, the word "animal" includes every dumb creature; the words "torment," "torture," and "cruelty" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted; and the words "owner" and "person" include corporations as well as individuals; and the knowledge and acts of any agent of, or person employed by, a corporation in regard to animals transported, owned, or employed by, or in the custody of, the corporation, must be held to be the act and knowledge of the corporation as well as the agent or employee.

CAL. PENAL CODE § 11199 (2004). Reports of animal abuse, cruelty, or neglect by county employees; time and method of report; definitions; contents of report

* * * * *

(d) As used in this section, the terms "animal," "cruelty," "abuse," "neglect," "reasonable suspicion," and "owner" are defined as follows:

(1) "Animal" includes every dumb creature.

(2) "Cruelty," "abuse," and "neglect" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) "Reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect animal cruelty, abuse, or neglect.

(4) "Owner" means any person who is the legal owner, keeper, harborer, possessor, or the actual custodian of an animal. "Owner" includes corporations as well as individuals.

* * * * *

CASE LAW:

Evidence supported convictions of failure to provide animals with proper care and attention and maintaining a kennel without a license in that, among other things, 22 dogs, one cat and five horses were seized, with such animals found to be malnourished and quartered under unwholesome conditions

This section prohibiting leaving animal without proper care and attention was violated if defendant negligently committed acts or negligently refrained from committing acts, as result of which unjustifiable harm to animals was reasonable foreseeable
COLORADO

SUMMARY: Limited case law regarding neglect definitions or standards of care. “Neglect” means failure to provide food, water, protection from the elements, or other normal, useful and accepted care necessary for the health and well being of the animal. The care required depends on the needs of the species, breed, or type of animal. Additionally, failing to protect animals from the weather and abandonment constitute the crime of “cruelty to animals.”

STATUTES:


As used in Sections 18-9-202 and 18-9-202.5, unless the context otherwise requires:

* * * * *

(4) “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with the species, breed, and type of animal.

COLO. REV. STAT. § 18-9-202 (2004). Cruelty to animals--aggravated cruelty to animals--neglect of animals--offenses--repeal

(1)

(a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

* * * * *

CASE LAW:

People appealed a district court finding of animal cruelty, arguing that the statute was unconstitutionally vague. Colorado Supreme Court held that: (1) language of cruelty to animals statute (18-9-201) “failure to provide food, water, protection from the elements, opportunity for exercise, or other care normal, usual, and proper for an animal’s health and well-being” is not unconstitutionally vague, and (2) defendant, charged under cruelty to animals statute with regard to eight emaciated horses, was without standing to challenge statute as constitutionally overbroad. The court concluded that the language of the cruelty to animals statute may be readily comprehended and applied by jurors.
CONNECTICUT

SUMMARY: The crime of “cruelty to animals” includes depriving an animal of necessary sustenance, failure to give proper care to an impounded animal, neglecting to cage or restrain any animal from injuring itself or another animal, and failure to supply an impounded animal with wholesome air, food and water. The relevant case law adds the element of proper shelter, including shelter of adequate size, cleanliness and protection from the weather, and proper grooming and veterinary care.

STATUTES:


(a) Any person who overdrives, drives when overloaded, overworks, tortures, deprives of necessary sustenance, mutilates or cruelly beats or kills or unjustifiably injures any animal, or who, having impounded or confined any animal, fails to give such animal proper care or neglects to cage or restrain any such animal from doing injury to itself or to another animal or fails to supply any such animal with wholesome air, food and water, or unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken by an animal, or causes it to be done, or, having charge or custody of any animal, inflicts cruelty upon it or fails to provide it with proper food, drink or protection from the weather or abandons it or carries it or causes it to be carried in a cruel manner, or fights with or baits, harasses or worries any animal for the purpose of making it perform for amusement, diversion or exhibition, shall be fined not more than one thousand dollars or imprisoned not more than one year or both.

* * * * *

CASE LAW:


The following observations by witnesses helped to support a conviction for animal neglect on the grounds that seven horses were neglected and cruelly treated: at least one or two were kept in small stalls relatively unsheltered in frigid temperatures, the corral was covered in mud and muck to a depth of twelve, preventing a horse from extricating itself from the terrain, a makeshift barn contained three small stalls housing the horses in each, the stalls likewise were inundated with mud and manure, and the coats of the horses were covered with those substances preventing them from being able to ward off cold temperatures. Additionally, a farrier testified that the horses’ hooves were inadequately treated and the animal’s position in the muck strewn stalls raised their hind legs causing discomfort and a potentially serious health problem and the horses’ hoof problems could also cause serious health problems. The court also relied on the testimony of two veterinarians, including the defendant’s own witness/veterinarian who testified that the horses were neglected.

In finding that the defendant was guilty of animal neglect, the ownership of the horses was vested in State of Connecticut and defendant was ordered to reimburse the State for the cost of their care.
DELAWARE

SUMMARY: The “cruelty to animals” statute includes “cruel neglect” and specifically defines what proper feed, shelter and veterinary care include, as well as a definition of “cruel neglect.”

STATUTES:

DEL. CODE ANN. tit. 11, § 1325 (2004). Cruelty to animals; class A misdemeanor; class F felony.

(a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the meanings respectively ascribed to them as follows:

(1) "Cruel" includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(2) "Cruel mistreatment" includes any treatment whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

(3) "Cruel neglect" includes neglect of an animal, which is under the care and control of the neglector, whereby pain or suffering is caused to the animal or abandonment of any domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an animal to live in unsanitary conditions, such as keeping an animal where the animal’s own excrement is not removed from the animal’s living area and/or other living conditions which are injurious to the animal’s health.

(4) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and control of the neglector, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of example this includes: Unjustifiable beating of an animal; overworking an animal; tormenting an animal; abandonment of an animal; failure to feed properly or give proper shelter or veterinary care to an animal.

(8) "Proper feed" includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(9) "Proper shelter" includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(10) "Proper veterinary care" includes providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

* * * * *

CASE LAW: n/a
DISTRICT OF COLUMBIA

SUMMARY: The statutes prohibit depriving of necessary sustenance, unnecessarily failing to provide animal with proper food, drink, air, light, space, veterinary care, shelter or protection from the weather. Impounded animals must be supplied with good and wholesome food and water.

STATUTES:


(a) Whoever knowingly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly chains, cruelly beats or mutilates, any animal, or knowingly causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly chained, cruelly beaten, or mutilated, and whoever, having the charge or custody of any animal, either as owner or otherwise, knowingly inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding 180 days, or by fine not exceeding $250, or by both.

(b) For the purposes of this section, "cruelly chains" means attaching an animal to a stationary object or a pulley by means of a chain, rope, tether, leash, cable, or similar restraint under circumstances that may endanger its health, safety, or well-being. Cruelly chains includes, but is not limited to, the use of a chain, rope, tether, leash, cable or similar restraint that:

(1) Exceeds 1/8 the body weight of the animal;
(2) Causes the animal to choke;
(3) Is too short for the animal to move around or for the animal to urinate or defecate in a separate area from the area where it must eat, drink, or lie down;
(4) Is situated where it can become entangled;
(5) Does not permit the animal access to food, water, shade, dry ground, or shelter; or
(6) Does not permit the animal to escape harm.

D.C. CODE ANN. § 22-1007 (2004). Impounded animals to be supplied with food and water.

Any person who shall impound, or cause to be impounded in any pound, any creature, shall supply the same, during such confinement, with a sufficient quantity of good and wholesome food and water; and in default thereof shall, upon conviction, be punished for every such offense in the same manner provided in § 22-1001.


If any maimed, sick, infirm, or disabled animal shall fail to receive proper food or shelter from said owner or person in charge of the same for more than 5 consecutive hours, such person shall, for every such offense, be punished in the same manner provided in § 22-1001.

CASE LAW: n/a
SUMMARY: The crime of “cruelty to animals” includes depriving an animal of necessary sustenance or shelter. Florida also has a separate statute regarding confinement of animals without sufficient food, water or exercise, and abandonment of animals. The statute states that animals must be provided with good and wholesome food and water, exercise and change of air.

STATUTES:


(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than $5,000, or both.

* * * * *


(1) As used in this section:

(a) "Abandon" means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

(b) "Owner" includes any owner, custodian, or other person in charge of an animal.

(2) Whoever:

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water.

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

(c) Abandons to die any animal that is maimed, sick, infirm, or diseased, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than $5,000, or by both imprisonment and a fine.

(3) Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than $5,000, or by both imprisonment and a fine.

CASE LAW: n/a
GEORGIA

SUMMARY: “Neglect” is included in the offense of “cruelty to animals.” The statute defines humane care, willful neglect, and the meaning of adequate food and water.

STATUTES:

GA. CODE. ANN. § 4-11-2 (2004). Definitions

As used in this article, the term:

(1) "Adequate food and water" means food and water which is sufficient in an amount and appropriate for the particular type of animal to prevent starvation, dehydration, or a significant risk to the animal’s health from a lack of food or water.

* * * * *

(4) "Humane care" of animals means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal’s size, species, and breed.

* * * * *

GA. CODE. ANN. § 16-12-4 (2004). Cruelty to animals

(a) As used in this Code section, the term:

(1) "Animal" shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

(2) "Conviction" shall include pleas of guilty or nolo contendere or probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty or nolo contendere, or probation as a first offender for an offense under the laws of the United States or any of the several states that would constitute a violation of this Code section if committed in this state.

(3) "Willful neglect" means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.

(b) A person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect. Any person convicted of a violation of this subsection shall be guilty of a misdemeanor…

* * * * *

CASE LAW: n/a
Hawaii

SUMMARY: “Cruelty to animals” includes “starving of any animal, or [depriving] a pet animal of necessary sustenance or causes such deprivation.”

STATUTES:

(1) A person commits the offense of cruelty to animals if the person intentionally, knowingly, or recklessly:

(a) Overdrives, overloads, tortures, torments, cruelly beats or starves any animal, or causes or procures the overdriving, overloading, torture, torment, cruel beating or starving of any animal, or deprives a pet animal of necessary sustenance or causes such deprivation;

(b) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;

(c) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other animal, and every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;

(d) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner; or

(e) Assists another in the commission of any act of cruelty to any animal.

(2) Subsection (1)(a), (b), (d), (e) and the following subsection (3) are not applicable to accepted veterinary practices and to activities carried on for scientific research governed by standards of accepted educational or medicinal practices.

(3) Whenever any domestic animal is so severely injured that there is no reasonable probability that its life or usefulness can be saved, the animal may be immediately destroyed.

(4) Cruelty to animals is a misdemeanor.

CASELAW: n/a
IDAHO

SUMMARY: "Cruelty to animals" includes negligently confining an animal in unsanitary conditions or negligently housing an animal in inadequate facilities, maliciously or negligently failing to provide sustenance, water or shelter, or impounding an animal without providing sufficient quantity of wholesome food and clean water.

STATUTES:


The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Abandon" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance and shelter.

(2) "Animal" means any vertebrate member of the animal kingdom, except man.

(3) "Cruel" or "cruelty" shall mean any or all of the following:

(a) The intentional and malicious infliction of pain, physical suffering, injury or death upon an animal;

(b) To maliciously kill, maim, wound, overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, drink or shelter, cruelly beat, mutilate or cruelly kill an animal;

(c) To subject an animal to needless suffering, inflict unnecessary cruelty, drive, ride or otherwise use an animal when same is unfit;

(d) To abandon an animal;

(e) To negligently confine an animal in unsanitary conditions or to negligently house an animal in inadequate facilities; to negligently fail to provide sustenance, water or shelter to an animal.


Every person who is cruel to any animal, or causes or procures any animal to be cruelly treated; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to cruelty, is, for every such offense, guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

IDAHO CODE § 25-3510 (2004). Impounding without food or water.

Any person who impounds, or causes to be impounded in any pound, any animal, must supply the same during such confinement with a sufficient quantity of wholesome food and clean water, and in default thereof, is guilty of a misdemeanor and shall, upon conviction, be punished in accordance with section 25-3520A, Idaho Code.

CASE LAW:
State v. Flynn, 107 Idaho 206, 687 P.2d 596 (Idaho App. 1984). Defendant was convicted on charges of failure to provide proper care for two mares, and he appealed. The Court of Appeals held that: (1) evidence of defendant’s prior conduct regarding his treatment of other animals was admissible to demonstrate knowledge and absence of mistake or accident; (2) evidence was sufficient to sustain conviction; and (3) sentence imposed was not excessive.
ILLINOIS

SUMMARY: Illinois has both a statute specifically regarding the hoarding of animals and the definition of such, including the neglectful conditions and treatment of animals, as well as a minimum standard-of-care section entitled “owner’s duties.” The statute provides that adequate food, water, shelter, protection from weather and veterinary care must be provided to any animals in one’s care or possession.

STATUTES:

510 ILL. COMP. STAT. 70/2.01 (2004). Animal.
"Animal" means every living creature, domestic or wild, but does not include man.

510 ILL. COMP. STAT. 70/2.01a (2004). Companion animal
"Companion animal" means an animal that is commonly considered to be, or is considered by the owner to be, a pet. "Companion animal” includes, but is not limited to, canines, felines, and equines.

510 ILL. COMP. STAT. 70/2.10 (2004). Companion animal hoarder
"Companion animal hoarder" means a person who (i) possesses a large number of companion animals; (ii) fails to or is unable to provide what he or she is required to provide under Section 3 of this Act; (iii) keeps the companion animals in a severely overcrowded environment; and (iv) displays an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals’ and owner’s health and well-being.

510 ILL. COMP. STAT. 70/3 (2004). Owner’s duties
Each owner shall provide for each of his animals:

(a) sufficient quantity of good quality, wholesome food and water;
(b) adequate shelter and protection from the weather;
(c) veterinary care when needed to prevent suffering; and
(d) humane care and treatment.

* * * * *

510 ILL. COMP. STAT. 70/3.01 (2004). Cruel treatment
No person or owner may beat, cruelly treat, torment, starve, overwork or otherwise abuse any animal.

No owner may abandon any animal where it may become a public charge or may suffer injury, hunger or exposure.

* * * *
510 ILL. COMP. STAT. 70/7.1 (2004). Confinement in motor vehicle

No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible. A person convicted of violating this Section is guilty of a Class C misdemeanor. A second or subsequent violation is a Class B misdemeanor.

CASE LAW: n/a
INDIANA

SUMMARY: Statutory wording emphasizes that in order to convict, “neglect” must be reckless, knowing or intentional, but does not provide a definition of neglect. The case law indicates that neglect means failure to provide adequate food and/or water, failure to provide adequate housing that is kept at comfortable temperature, is clean, and is large enough for the animals to move about and to allow for proper elimination, and failure to provide adequate veterinary care including necessary inoculations.

STATUTES:

IND. CODE § 35-46-3-7 (2004). Abandonment or neglect of vertebrate animal.

A person having a vertebrate animal in the person’s custody who recklessly, knowingly, or intentionally abandons or neglects the animal commits cruelty to an animal, a Class B misdemeanor.

CASE LAW:

Cited evidence to support finding that defendant “knowingly or intentionally neglected” horses in his custody included: that the horses were not being fed properly and suffered from malnutrition, and witness testimony that the horses were very thin and in poor health.

Cited evidence to support conviction for cruelty to animals / neglect of dogs and cats. The evidence included that animals were kept in inhumanely hot environment and were not properly inoculated, that dogs were housed in undersized cages without adequate food or water or adequate opportunity for elimination, that cats were confined in shed without adequate means for elimination, and that animals were not adequately fed.

Cited evidence to support conviction of cruelty to animals by “knowingly and intentionally neglecting” five Great Danes in defendant’s possession included that the dogs had become emaciated and infected with hook worms, had been kept in a filthy room, and had become dehydrated because of inadequate food and water.
IOWA

SUMMARY: Iowa has an animal neglect statute stating that a person who impounds or confines an animal is guilty of neglect if they fail to supply the animal with sufficient quantity of water, adequate shelter, or tortures, deprives of necessary sustenance, mutilates, beats or kills an animal by any means which causes unjustified pain, distress or suffering. The case law expands somewhat on the statute by including the requirement that proper veterinary care be administered and gives examples of what constitutes insufficient food, water and shelter.

STATUTES:


1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

2. This section does not apply to an institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal neglect which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

IOWA CODE ANN. § 717B.8 (2003). Abandonment of cats and dogs--penalties

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

CASE LAW:

State v. Rudolph, Unpublished, 2003 WL 22900464 (Iowa App. 2003). Evidence was sufficient to support conviction for animal neglect; dog was discovered in decomposed state in its kennel outside home of defendant’s parents, and defendant admitted to investigating officer that he was responsible for dog prior to its death, was aware that dog was ill and that medicine had been prescribed for treatment of illness, failed to give medicine to dog, and took no alternative action to aid dog.
State v. Pontious, Unpublished, 2002 WL 31882852 (Iowa App. 2002). Testimony regarding injuries to defendant’s dogs in prosecution for animal neglect was relevant to question of whether defendant provided reasonable care for his animals and whether his actions contributed to the injury or death of any of his animals. Evidence supporting conviction included: the animals appeared poor looking and thin, that the defendant only fed the animals a few times per week, timidity of the mother dog, poor health, the fact that defendant allowed the dogs to roam around the neighborhood and scavenge through garbage cans, and that one puppy was hit by a car and had to be euthanized. Even though the state had no evidence that the dogs suffered serious injury or death from lack of food or water, the court concluded that there was sufficient evidence support a conviction for animal neglect as a simple misdemeanor.

Grundy County v. Moeller, Unpublished, 1999 WL 823640 (Iowa App. 1999). The defendant, a dog breeder, appeals from a district court order finding he had neglected 153 dogs and one cat, and ordering him to reimburse Grundy County. To sustain the conviction for animal neglect, the court relied on evidence that some dogs were thin from malnutrition and/or had distended stomachs evidencing the presence of tape or round worms, some animals were provided moldy food and had no water, and some animals were eating their own waste. The animals had skin irritations and poor health, and 8-10 had undiagnosed and untreated heart worms. Some of the animals had inadequate shelter from heath, inadequate bedding, bad ventilation and inadequate light. A veterinarian testified that all of the animals were at risk and suffered from neglect.

Johnson County v. Kriz, 582 N.W.2d 759 (Iowa, 1998). The Johnson County District Court found approximately fifty monkeys in defendant’s possession to be neglected because they were deprived of food, water, sanitation, and medical care. The conditions were found to be unsanitary and lacking proper ventilation. The court ordered the monkeys to be sold or placed in approved sanctuaries or zoos.
SUMMARY: “Cruelty to animals” includes abandoning or leaving an animal without making provisions for its proper care, intentionally failing to provide food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of the specific type of animal.

STATUTES:


(a) Cruelty to animals is:

(1) Intentionally and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;

(2) intentionally abandoning or leaving any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and intentionally failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or

(5) intentionally causing any physical injury other than the acts described in subsection (a)(1)

* * * * *


As used in this act, unless the context otherwise requires;

(1) “Animal” means every living vertebrate except a human being.

(2) “Farm animal” means an animal raised on a farm or ranch and used or intended for use as food or fiber.

(3) “Retailer” means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale.

(4) “Wild animal” means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.

(5) “Domestic pet” means any domesticated animal which is kept for pleasure rather than utility.

CASE LAW: n/a
KENTUCKY

SUMMARY: Cruelty to animals in the second degree includes subjecting an animal to, or causing, cruel or injurious mistreatment through abandonment, failing to provide adequate food, drink, space, or health care, or otherwise subject any animal in one’s custody to “cruel neglect”. “Cruelty” is defined, however “cruel neglect” is not.

STATUTES:

KY. REV. STAT. ANN. § 446.010 (2004). Definitions for statutes generally

As used in the statute laws of this state, unless the context requires otherwise:

* * * * *

(2) "Animal" includes every warm-blooded living creature except a human being;

* * * * *

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted:

* * * * *

(12) "Domestic animal" means any animal converted to domestic habitat;

* * * * *

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

* * * * *

KY. REV. STAT. ANN. § 525.130 (2004). Cruelty to animals in the second degree; exemptions

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit (including, but not limited to being a spectator or vendor at an event where a four (4) legged animal is caused to fight for pleasure or profit), mutilation, beating, torturing any animal other than a dog or cat, tormenting, failing to provide adequate food, drink, space, or health care, or by any other means;

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

(c) Kills any animal other than a domestic animal killed by poisoning. This paragraph shall not apply to intentional poisoning of a dog or cat. Intentional poisoning of a dog or cat shall constitute a violation of this section.

* * * * *

CASE LAW: n/a
SUMMARY: Neglect falls within the “cruelty to animals” statute and is based on a failure to provide proper food, water, shelter or veterinary care. The definition section provides standards for each of the requirements of care.

STATUTES:

LA. REV. STAT. ANN. § 14:102 (2004). Definitions; cruelty to animals

The following words, phrases, and terms as used in R.S. 14:102.1 through R.S. 14:102.4 shall be defined and construed as follows:

(1) "Cruel" means every act or failure to act whereby unjustifiable physical pain or suffering is caused or permitted.

(2) "Abandons" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter.

(3) "Proper food" means providing each animal with daily food of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(4) "Proper water" means providing each animal with daily water of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(5) "Proper shelter" means providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal.

(6) "Proper veterinary care" means providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.


A. (1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

   (a) Overdrives, overloads, drives when overloaded, or overworks a living animal.

   (b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.

   (c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

   (d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.

   (e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

   (f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.
(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Injures any animal belonging to another person without legal privilege or consent of the owner.

(i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering, or death is caused to or permitted upon the animal.

(j) Causes or procures to be done by any person any act enumerated in this Subsection.

* * * * *

LA. REV. STAT. ANN. § 14:102.4 (2004). Confined animals; necessary food and water

When a living animal is impounded or confined, and continues without necessary food and water for more than twenty-four consecutive hours, any law enforcement officer may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined.

CASE LAW:


Nonprofit corporation’s allegations concerning Parish’s treatment of animals at animal control center, including failure to provide sufficient food, water, adequate space, ventilation or light, keeping them in small confined places, and destroying them with carbon monoxide gas, were sufficient to state cause of action against Parish based on violation of criminal statute pertaining to cruelty to animals.
MAINE

SUMMARY: Comprehensive statutes providing definitions for all of the minimum standards of care provided including food, water, shelter (including requirements for indoor and outdoor care, and space requirements), veterinary care, and humane conditions.

STATUTES:


1. Cruelty to animals. Except as provided in subsection 1-A, a person, including an owner or the owner’s agent, is guilty of cruelty to animals if that person:

* * * * *

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions;

* * * * *


No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

* * * * *


No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof.

ME. REV. STAT. ANN. tit. 7, § 4015 (2004). Proper shelter, protection from the weather and humanely clean conditions.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather and humanely clean conditions as prescribed in this section.

1. Indoor Standards. Minimum indoor standards of shelter shall be as follows.

   A. The ambient temperature shall be compatible with the health of the animal.

   B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.
A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

B. Except as provided in subsection 5, shelter from inclement weather must be as follows.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions for the species concerned must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof must be provided to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes. No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

3. Space Standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Humanely Clean Conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1).


As used in this chapter, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings.

* * * *

2. "Animal" means every living, sentient creature not a human being.

* * * *

29. Well cared for. "Well cared for" means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.

* * * *

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner’s agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

* * * *

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

* * * *

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime;

* * * *

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime;

* * * *


No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

1. Food. The food shall be of sufficient quantity and quality to maintain all animals in good health.

2. Water. If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

3. Penalty. Failure to provide a sufficient supply of food or water is a Class D crime.


A person owning or responsible for confining or impounding any animal may not fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. Failure to provide necessary medical attention is a Class D crime.

ME. REV. STAT. ANN. tit. 17, § 1037 (2004). Proper shelter; protection from the weather and humanely clean conditions.

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section.

1. Indoor standards. Minimum indoor standards of shelter shall be as follows.
   A. The ambient temperature shall be compatible with the health of the animal.
B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times.

2. Outdoor standards. Minimum outdoor standards of shelter shall be as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

B. Except as provided in subsection 5, shelter from inclement weather must be as follows.

   (1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions for the species concerned must be provided as necessary for the health of the animal.

   (2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter of suitable size with a floor above ground and waterproof roof must be provided to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 30 minutes.

C. No animal may be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health.

3. Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.

4. Humanely clean conditions. Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.

5. Livestock. Livestock must be provided with shelter suitable for the health of the animal. Livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1).

6. Penalty. Failure to provide shelter in accordance with this section is a Class D crime.

CASE LAW: n/a
MARYLAND

SUMMARY: “Cruelty to animals” includes depriving an animal of necessary sustenance, unnecessarily failing to provide an animal in one’s custody with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air space, shelter, or protection.

STATUTES:

MD. CODE ANN., CRIMINAL LAW § 10-601 (2004). Definitions

In general

(a) In this subtitle the following words have the meanings indicated.

Animal

(b) "Animal" means a living creature except a human being.

Cruelty

(c)

(1) "Cruelty" means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.

(2) "Cruelty" includes torture and torment.

* * * *

MD. CODE ANN., CRIMINAL LAW § 10-604 (2004). Abuse or neglect of animal

Prohibited

(a) A person may not:

(1) overdrive or overload an animal;

(2) deprive an animal of necessary sustenance;

(3) cause, procure, or authorize an act prohibited under item (1) or item (2) of this subsection; or

(4) if the person has charge or custody of an animal, as owner or otherwise:

(i) inflict unnecessary suffering or pain on the animal; or

(ii) unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air space, shelter, or protection from the weather.
Penalty

(b)

(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $1,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.


Prohibited

(a) A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100.

CASE LAW:

Coroneos v. Montgomery County, 61 Md.App. 411, 869 A.2d 410 (Md.App. 2005). Defendant was convicted of animal neglect based on finding of “animals in need of veterinary care, escaped snakes, over 1500 animals, some not alive, including venomous snakes and lizards.” Many of the animals existed under the following conditions: unsecured in proper containers for species, uncontained, lacking food supplies, decomposing carcasses housed with living animals, odor of dead animals and rotten vegetation, lack of proper heat and light for species maintained, decomposing feeder animals housed with animals too ill to consume food, and lack of access to water. A veterinarian determined that the animals were in need or urgent veterinary care.
Massachusetts

Summary: “Animal cruelty” includes depriving of necessary sustenance, unnecessarily failing to provide an animal with proper food, drink, shelter, sanitary environment, or protection from the weather, and willful abandonment or an animal unfit for labor.

Statutes:


Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than $2,500, or by both such fine and imprisonment.

* * * * *

Case Law:

Being found guilty of animal cruelty does not depend on whether defendant thought he was unnecessarily cruel, but whether he was so in fact, and committed the acts knowingly.

Committing cruelty to animals does not require that the failure to provide proper food, drink, and protection caused the animal to cruelly suffer; and unnecessarily leaving a horse harnessed to a carriage in the woods, where it remained all night uncared for, without food and drink for more than 24 hours, except food it obtained in the woods, was evidence of failure to provide the horse with proper food and drink.
MICHIGAN

SUMMARY: Michigan law provides both definitions of minimum standards of care and what constitutes a failure to meet those standards.

STATUTES:

MICH. COMP. LAWS § 750.50 (2004). Definitions; crimes against animals, cruel treatment, abandonment, failure to provide adequate care; penalties, misdemeanor, payment of costs; exceptions.

Sec. 50.

(1) As used in this section and section 50b:

(a) "Adequate care" means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.

(b) "Animal" means 1 or more vertebrates other than a human being.

(h) "Neglect" means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

(i) "Sanitary conditions" means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health. This definition does not include a condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

(j) "Shelter" means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter for a dog shall include 1 or more of the following:

(i) The residence of the dog's owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including, but not limited to, a garage, barn, or shed that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(k) "State of good health" means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(l) "Tethering" means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(m) "Water" means potable water that is suitable for the age and species of animal, made regularly available unless otherwise directed by a veterinarian licensed to practice veterinary medicine.
(2) An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

(a) Fail to provide an animal with adequate care.

(b) Cruelly drive, work, or beat an animal, or cause an animal to be cruelly driven, worked, or beaten.

(c) Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner.

(d) Carry or cause to be carried a live animal in or upon a vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subdivision, for purposes of transportation of sled dogs, "stand" means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(e) Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal’s adequate care, unless premises are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking or hunting shall not be regarded as abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(f) Willfully or negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled, or nonambulatory to suffer unnecessary neglect, torture, or pain.

(g) Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering.

CASE LAW: n/a
**MINNESOTA**

**SUMMARY:** The crime of overworking or mistreating animals includes depriving any animal in one’s control of necessary food, water and shelter, or keeping an animal in an enclosure without providing wholesome exercise and change of air.

**STATUTES:**

**MINN. STAT. § 343.20 (2003). Definitions**

Subdivision 1. Application. Except as otherwise indicated by the context, for purposes of sections 343.20 to 343.36, the terms defined in this section have the meanings given them.


Subd. 3. Torture; cruelty. "Torture" or "cruelty" means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.

* * * * *

Subd. 6. Pet or companion animal. "Pet or companion animal" includes any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal.

Subd. 7. Service animal. "Service animal" means an animal trained to assist a person with a disability.

Subd. 8. Substantial bodily harm. "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet or companion animal.

Subd. 9. Great bodily harm. "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet or companion animal.

**MINN. STAT. § 343.21 (2003). Overworking or mistreating animals; penalty**

Subdivision 1. Torture. No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.

Subd. 2. Nourishment; shelter. No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.

Subd. 3. Enclosure. No person shall keep any cow or other animal in any enclosure without providing wholesome exercise and change of air.

Subd. 4. Low feed. No person shall feed any cow on food which produces impure or unwholesome milk.

Subd. 5. Abandonment. No person shall abandon any animal.

Subd. 6. Temporary abandonment. No person shall allow any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three hours after receiving notice of the animal’s condition.
Subd. 7. Cruelty. No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.

Subd. 8. Caging. No person shall cage any animal for public display purposes unless the display cage is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the cage is at least four times the length of the caged animal. The provisions of this subdivision do not apply to the Minnesota State Agricultural Society, the Minnesota State Fair, or to the county agricultural societies, county fairs, to any agricultural display of caged animals by any political subdivision of the state of Minnesota, or to district, regional or national educational livestock or poultry exhibitions. The provisions of this subdivision do not apply to captive wildlife, the exhibition of which is regulated by section 97A.041.

* * * *

CASE LAW:

Defendant was convicted of mistreatment of animals for failing to provide necessary food to horses under her charge or control. The appellate court affirmed the conviction based on evidence that defendant ceased providing adequate food and water for the horses, that the animals were thin and emaciated, and a veterinary report that the animals had lost both fat and muscle mass.

Court upheld defendant’s convictions for (1) failing to clean animal feces, (2) owning more than three dogs without a permit, and (3) cruelty to animals. Evidence supporting the conviction include finding of 24 dogs over the age of four months and twelve puppies inside appellant’s home, urine and feces in the home, emaciate animals, dehydrated animals, skin rashes, and lack of access to food and water. A veterinarian found the dogs to be in very poor health.

Court upheld conviction for cruelty to animals for failing to provide necessary water and shelter. The adult dogs and 12 puppies were left in a car, and when found had fur soiled with feces, although did not appear to be in pain or dehydrated.
SUMMARY: Cruel treatment of animals includes depriving of necessary sustenance, food or drink. There are separate offenses of confining an animal without supplying sufficient quantity of good and wholesome food and water and unjustifiably refusing to furnish necessary sustenance, food or drink to any animal in one’s custody or care.

STATUTES:


If any person shall override, overdrive, overload, torture, torment, unjustifiably injure, deprive of necessary sustenance, food, or drink; or cruelly beat or needlessly mutilate; or cause or procure to be overridden, overdriven, overloaded, tortured, unjustifiably injured, tormented, or deprived of necessary sustenance, food or drink; or to be cruelly beaten or needlessly mutilated or killed, any living creature, every such offender shall, for every offense, be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-7 (2004). Confining creatures without food or water.

If any person shall confine, or cause to be confined, in any stable, lot, or other place, any living creature, without supplying the same during such confinement with a sufficient quantity of good and wholesome food and water, he shall be guilty of a misdemeanor.

MISS. CODE ANN. § 97-41-9 (2004). Failure of owner or custodian to provide sustenance.

If any person be the owner or have the custody of any living creature and unjustifiably neglect or refuse to furnish it necessary sustenance, food, or drink, he shall be guilty of a misdemeanor.

CASE LAW: n/a
MISSOURI

SUMMARY: Missouri defines adequate care as normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health in a specific species of animal. Animal neglect is failure to provide adequate care or adequate control, which results in substantial harm to the animal.

STATUTES:

As used in sections 578.005 to 578.023, the following terms shall mean:

(1) “Adequate care”, normal and prudent attention to the needs of an animal, including wholesome food, clean water, shelter and health care as necessary to maintain good health in a specific species of animal.

* * * *

1. A person is guilty of animal neglect when he has custody or ownership or both of an animal and fails to provide adequate care or adequate control, which results in substantial harm to the animal.

2. A person is guilty of abandonment when he has knowingly abandoned an animal in any place without making provisions for its adequate care.

* * * *

CASE LAW:

Court upheld a conviction for animal neglect for 120 severely malnourished and emaciated. The evidence supporting the conviction was largely based on photographic evidence of the state of health of the horses.

Court upheld conviction for animal neglect based on the fact that the defendant knowingly failed to provide adequate control of his cattle. Evidence supporting the conviction included defendant’s admission that he didn’t check his fences regularly and testimony from neighbors that defendant’s cattle frequently wandered onto their property.
SUMMARY: The “cruelty to animals” statute does provide some minimum standards of care including provision of food and water of sufficient quality and quantity to sustain animal’s health, protection from adverse weather, and necessary veterinary care.

STATUTES:


(1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

(a) overworking, beating, tormenting, torturing, injuring, or killing the animal;

(b) carrying or confining the animal in a cruel manner;

(c) failing to provide an animal in the person’s custody with:

   (i) food and water of sufficient quantity and quality to sustain the animal’s normal health;

   (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;

   (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;

   (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or…

* * * * *

CASE LAW: n/a
NEBRASKA

SUMMARY: “Cruel neglect” is failure to provide an animal in one’s care with food, water or other care reasonably necessary for the animal’s health.

STATUTE:


For purposes of sections 28-1008 to 28-1017

(1) Abandon means to leave any animal for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal’s health;

(2) Animal means any vertebrate member of the animal kingdom. The term does not include an uncaptured wild creature;

(3) Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal;

(4) Cruelly neglect means to fail to provide any animal in one’s care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal’s health;

* * * * *

CASE LAW:

Supreme Court of Nebraska upheld a conviction (but modified sentence) for animal neglect of livestock based on testimony that animals had been suffering from malnutrition that probably resulted in their deaths, weather, management procedures and lack of water.
NEVADA

SUMMARY: The statutes provide that one may not deprive an animal of necessary sustenance, food or drink, or to refuse or neglect to supply an animal in confinement with sufficient supply of good and wholesome air, food, shelter and water.

STATUTES:

NEV. REV. STAT. § 574.050 (2004). Definitions

As used in NRS 574.050 to 574.200, inclusive:

1. "Animal" does not include the human race, but includes every other living creature.

2. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer.

3. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

NEV. REV. STAT. § 574.100 (2004). Overdriving, torturing, injuring or abandoning animals; failure to provide proper sustenance; penalty.

1. A person shall not:

   (a) Overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to himself or to another;

   (b) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;

   (c) Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink;

   (d) Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

   (e) Abandon an animal in circumstances other than those prohibited in NRS 574.110.

   * * * * *

NEV. REV. STAT. § 574.120 (2004). Failure to provide proper air, food, shelter or water to impounded animal unlawful; penalties

1. A person who has impounded or confined any animal shall not refuse or neglect to supply to the animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water.

   * * * * *

CASE LAW: n/a
NEW HAMPSHIRE

SUMMARY: “Cruelty to animals” includes abandoning any animal without proper provision for its care, sustenance, protection or shelter. “Shelter” or "necessary shelter" for dogs means any natural or artificial area which provides protection from the direct sunlight when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from inclement weather “shall have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.”

STATUTES:


I. In this section, "cruelty" shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, "animal" means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, "shelter" or "necessary shelter" for dogs shall mean any natural or artificial area which provides protection from the direct sunlight when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from inclement weather shall have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter; or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

* * * * *

CASE LAW: n/a
NEW JERSEY

SUMMARY: “Cruelty to animals” includes depriving of necessary sustenance, unnecessarily failing to provide an animal of which the person has charge, with proper food, drink, shelter or protection from the weather, or to leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the animal, and abandonment.

STATUTES:


a. A person who shall:

1. Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature;

2. Cause or procure any such acts to be done; or

3. Inflict unnecessary cruelty upon a living animal or creature, or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather, or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature--

* * * * *

N.J. STAT. ANN. § 4:22-19 (2004). Failure to care for or destruction of impounded animals; penalties; collection

A person who shall:

a. Impound or confine, or cause to be impounded or confined, in a pound or other place, a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water; or

b. Destroy or cause to be destroyed any such animal by hypoxia induced by decompression or in any other manner, by the administration of a lethal gas other than an inhalant anesthetic, or in any other manner except by a method of euthanasia generally accepted by the veterinary medical profession as being reliable, appropriate to the type of animal upon which it is to be employed, and capable of producing loss of consciousness and death as rapidly and painlessly as possible for such animal shall, in the case of a violation of subsection a., be guilty of a disorderly persons offense and shall be punished as provided in subsection a. of R.S.4:22-17; or, in the case of a violation of subsection b., be subject to a penalty of $25 for the first offense and $50 for each subsequent offense. Each animal destroyed in violation of subsection b. shall constitute a separate offense. The penalty shall be collected in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.) and all money collected shall be remitted to the State.

This section shall apply to kennels, pet shops, shelters and pounds as defined and licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); to pounds and places of confinement owned and operated by municipalities, counties or regional governmental authorities; and to every contractual warden or impounding service, any provision to the contrary in this title notwithstanding.
Confronting Animal Neglect in America

N.J. STAT. ANN. § 4:22-20 (2004). Abandoning disabled animal to die in public place; abandoning domesticated animal; disorderly persons offense

a. A person who shall abandon a maimed, sick, infirm or disabled animal or creature to die in a public place, shall be guilty of a disorderly persons offense.

b. A person who shall abandon a domesticated animal shall be guilty of a disorderly persons offense. The violator shall be subject to the maximum $1,000 penalty.


A person who shall:

a. (1) Overdrive, overload, drive when overloaded, overwork, deprive of necessary sustenance, abuse, or needlessly kill a living animal or creature, or cause or procure any such acts to be done;

(2) Torment, torture, maim, hang, poison, unnecessarily or cruelly beat, or needlessly mutilate a living animal or creature, or cause or procure any such acts to be done;

(3) Cruelly kill, or cause or procure the cruel killing of, a living animal or creature, or otherwise cause or procure the death of a living animal or creature from commission of any act described in paragraph (2) of this subsection;

b. (Deleted by amendment, P.L.2003, c. 232).

c. Inflict unnecessary cruelty upon a living animal or creature, or unnecessarily fail to provide a living animal or creature of which the person has charge either as an owner or otherwise with proper food, drink, shelter or protection from the weather, or leave it unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature;

d. Receive or offer for sale a horse that is suffering from abuse or neglect, or which by reason of disability, disease, abuse or lameness, or any other cause, could not be worked, ridden or otherwise used for show, exhibition or recreational purposes, or kept as a domestic pet without violating the provisions of this article;

e. Keep, use, be connected with or interested in the management of, or receive money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting or baiting a living animal or creature;

f. Be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in subsection e. of this section;

g. Permit or suffer a place owned or controlled by him to be used as provided in subsection e. of this section;

h. Carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner;

i. Use a dog or dogs for the purpose of drawing or helping to draw a vehicle for business purposes;

j. Impound or confine or cause to be impounded or confined in a pound or other place a living animal or creature, and shall fail to supply it during such confinement with a sufficient quantity of good and wholesome food and water;

k. Abandon a maimed, sick, infirm or disabled animal or creature to die in a public place;
l. Willfully sell, or offer to sell, use, expose, or cause or permit to be sold or offered for sale, used or exposed, a horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the health or life of human beings or animals, or who shall, when any such disease is beyond recovery, refuse, upon demand, to deprive the animal of life;

m. Own, operate, manage or conduct a roadside stand or market for the sale of merchandise along a public street or highway; or a shopping mall, or a part of the premises thereof; and keep a living animal or creature confined, or allowed to roam in an area whether or not the area is enclosed, on these premises as an exhibit; except that this subsection shall not be applicable to: a pet shop licensed pursuant to P.L.1941, c. 151 (C.4:19-15.1 et seq.); a person who keeps an animal, in a humane manner, for the purpose of the protection of the premises; or a recognized breeders’ association, a 4-H club, an educational agricultural program, an equestrian team, a humane society or other similar charitable or nonprofit organization conducting an exhibition, show or performance;

n. Keep or exhibit a wild animal at a roadside stand or market located along a public street or highway of this State; a gasoline station; or a shopping mall, or a part of the premises thereof;

o. Sell, offer for sale, barter or give away or display live baby chicks, ducklings or other fowl or rabbits, turtles or chameleons which have been dyed or artificially colored or otherwise treated so as to impart to them an artificial color;

p. Use any animal, reptile, or fowl for the purpose of soliciting any alms, collections, contributions, subscriptions, donations, or payment of money except in connection with exhibitions, shows or performances conducted in a bona fide manner by recognized breeders' associations, 4-H clubs or other similar bona fide organizations;

q. Sell or offer for sale, barter, or give away living rabbits, turtles, baby chicks, ducklings or other fowl under two months of age, for use as household or domestic pets;

r. Sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl, or rabbits, turtles or chameleons under two months of age for any purpose not prohibited by subsection q. of this section and who shall fail to provide proper facilities for the care of such animals;

s. Artificially mark sheep or cattle, or cause them to be marked, by cropping or cutting off both ears, cropping or cutting either ear more than one inch from the tip end thereof, or half cropping or cutting both ears or either ear more than one inch from the tip end thereof, or who shall have or keep in the person’s possession sheep or cattle, which the person claims to own, marked contrary to this subsection unless they were bought in market or of a stranger;

t. Abandon a domesticated animal...

* * * * *

CASE LAW: n/a
NEW MEXICO

SUMMARY: “Cruelty to animals” includes abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control.

STATUTES:

N.M. STAT. ANN. § 30-18-1 (2004). Cruelty to animals; extreme cruelty to animals; penalties; exceptions

A. As used in this section, "animal" does not include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person’s custody or control.

* * * * *

CASE LAW: n/a
NEW YORK

SUMMARY: Failure to provide proper sustenance includes depriving an animal of necessary sustenance, food or drink. Abandonment and failure to provide proper food and drink to an impounded animal are separate offenses. Failure to provide proper food and drink to an impounded animal includes refusing or neglecting to supply a sufficient supply of good and wholesome air, food, shelter and water.

STATUTES:


1. “Animal,” as used in this article, includes every living creature except a human being;

2. “Torture” or “cruelty” includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

* * * * *

N.Y. AGRIC. & MKTS. LAW § 353 (2004). Overdriving, torturing and injuring animals; failure to provide proper sustenance.

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

* * * * *

N.Y. AGRIC. & MKTS. LAW § 355 (2004). Abandonment of animals

A person being the owner or possessor, or having charge or custody of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it become disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.
Confronting Animal Neglect in America

N.Y. AGRIC. & MKTS. LAW § 356 (2004). Failure to provide proper food and drink to impounded animal.

A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

CASE LAW:

Upheld a conviction for failure to provide proper sustenance. Evidence supporting the conviction included the poor health of the animals, filthy living condition, fur or feathers matted with feces and urine, lack of grooming and veterinary care.

Defendant was charged with failure to provide proper sustenance to a horse that was left in his care. Even though the owners of the horse failed to provide the money for the horses care, defendant was still in violation of the statute since the animal was in his custody and control.
NORTH CAROLINA

SUMMARY: “Cruelty to animals” includes depriving of necessary sustenance, and any act, omission or neglect “causing or permitting unjustifiable pain, suffering or death.”

STATUTES:


(a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.

(b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class I felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.

(c) As used in this section, the words "torture", "torment" and "cruelly" include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. However, this section shall not apply to the following activities:

1. The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply to those birds exempted by the Wildlife Resources Commission from its definition of "wild birds" pursuant to G.S. 113-129(15a).

2. Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.

2a. Lawful activities conducted for the primary purpose of providing food for human or animal consumption.

3. Activities conducted for lawful veterinary purposes.

4. The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.


Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a Class 2 misdemeanor.


The following definitions apply in this Article:

1. The term "animals" includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.

2. The terms "cruelty" and "cruel treatment" include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.

3. The term "person" has the same meaning as in G.S. 12-3.
CASE LAW:

Upheld a conviction for cruelty to animals of neglecting horses. Evidence supporting the conviction included skinny appearance of horses, no water supply to the property, and no evidence of feed.

Upheld a conviction of cruelty to animals for failure to provide proper sustenance and care to dogs. Evidence supporting the conviction included that the dogs were tied up with no shelter, food or water, and left in the presence of a decaying carcass of another dog still tied up. A veterinarian testified to the very poor health of the two surviving dogs. Additionally, defendant admitted to deputy of animal control department that she did not feed the dogs and had given the dogs too much worming medicine.

Court upheld a conviction of neglect and cruel treatment of animals against defendant who owned 27 dogs and several cats. Evidence supporting the finding of neglect and cruel treatment included a complaint from an animal hospital that one of the dogs was malnourished, dehydrated, severely underweight, anemic and had died as a result. Investigation into the home found that the other animals were living in small cages stacked in the garage, cages full of waste and animals matted with feces and urine, and severely underweight and dehydrated. Many of the animals were in need of urgent veterinary care.
**NORTH DAKOTA**

**SUMMARY:** “Cruelty” or “torture” includes neglect that leads to unjustifiable pain, suffering, or death. The crime of overworking, mistreating or abandoning animals includes depriving an animal in one’s charge or control of necessary food, water or shelter, keeping an animal in an enclosure without exercise and wholesome change of air, and abandonment.

**STATUTES:**


In this chapter, unless the context otherwise requires:

1. "Abandoned animal" means an animal that is or reasonably appears to have been deserted by its owner or keeper. The term may include an animal that is running loose on property other than that of its owner or the owner’s agent if the animal bears no identification indicating the owner or the owner’s agent and the owner or owner’s agent is not known to the sheriff, police officer, licensed veterinarian, or investigator taking custody of the animal under this chapter.

2. "Animal" includes every living animal except the human race.

3. "Commissioner" means the agriculture commissioner.

4. "Cruelty" or "torture" includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted.

* * * *


1. No person may overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when unfit for labor.

2. No person may deprive any animal over which the person has charge or control of necessary food, water, or shelter.

3. No person may keep any animal in any enclosure without exercise and wholesome change of air.

4. No person may abandon any animal.

5. A person shall reclaim an animal within forty-eight hours of the agreed upon time for termination of a boarding contract and pay all charges for boarding the animal.

6. No person may allow any maimed, sick, infirm, or disabled animal of which he the person is the owner, or of which the person has custody, to lie in any street, road, or other public place for more than three hours after notice.

7. No person may willfully instigate, or in any way further, any act of cruelty to any animal or animals, or any act tending to produce such cruelty.

* * * *

**CASE LAW:** n/a
**Ohio**

**Summary:** Under the “cruelty to animals” and “prohibitions concerning companion animals” statutes, one is required to provide adequate food, water, shelter, protection from weather and veterinary care. Case law on statutory interpretation and application.

**Statutes:**


No owner or keeper of a dog, cat, or other domestic animal, shall abandon such animal.


(A) No person shall:

1. Torture an animal, *deprive one of necessary sustenance*, unnecessarily or cruelly beat, needlessly mutilate or kill, or *impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water*;

2. Impound or confine an animal without affording it, during such confinement, access to *shelter from wind, rain, snow, or excessive direct sunlight* if it can reasonably be expected that the animals would otherwise become sick or in some other way suffer. Division (A)(2) of this section does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, *shelter* means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth’s contour, tree development, or vegetation.

3. Carry or convey an animal in a cruel or inhuman manner;

4. Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without *wholesome exercise and change of air*, nor feed cows on *food that produces impure or unwholesome milk*;

5. Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary *food, water, and attention*, nor permit such stock to be so crowded as to *overlie, crush, wound, or kill each other*.

* * * *


(A) As used in this section:

1. "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal.

2. "Cruelty," "torment," and "torture" have the same meanings as in section 1717.01 of the Revised Code.

* * * *

(C) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:
(1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

(2) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

* * * * *


As used in sections 1717.01 to 1717.14, inclusive, of the Revised Code, and in every law relating to animals:

(A) “Animal” includes every living dumb creature;

(B) “Cruelty,” “torment,” “and “torture” include every act, omission, or neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief;

(C) “Owner” and “person” include corporations. For the purpose of this section the knowledge and acts of the agents and employees of a corporation, in regard to animals transported, owned, or employed by, or in the custody of, such agents and employees, are the knowledge and acts of the corporation.

CASE LAW:

State v. Peters, No. 01-BA-57, 2002-Ohio-6094, 2002 WL 31501264 (Ohio App. 7 Dist., Belmont, 11-06-2002). Conviction for cruelty to an animal was not against manifest weight of the evidence; defendant, her husband, and defendant’s father all realized that dog was sick, defendant did not take dog to a veterinarian for medical care, there was no evidence that defendant ever took dog to a veterinarian, and in the weeks before his death dog was acting lethargic, lost weight, lost hair, and had blood in his stool and in his vomit.

State v. Barker, 128 Ohio App.3d 233, 714 N.E.2d 447 (Ohio App. 6 Dist., 06-05-1998). Evidence that officers executing warrant to search defendant’s business for proof of cruelty to animals found three mother dogs and their puppies in three kennels stacked in closet with doors closed, that there was no bedding in kennels and dogs were soaked with urine, that there was fecal matter in kennels, and that all dogs had internal and external parasites and required medical treatment for worms was sufficient to support conviction for cruelty to animals; several witnesses testified to seeing and hearing dogs in closet at different times of day, and louvered closet doors did not admit enough fresh air to prevent contamination from urine and fecal matter in kennels.

State v. Howell, 137 Ohio App.3d 804, 739 N.E.2d 1219 (Ohio App. 10 Dist. 1997). Recklessness, rather than criminal negligence, was culpable mental state for cruelty to animals under statute prohibiting torturing animals.
**State v. Dresbach**, 122 Ohio App.3d 647, 702 N.E.2d 513 (Ohio App. 10 Dist. 1997). Sufficient evidence supported defendant’s conviction for cruelty to animals, where Humane Society worker testified that he observed emaciated dog chained to doghouse in yard behind defendant’s house and that area around dog was littered with piles of loose feces, and veterinarian testified that dog suffered from extremely severe case of hookworm, that dog was 30 to 40 pounds underweight, that sores on dog’s ears were untreated for substantial period of time, that dog’s condition was treatable, and that, in her opinion, defendant’s failure to take dog for medical treatment amounted to animal cruelty.

**State v. Sheets**, 112 Ohio App.3d 1, 677 N.E.2d 818 (Ohio App. 4 Dist., 06-21-1996). Evidence supported conviction for cruelty to horse confined in barn, though owner suggested other, noncriminal reasons for horse’s thin condition, where state presented testimony from three veterinarians to prove that horse had not received sufficient food, including testimony that horse was 30 to 35% underweight and had gained up to 70 pounds in seven weeks after being removed from farm.

**State v. Lapping**, 75 Ohio App.3d 354, 599 N.E.2d 416 (1991). A defendant’s conviction for cruelty to animals for his treatment of cattle which resulted in malnutrition and dehydration is supported by sufficient evidence despite the defendant’s claim that no evidence was presented that the cattle were without shelter when there was wind, rain, snow or excessive sunlight and that the state proved nothing beyond the fact that the cattle were thin, where humane society employees, cattle experts, and a veterinarian testify that (1) the cattle were emaciated and malnourished and were nothing more than skin stretched over bones; (2) most of the cattle were confined to a pasture which was little more than mud, and which had no supplemental food source or access to water; (3) the animals were subject to all the elements of nature, as there was no shelter available to them; and (4) three cows died.
OKLAHOMA

SUMMARY: “Cruelty to animals” includes depriving an animal of necessary food, drink or shelter.

STATUTES:


Any person who shall willfully or maliciously overdrive, overload, torture, destroy or kill, or cruelly beat or injure, maim or mutilate, any animal in subjugation or captivity, whether wild or tame, and whether belonging to himself or to another, or deprive any such animal of necessary food, drink or shelter; or who shall cause, procure or permit any such animal to be so overdriven, overloaded, tortured, destroyed or killed, or cruelly beaten or injured, maimed or mutilated, or deprived of necessary food, drink or shelter; or who shall willfully set on foot, instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding Five Thousand Dollars ($5,000.00). Any officer finding an animal so maltreated or abused shall cause the same to be taken care of, and the charges therefor shall be a lien upon such animal, to be collected thereon as upon a pledge or a lien.

OKLA. STAT. ANN. tit. 21, § 1691 (2004). Abandoning of domestic animals along streets or highways or in any public place prohibited

Any person who deposits any live dog, cat, or other domestic animal along any private or public roadway, or in any other private or public place with the intention of abandoning the domestic animal upon conviction, shall be guilty of a misdemeanor.

CASE LAW: n/a
Confronting Animal Neglect in America

OREGON

SUMMARY: Comprehensive definitions and separate animal neglect statutes provide detailed information regarding what is the minimum standard of care and what constitutes neglect.

STATUTES:

OR. REV. STAT. § 167.310 (2005). Definitions

As used in ORS 167.310 to 167.350:

(1) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.

(2) "Domestic animal" means an animal, other than livestock, that is owned or possessed by a person.

* * * * *

(6) "Minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

(a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

(b) Open or adequate access to potable water in sufficient quantity to satisfy the animal’s needs. Access to snow or ice is not adequate access to potable water.

(c) For a domestic animal other than a dog engaged in herding or protecting livestock, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and that has adequate bedding to protect against cold and dampness.

(d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.

(e) For a domestic animal, continuous access to an area:

(A) With adequate space for exercise necessary for the health of the animal;

(B) With air temperature suitable for the animal; and

(C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health.

(f) For a livestock animal that cannot walk or stand without assistance:

(A) Humane euthanasia; or

(B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.

* * * * *

(1) A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in such person’s custody or control.

(2) Animal neglect in the second degree is a Class B misdemeanor.


(1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in the person’s custody or control and the failure to provide care results in serious physical injury or death to the animal.

(2) Animal neglect in the first degree is a Class A misdemeanor.


(1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal at a location without providing for the animal’s continued care.

(2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(3) Animal abandonment is a Class B misdemeanor.

CASE LAW: n/a
CONFRONTING ANIMAL NEGLIGE
RHODE ISLAND

SUMMARY: The crime of “overwork, mistreatment or failure to feed animals” includes depriving an animal of necessary sustenance and willfully failing to provide an animal with proper food, drink, shelter or protection from the weather.

STATUTES:


(A) Whoever shall overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, shall inflict cruelty upon that animal, or shall willfully fail to provide that animal with proper food, drink, shelter or protection from the weather, shall, for every such offense, be imprisoned not exceeding eleven (11) months, or be fined not less than fifty dollars ($50.00) nor exceeding five hundred dollars ($500), or be both imprisoned and fined as aforesaid.

R.I. GEN. LAWS § 4-1-4 (2004). Abandonment of infirm animals

If any maimed, sick, infirm, or disabled animal is abandoned to die, by any owner or person having charge of that animal, that person shall, for each offense, be punished in the manner provided in § 4-1-2.

R.I. GEN. LAWS § 4-1-26 (2004). Abandonment of animals from motor vehicles, dwelling houses, streets, roads, highways, public places, private property or other buildings or structures.

If any person having possession and/or control of an animal shall abandon that animal on a street, road, highway or in a public place or on private property or from a motor vehicle, or in a dwelling or any other building or structure without providing for the care of that animal, he or she shall be punished in the manner provided in § 4-1-2 for each such offense. Provided however, if such abandonment results in the death of said animal, the person shall be punished in the manner provided in § 4-1-5. Abandonment shall mean the relinquishment of all right, title, claim or possession of the animal with the intention of not reclaiming it or resuming its ownership or possession.

CASE LAW: n/a
SUMMARY: “Ill Treatment of Animals” includes failure to provide adequate food, water, shelter and protection from inclement weather. Definitions are provided for each of these requirements. There is no statutory requirement of veterinary care.

STATUTES:


As used in this chapter:

(1) "Animal" or "animals" shall be held to include all living vertebrate creatures except homo sapiens.

(2) "Sustenance" means adequate food provided at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight and adequate water provided with constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species.

(3) "Shelter" means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.


(A) Whoever overloads, overdrives, overworks, or ill-treats any animal, or deprives any animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon any animal, or causes these things to be done, for every offense is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding sixty days or by a fine of not less than one hundred dollars nor more than four hundred dollars for a first offense; by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a third or subsequent offense. Notwithstanding any other provision of law, a first offense under this subsection shall be tried in magistrate’s or municipal court.


(A) A person may not abandon an animal. As used in this section "abandonment" is defined as deserting, forsaking, or intending to give up absolutely an animal without securing another owner or without providing the necessities of life. "Necessities of life" includes:

(1) adequate water which means a constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species;

(2) adequate food which means provision at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight;

(3) adequate shelter which means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

S.C. CODE ANN. § 47-1-510 or Section 47-1-530 is exempt from this section.

CASE LAW: n/a
SUMMARY: Neglect of an animal is the failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities or care generally considered to be standard and accepted for an animal’s health and well-being consistent with the species, breed, physical condition and type of animal.

STATUTES:

**S.D. CODIFIED LAWS § 40-1-2.3 (2004).** For the purposes of this chapter and chapter 40-2, the neglect of an animal is the failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities or care generally considered to be standard and accepted for an animal’s health and well-being consistent with the species, breed, physical condition and type of animal.

**S.D. CODIFIED LAWS § 40-1-12 (2004).** Keeping unfit animal – Abandoning sick or disabled animal – Penalty

No person may keep any animal which is injured or diseased, past recovery, or unfit for any useful purpose and in suffering, or intentionally abandon to die any sick or disabled animal. A violation of this section is a Class 1 misdemeanor.

CASE LAW: n/a
CONFIDENTIAL

TENNESSEE

SUMMARY: “Cruelty to animals” includes unreasonable failure to provide necessary food, water, care or shelter for an animal in one’s custody. “Aggravated cruelty to animals” includes conduct done or carried out in a sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death.

STATUTES:


As used in this part, unless the context otherwise requires:

(1) “Animal” means a domesticated living creature or a wild creature previously captured;

(2) “Livestock” means all equine as well as animals which are being raised primarily for use as food or fiber for human utilization or consumption including, but not limited to, cattle, sheep, swine, goats, and poultry;

(3) “Non-livestock animal” means a pet normally maintained in or near the household(s) of its owner(s), other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as “livestock” pursuant to this part; and

(4) “Torture” means every act, omission, or neglect whereby unreasonable physical pain, suffering, or death is caused or permitted, but nothing herein shall be construed as prohibiting the shooting of birds or game for the purpose of human food or the use of animate targets by incorporated gun clubs.


(a) A person commits an offense who intentionally or knowingly:

(1) Tortures, maims or grossly overworks an animal;

(2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person’s custody;

(3) Abandons unreasonably an animal in the person’s custody;

(4) Transports or confines an animal in a cruel manner; or

(5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

* * * * *

TENN. CODE ANN. § 39-14-212 (2004). Aggravated cruelty to animals; definitions; penalties

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:
"Aggravated cruelty" means conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal including the failure to provide food and water to a companion animal resulting in a substantial risk of death or death:

**CASE LAW:**

Upheld a conviction for cruelty to animals for neglecting seven horses and six ponies. Evidence supporting conviction included the fact that the horses were not provided with adequate food and water, some of the horses had difficulty walking, their ribs showed, and some were sick.

Upheld defendants’ conviction for cruelty to animals resulting from conditions at an animal kennel where they were keeping approximately 350 dogs. Evidence supporting their conviction included testimony that adopted animals were very sick, one puppy was almost blind, other animals were missing fur. A veterinarian testified that the living conditions were filthy and inadequate, that many animals were in cages filled with feces and urine. One dog was in the process of delivering puppies and was caged with one dead puppy and another puppy that had just been born. The puppies could not stand as their legs were dangling through the grates on the cages. There was not access to food and water, and at least half of the animals were in very poor health.

Court upheld conviction for animal cruelty. Evidence to support the conviction included witness testimony concerning the condition of the defendant’s home, which was found to be filthy with animal urine and feces and moldy food throughout. Numerous dogs were found inside the home, and one dog chained to a piano leg with a chain so short he could not stand and could not reach food or water. Another dog was chained to the wall with no access to food and water. Several kittens were found inside a cage filled with cat waste and with no food or water available. One dog was found to have ear mites and lesions on the back of both of his ears, and of low body weight. Another dog was also found to be of low body weight.
TEXAS

SUMMARY: “Cruelty to animals” includes the unreasonable failure to provide necessary food, care, or shelter for an animal in one’s custody and abandonment. "Necessary food, care, or shelter" includes food, care, or shelter provided to the extent required to maintain the animal in a state of good health.

STATUTES:

TEX. PENAL CODE ANN. § 42.09 (2004). Cruelty to Animals

(a) A person commits an offense if the person intentionally or knowingly:

(1) tortures an animal;

(2) fails unreasonably to provide necessary food, care, or shelter for an animal in the person’s custody;

(3) abandons unreasonably an animal in the person’s custody;

(c) For purposes of this section:

(1) "Abandon" includes abandoning an animal in the person’s custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature and wild living creature previously captured. "Animal" does not include an uncaptured wild creature or a wild creature whose capture was accomplished by conduct at issue under this section.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person’s care and control, regardless of ownership of the animal.

(5) "Necessary food, care, or shelter" includes food, care, or shelter provided to the extent required to maintain the animal in a state of good health.

TEX. HEALTH & SAFETY CODE ANN. § 821.021 (2004). Definition

In this subchapter, "cruelly treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.
CASE LAW:

**Martinez v. State**, 48 S.W.3d 273 (Tex.App. 2001). Upheld elderly defendant’s conviction of cruelty to animals because one of the abandoned dogs she took care of was diseased. Defendant rescued and cared for abandoned dogs, and tried to treat dog’s condition with a home remedy. Evidence indicated that defendant had dog for two years, dog was lethargic and unresponsive, dog suffered from a severe skin condition and had little hair and open wounds, dog appeared malnourished, dog’s vertebrae were visible, and dog’s abdominal wall had severe tuck. Although the neglect resulted from a lack of resources rather than an act of cruelty, the conviction was still upheld.

**Wikoff v. State, Unpublished**, 1998 WL 285952 (Tex.App.-Hous. (14 Dist.) 1998). Upheld a conviction of cruelty to animals for failure to provide necessary food, care and shelter for two dogs and seven kittens. Evidence supporting the conviction included sickly appearance of the animals, filthy living conditions, and testimony from a veterinarian that all of the animals were in such poor health as to not be candidates for adoption and therefore all had to be euthanized.

**Brooks v. State, Unpublished**, 1993 WL 196616 (Tex.App.-Hous. (1 Dist) 1993). Upheld a conviction of cruelty to animals. Evidence supporting the conviction included filthy living conditions including feces and urine covering the floor, strong ammonia fumes, absence of water bowls for the dogs, and lack of wholesome food. The only food available was a torn bag of moldy and decomposing food in the garage. There was no air conditioning in the house. Four dogs were found dead, and all of the dogs were suffering from hair loss and skin problems.
**UTAH**

**SUMMARY:** “Animal cruelty” includes the failure to provide necessary food, care, or shelter for an animal in his custody and abandonment. “Abandons” means to intentionally leave any animal without providing for the care of that animal or in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal. "Necessary food, care, and shelter" means appropriate and essential food and other needs of the animal, including veterinary care, and adequate protection against extreme weather conditions.

**STATUTES:**

**UTAH CODE ANN. § 76-9-301 (2004). Cruelty to animals.**

(1) A person is guilty of cruelty to animals if the person intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, care, or shelter for an animal in his custody;

(b) abandons an animal in the person’s custody;

(c) transports or confines an animal in a cruel manner;

* * * * *

(11) As used in this section:

(a) "Abandons" means to intentionally deposit, leave, or drop off any live animal:

(i) without providing for the care of that animal; or

(ii) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(b) "Animal" means a live, nonhuman vertebrate creature.

(ii) "Animal" does not include animals kept or owned for agricultural purposes and cared for in accordance with accepted husbandry practices, animals used for rodeo purposes, and does not include protected and unprotected wildlife as defined in Section 23-13-2.

(c) "Custody" means ownership, possession, or control over an animal.

(d) "Legal privilege" means an act authorized by state law, including Division of Wildlife Resources statutes and rules, and conducted in conformance with local ordinances.

(e) "Necessary food, care, and shelter" means appropriate and essential food and other needs of the animal, including veterinary care, and adequate protection against extreme weather conditions.

**CASE LAW:** n/a
SUMMARY: The “cruelty to animals” statute includes neglect and provides detailed definitions of standards of care for adequate food, water, shelter, protection from weather, veterinary care, humane conditions, etc., and states what constitutes a breach of these duties. Vermont also has a statute outlining what constitutes adequate and appropriate shelter for animals based on species and other factors.

STATUTES:

VT. STAT. ANN. tit. 13, § 351 (2004). Definitions

As used in this chapter:

(1) "Animal" means all living sentient creatures, not human beings.

* * * * *

(7) "Necessary medical attention" shall include but not be limited to medical treatment for illness, injury, disease, excessive parasitism, or malformed or overgrown hoof.

* * * * *

(9) "Sanitation" means the maintenance of clean conditions for indoor and outdoor enclosures to minimize health hazards, including periodic cleanings to remove excretions or other waste materials, dirt and trash.

(10) "Torture" or "torment" means omission, neglect, or an act by an animal owner or other person, whereby physical pain, suffering or death is caused or permitted to be caused to an animal.

* * * * *

(15) "Living space" means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) "Adequate food" means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted agricultural or veterinarian practices.

(17) "Adequate water" means fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water.

(18) "Adequate shelter" means shelter which protects the animal from injury and environmental hazards.


A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;

(2) overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, or exposes a poison with intent that it be taken by an animal;
(3) ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;

(4) deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest, sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;

* * * *


(a) All livestock and animals which are to be predominantly maintained out-of-doors must be provided with adequate shelter to prevent direct exposure to the elements.

(b) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained out-of-doors shall be provided. The building opening size and height must, at a minimum, extend one foot above the withers of the largest animal housed and must be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall or stanchion ties, or other housing under control of the department of agriculture, food and markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(c)

(1) A dog, whether chained or penned, shall be provided living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs.

(2) The specifications required by subdivision (c)(1) of this section shall apply to each dog, regardless of whether the dog is housed individually or with other animals.

(d) A dog or cat confined in a living space shall be permitted outside the cage, crate, or structure for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal’s living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) A dog maintained out-of-doors must be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards throughout the year.

(f) A dog chained to a shelter must be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(g) A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation.
Confronting Animal Neglect in America

(i) Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out-of-doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices.

CASE LAW: n/a
VIRGINIA

SUMMARY: Virginia has a standards-of-care statute, “Care of animals by owner,” which provides for adequate food, water, shelter, cleanliness and space of shelter, humane treatment and care, veterinary care and exercise. Additionally, the “cruelty to animals” statute includes deprivation of necessary food, drink, shelter, or emergency veterinary treatment.

STATUTES:

VA. CODE ANN. § 3.1-796.66 (2004). Definitions

The following words as used in this chapter shall have the following meanings:

"Abandon" means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.1-796.68 for a period of five consecutive days.

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

"Adequate feed" means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

"Adequate space" means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every
12 hours, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

* * * * *

"Ambient temperature" means the temperature surrounding the animal.

* * * * *

"Treatment" or "adequate treatment" means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

* * * * *

VA. CODE ANN. § 3.1-796.68 (2004). Care of animals by owner; penalty

A. Each owner shall provide for each of his companion animals:

1. Adequate feed;

2. Adequate water;

3. Adequate shelter that is properly cleaned;

4. Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;

5. Adequate exercise;

6. Adequate care, treatment, and transportation; and

7. Veterinary care when needed or to prevent suffering or disease transmission. The provisions of this section shall also apply to every pound, animal shelter, or other releasing agency, and every foster care provider, dealer, pet shop, exhibitor, kennel, groomer, and boarding establishment. This section shall not require that animals used as food for other animals be euthanized.

* * * * *

VA. CODE ANN. § 3.1-796.73 (2004). Abandonment of animal; penalty

No person shall abandon or dump any animal. Violation of this section is a Class 3 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to a pound, animal shelter, or other releasing agency.
VA. CODE ANN. § 3.1-796.122 (2004). Cruelty to animals; penalty

A. Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such soring for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a Class 1 misdemeanor.

* * * * *

CASE LAW:

Buskey v. Com., Unpublished, 2003 WL 1873643 (Va.App. 2003). Court found that there was sufficient evidence to uphold conviction for “Cruelty to Animals” statute based on emaciated state of dog, sudden onset of depression in dog and veterinary evidence that the dog was in the final stages of starvation due to defendant’s failure to provide proper food and water.
SUMMARY: “Animal cruelty” includes failure to provide an animal with necessary food (defined in statute), water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure or abandonment. It also includes negligently starving, dehydrating, or suffocating an animal which causes “substantial and unjustifiable physical pain” that causes considerable suffering or death.

STATUTES:


(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(a) “Animal” means any nonhuman mammal, bird, reptile, or amphibian.

(b) “Animal care and control agency” means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(c) “Animal control officer” means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term “animal control officer” shall be interpreted to include “humane officer” as defined in (e) of this subsection and RCW 16.52.025.

(d) “Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(e) “Humane officer” means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

(f) “Law enforcement agency” means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(g) “Necessary food” means the provision at suitable intervals of wholesome foodstuff suitable for the animal’s age and species and sufficient to provide a reasonable level of nutrition for the animal.

(h) “Owner” means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(i) “Person” means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

(j) “Substantial bodily harm” means substantial bodily harm as defined in RCW 9A.04.110.
Confronting Animal Neglect in America


(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

* * * * *


(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

   (a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

   (b) Abandons the animal.

* * * * *

CASE LAW:

Upheld twelve misdemeanor convictions of second degree animal cruelty for failure to provide horses with necessary food, water and medical care. Evidence to support the convictions included testimony from neighbors that horses appeared overly thin, suffered from rain rot, a skin condition caused by constantly being wet, and had become listless. An officer observed the horses for nine days and noticed that there was lack of sufficient food and that the numbers of horses had decreased from 23 to 17. When the officer returned with a warrant, there were only five horses remaining on the property. All were examined by a veterinarian and found to be dangerously thin and malnourished.

Court upheld conviction of animal cruelty for underweight and malnourished horses. The Court of Appeals held that evidence was sufficient to show that underweight and malnourished horses suffered pain from defendants’ failure to provide necessary food. The evidence included testimony from veterinarian, Humane Society officers, and several neighbors, all of whom supported State’s theory that horses were underweight and malnourished, as well as poor dental health, and it was reasonable to infer that extreme hunger was capable of causing "pain" under the governing definition of that term.
WEST VIRGINIA

SUMMARY: “Cruelty to animals” includes withholding proper sustenance, including food, water, shelter or medical treatment, necessary to sustain normal health and fitness or to end suffering, and abandoning any animal to die.

STATUTE:

W. VA. CODE § 61-8-19 (2004). Cruelty to animals; penalties; exclusions

(a) If any person cruelly mistreats, abandons or withholds proper sustenance, including food, water, shelter or medical treatment, necessary to sustain normal health and fitness or to end suffering or abandons any animal to die, or uses, trains or possesses any domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than one thousand dollars or confined in the county or regional jail not more than six months, or both so fined and confined.

* * * * *

CASE LAW:

Upheld defendant’s conviction of cruelty to animals. The evidence supporting the conviction included witness testimony that defendant’s horses were found on 2 ½ acres of land with no food and water and insufficient pasture on which to feed. There was evidence that the horses were so underweight that their ribs and hip bones were protruding and hooves were split from lack of care. There was also evidence that trees on the property had been debarked by the horses, presumably for food. Some horses suffered from sores and uneven shedding of their coats possibly from parasites or malnutrition.
WISCONSIN

SUMMARY: Wisconsin has individual statutes describing proper food and drink to confined animals and providing proper shelter. Both statutes include definitions of what the minimum standards are and what is required under the statutes.

STATUTES:

WIS. STAT. § 951.01 (2004). Definitions

In this chapter:

(1) "Animal" includes every living:

(a) Warm-blooded creature, except a human being;

(b) Reptile; or

(c) Amphibian.

(2) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

WIS. STAT. § 951.13 (2004). Providing proper food and drink to confined animals.

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section.

(1) Food. The food shall be sufficient to maintain all animals in good health.

(2) Water. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.


No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(1) Indoor standards. Minimum indoor standards of shelter shall include:

(a) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.

(b) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(2) Outdoor standards. Minimum outdoor standards of shelter shall include:

(a) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the
animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(b) Shelter from inclement weather.

1. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

2. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(3) Space standards. Minimum space requirements for both indoor and outdoor enclosures shall include:

(a) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(b) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(4) Sanitation standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.


No person may abandon any animal.

CASE LAW:

State v. Nichols, 248 Wis.2d 983, 638 N.W.2d 394 (Wis.App. 2001).
Defendant attempted to appeal a conviction of failure to provide proper food and water and failure to provide proper shelter. Witnesses provided testimony as to the poor living conditions and emaciated conditions of the cattle, and the court found that to be sufficient evidence. Defendant’s argument that the statute only meant she had to provide food or water rather than food and water was rejected by the court.

Court allowed evidence of improper care of horses observed by officer, including poor condition of horses, unsanitary conditions of shelter and lack of ventilation, and absence of food or water, as evidence of failure to provide food and water to confined animals and failure to provide proper shelter.

Admissible evidence included smell of urine from the hallway, one dead adult dog, on dog so malnourished it could not move nor could barely bark, five malnourished puppies and dog feces throughout the apartment, adequate ventilation, and no food or water left for the animals. Evidence was upheld under the emergency doctrine, which allowed police to enter premises and obtain evidence without a warrant.
WYOMING

SUMMARY: “Cruelty to animals” includes unnecessarily failing to provide an animal in one’s care with the proper food, drink, or protection from the weather, cruelly abandoning an animal, and failing to provide an animal with appropriate “care.”

STATUTES:

WYO. STAT. ANN. § 6-3-203 (2004). Cruelty to animals; penalties; limitation on manner of destruction.

(a) A person commits cruelty to animals if he knowingly and with intent to cause death, injury or undue suffering:

(i) Overrides an animal or drives an animal when overloaded; or

(ii) Unnecessarily or cruelly beats, tortures, torments, injures, mutilates or attempts to kill an animal; or

(iii) Carries an animal in a manner that poses undue risk of injury or death.

* * * * *

(b) A person commits cruelty to animals if he has the charge and custody of any animal and unnecessarily fails to provide it with the proper food, drink or protection from the weather, or cruelly abandons the animal, or in the case of immediate, obvious, serious illness or injury, fails to provide the animal with appropriate care.

* * * * *

CASE LAW: n/a
III. **Prospective Statutory Remedies**

Beyond the general neglect prohibitions and standards of care reviewed in the preceding section, there are many other statutory devices available to assist states in fighting animal neglect.\(^{11}\) These include both criminal and civil provisions. Some states already employ many of these tools in varying degrees and forms.\(^{12}\)

**Contents:**

A. Adequate law enforcement and seizure provisions
B. Court calendar priority for animal-related cases
C. Termination of an unfit guardian’s interest
D. Cost mitigation provisions
   1. Costs-of-care bonds
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E. Mandatory protective orders
F. Required reporting of animal-related crimes
G. Receiverships & conservatorships
H. Civil injunctive relief for criminal violations
I. Forfeiture & possession/contact bans
J. Mental health evaluations & treatment
K. Offender registration and community notification

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\(^{12}\) For a more comprehensive review of the animal protection laws of individual states, please see the compendium *ANIMAL PROTECTION LAWS OF THE UNITED STATES OF AMERICA*. Copies are available here: http://aldf.org/resources/details.php?id=85
A. Law enforcement and seizure provisions

The following model provision ensures that all peace officers in a jurisdiction have both the duty and responsibility to enforce its animal protection laws. It also authorizes the appointment of special humane agents with statewide jurisdiction to enforce these laws.

The seizure/impoundment provision provides statutory options for impoundment (both with and without warrants), limited immunity for proper impoundments, and includes special notice and care requirements.

**LAW ENFORCEMENT POLICIES**

1. All peace officers shall have the duty and responsibility to enforce the [animal protection statutes] of this state.

2. Municipal and county animal control and care agencies and any societies incorporated in this state for the purpose of preventing the criminal mistreatment of animals, may appoint special humane agents to enforce the [animal protection statutes] of this state. Any such appointee must be approved by a court in the jurisdiction in which the agency or society is located. The court shall approve the appointment of a special humane agent if the appointee has demonstrated a satisfactory level of knowledge and training in the animal protection laws and the constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers.
   a. Special humane agents shall have the same duty, responsibility, power and authority to enforce the [animal protection statutes] of this state as any peace officer. This includes the power and authority:
      i. To arrest and take into custody any person the special humane agent has probable cause to believe has committed or is committing a violation of the [animal protection statutes];
      ii. To carry firearms;
      iii. To prepare and execute search and arrest warrants.
   b. The power and authority of special humane agents in the discharge of their duties shall extend throughout the entire state.
   c. Any person who shall interfere with or obstruct any special humane agent in the discharge of their duties shall be guilty of obstructing a peace officer in violation of the [applicable obstruction statute].

**IMPOUNDMENT**

1. **IMPOUNDMENT WITH A WARRANT:**
   If there is probable cause to believe that an animal is being subjected to treatment in violation of the [animal protection statutes], a special humane agent or other peace officer, after obtaining a search warrant, shall enter the premises where the animal is located and impound the animal.

2. **IMPOUNDMENT WITHOUT A WARRANT:**
   If a special humane agent or other peace officer witnesses a situation in which the special humane agent or peace officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health of safety, the special humane agent or peace officer may impound the animal without a warrant. The special humane
agent or peace officer shall immediately take an animal impounded under this section to a licensed veterinarian for medical attention to stabilize the animal's condition and to assess the health of the animal.

3. Any person or facility receiving an animal impounded pursuant to this section shall provide the animal with minimum care.

4. A special humane agent or other peace officer is not liable for any damages for an entry under this section.

5. Any guardian of an animal that is impounded pursuant to this section shall, within 72 hours following the impoundment, be given written notice of the impoundment and legal remedies available to the guardian. The notice shall be given by posting at the place of impoundment, by delivery to a person residing at the place of impoundment, or by registered mail if the guardian is unknown.

B. Court calendar priority for animal-related cases

Since most neglect cases involve living animals, giving court calendar priority to such cases will help to reduce the case resolution time, and reduce the length of interim custody of any seized animals. This in turn, will also help ease the financial burden on the agencies or people caring for the neglected animals.

C. Termination of an unfit guardian’s interest

This provision mirrors in part similar statutes aimed at the protection of children. It allows the court broad review in determining whether a guardian is fit to possess an animal and, if not, the means to terminate the guardian’s interest. The court review includes considering conduct that may not rise to the criminal level, but nonetheless may be detrimental to the animal. The provision also establishes that the court must consider the best interest of the animal in making its decisions.

In late 2006, in a precedent-setting first, the Oregon Court of Appeals ruled that a fiduciary may be appointed on behalf of a mentally-impaired animal owner to determine what is in the best interest of her companion animals, and granted a limited protective order to allow an
animal protection organization to be the fiduciary making that determination. This case was handled by ALDF. Additionally, the legal theory endorsed by the court was first championed in 2004 by ALDF attorney Dana Campbell in a case involving neglected birds.

**Termination of an Unfit Guardian's Interest in an Animal**

1. If an animal is in the custody of an animal care agency as a result of alleged conduct in violation of the [animal protection statutes], exigent circumstances, or for any other reason authorized by law, the custodial agency may file a petition for termination of the guardian's legal interest in the animal.

2. The petitioner shall serve a true copy of the petition upon the guardian of the animal, and to the prosecuting attorney if a prosecution pursuant to the [animal protection statutes] arising out of the same facts is currently pending.

3. Upon receipt of the petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within 14 days of the filing of the petition. The animal is not subject to any other civil action pending the final judgment of the court under this section.

4. The guardian's interest in the animal shall be terminated if the court finds the petitioner has established, by a preponderance of the evidence, that the guardian is unfit to possess the animal by reason of a single or recurrent incident of conduct or condition detrimental to the animal. In making such determination, the court shall consider, but is not limited to, the following:
   a. Emotional illness, mental illness or mental deficiency of the guardian of such nature and duration as to render the guardian incapable of providing minimum care to the animal for extended periods of time.
   b. Conduct toward any animal of an abusive, neglectful, or sexual nature.
   c. Addictive or habitual use of intoxicating or controlled substances to the extent that the guardian's ability to provide minimum care has been impaired.
   d. Failure of the guardian to provide minimum care to the animal.
   e. Criminal conduct that impairs the guardian's ability to provide minimum care to the animal.
   f. Abuse, neglect, abandonment or the sexual assault of the animal by the guardian.
   g. Conduct by the guardian to aid or abet another person in the abuse, neglect, abandonment or sexual assault of the animal.
   h. A conviction under the [animal protection statutes] resulting from the treatment of the animal is prima facie evidence that the guardian is unfit to possess the animal.

5. Upon a finding by the court that the petitioner has established by a preponderance of the evidence that the guardian of the animal is unfit to possess the animal, the court, in consideration of the best interest of the animal:
   a. Shall immediately terminate the guardian's legal interest in the animal and transfer such interest to the petitioner for further disposition in accordance with reasonable practices for humane treatment of animals. A transfer of legal interest under this subsection constitutes a transfer of ownership.
   b. Shall enjoin the guardian's possession of any animal for a period of not less than three years from the date the petition was granted.
   c. Shall order the guardian to repay the reasonable costs incurred by any person or agency in providing minimum care to the animal.

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14 *A Call for Help...and an Answer*, at http://aldf.org/resources/details.php?id=135
d. May order that other animals that are in the possession of the guardian and that were not taken into actual or constructive custody by the petitioner be transferred to the permanent custody of the petitioner or an appropriate person or animal care agency for further disposition in accordance with reasonable practices for the humane treatment of animals.

6. In placing an animal with a new guardian, the petitioner shall give placement preference to any person who had prior contact with the animal, including but not limited to family members and friends of the former guardian whom the petitioner determines are capable of providing necessary, adequate and appropriate levels of care to the animal.

D. Cost mitigation provisions: cost-of-care bonds, liens, reimbursement of costs, restitution

Caring for mistreated animals can be prohibitively expensive. Cases often involve dozens or even hundreds of animals and can last for months or years. Cost-of-care bonds, liens, reimbursement of costs, and restitution provisions help to ameliorate the expenses that shelters and humane societies typically are forced to bear, while providing appropriate safeguards and due process protections for defendants.

Cost-of-care bonds are particularly helpful because they provide the agency caring for the mistreated animals with court-approved funds (paid by the defendant or other guardian/owner) necessary to provide the animals with the reasonable costs of their care during the pendency of the criminal case, e.g., food, shelter, veterinary care. In effect, these provisions shift the costs from the shelter back to the defendant, who continues to have the responsibility for minimum care, regardless of where the animal temporarily lives. In addition, should the defendant choose not to post the bond, then the animal(s) are deemed abandoned and can be adopted into new homes.

COSTS-OF-CARE BONDS

1. The guardian of an animal that has been impounded pending outcome of a criminal action charging a violation of the [animal protection statutes] may prevent disposition of the animal by an animal shelter, humane society or other animal care agency that has temporary custody of the animal, by posting a bond with the court in an amount the court determines is sufficient to provide for the animal's minimum care for at least thirty days, including the day on which the animal was taken into custody. Such bond shall be filed with the court within ten days after the animal is impounded. If a bond is not so posted, the animal shall be deemed abandoned and the custodial animal care agency shall determine final disposition of the animal in accordance with reasonable practices for the humane treatment of animals. At the end of the time for which expenses are covered by
the bond, if the guardian desires to prevent disposition of the animal by the custodial animal care agency, the guardian shall post a new bond with the court within ten days following the prior bond's expiration. If a new bond is not so posted, the animal shall be deemed abandoned and the custodial animal care agency shall determine final disposition of the animal in accordance with reasonable practices for the humane treatment of animals. However, nothing in this subsection shall prohibit the immediate disposition of the animal by euthanasia if, in the opinion of a licensed veterinarian, the animal is experiencing intractable extreme pain or suffering. The guardian shall be liable for all costs of providing minimum care, or disposal of the animal.

2. If a bond has been posted in accordance with subsection (1) of this section, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing minimum care to the impounded animal from the date of initial impoundment to the date of final disposition of the animal in the criminal action.

LIENS

Any expense incurred in providing minimum care to an impounded animal shall become a lien on the animal and must be discharged before the animal is released to the guardian following the acquittal of the guardian or withdrawal of the criminal complaint. If the lien is not satisfied within seven days following the resolution of the criminal case, the guardian's legal interest in the impounded animal shall immediately transfer to the custodial agency or person for further disposition in accordance with reasonable practices for the humane treatment of animals. The custodial agency or person in a civil action may recover any additional expense above the value of the transferred interest in the animal.

REIMBURSEMENT OF COSTS

In addition to any other sentence it may impose, a court shall require a defendant convicted under [any animal protection statute] to repay all reasonable costs incurred by any person or organization prior to judgment in impounding and providing minimum care for each animal subjected to mistreatment in violation of the [animal protection statute], and for all costs of prosecution.

RESTITUTION

In addition to any other sentence it may impose, a court shall order that restitution be made by the defendant to the guardian of any animal subjected to mistreatment by the defendant in violation of [any animal protection statute]. The measure for restitution shall be the actual pecuniary value of such loss, including but not limited to, the actual veterinary expenses, special supplies, and other costs incurred by the animal's guardian in treating the animal and in attempting to restore the animal to good health or to otherwise ameliorate the effects of the violation.

E. Mandatory protective orders

This provision establishes a mandatory restraining order against anyone charged with an animal abuse violation. Such a restraining order would protect the animal victim(s), any guardian or owner (other than the defendant), and any witness to the abuse.
PROTECTIVE ORDERS

1. a. A mandatory restraining order is created against any person charged with a violation of this section.
   b. The order shall remain in effect from the time that the defendant is advised of his or her rights at arraignment or the defendant’s first appearance before the court and informed of such order, until final disposition of the action.
   c. The order shall restrain the defendant from harassing, molesting, intimidating, retaliating against, or tampering with:
      i. Any animal(s) victimized by the acts charged;
      ii. Any guardian or owner, other than the defendant, of such animal(s);
      iii. Any witness to the acts charged.
   d. The restraining order issued pursuant to this section shall be on a standardized form prescribed by the judicial department.
   e. A copy of the restraining order shall be provided to the protected parties.

2. A court may include an animal in any protective order authorized by this code.

F. Required reporting of animal-related crimes

Most animal abuse reporting statutes are limited to veterinarians and their assistants. The following provision expands those required to report suspected animal abuse through inclusion of those professions that are most likely to discover cases of animal abuse. It also provides immunity from all civil or criminal liability for those who make such reports in good faith.

REPORTING & IMMUNITY

1. The following designees, having probable cause to believe that any animal with whom the designee comes in contact has suffered a violation of the [animal protection statutes] or that any person with whom the designee comes in contact has committed a violation of the [animal protection statutes] shall immediately report or cause a report to be made to the nearest law enforcement agency:
   a. Peace officer;
   b. Veterinarian, including any intern or resident;
   c. Veterinary or animal care technician;
   d. Employee of a humane society, animal shelter or other animal control agency;
   e. Employee of a business engaged in the sale of animals, animal-related merchandise, or in the providing of services, transportation or housing for animals;
   f. Employee of the State Department of Fish & Wildlife, State Department of Agriculture, State Department of Social Services, State Commission on Children and Families, Child Care Division of the Employment Department, State Youth Authority, any county health department, community mental health and developmental disabilities program, county juvenile department, licensed child-caring agency or an alcohol and drug treatment program;
   g. Zoo or circus employee;
   h. Physician, including any intern or resident;
   i. Licensed practical nurse, registered nurse, physician's assistant, or nurse practitioner;
   j. Employee of any public or private school;
   k. Psychologist;
Confronting Animal Neglect in America

1. Member of the clergy;
m. Licensed clinical social worker;
n. Certified provider of foster care, including any employee;
o. Attorney;
p. Licensed professional counselor or marriage and family therapist;
q. Firefighter or emergency medical technician;
r. Public utility employee;
s. Photographer or photographic finisher;
t. News media employee;
u. A registered or certified child care provider.

2. Any psychiatrist, psychologist, member of the clergy or attorney shall not be required to report such information communicated by a person if the communication is privileged under state law.

3. Any designee making a report under this section is immune from any civil or criminal liability by reason of making the report, unless the report was made in bad faith.

4. A violation of this act is a [Class __ misdemeanor].

G. Receiverships and conservatorships

Some jurisdictions are beginning to utilize civil laws establishing receiverships and conservatorships to combat non-animal hoarders in their communities.\textsuperscript{15} These types of special proceedings are often viewed as a last resort remedy. Utilization of these type of laws against animal hoarders may also be a viable option.

H. Civil injunctive relief for criminal violations

The following provision authorizes injunctive relief to compel the humane treatment of an animal who is being, or has been, subjected to a violation of the animal protection statutes. It permits the court to give the complainant the right to provide minimum care to the animal and, under certain circumstances, the right to take possession of the animal during the pendency of the action. Should the court allow the complainant to take temporary possession of the animal, costs-of-care bonds are also authorized.

\textsuperscript{15} Second Annual Hoarding Conference: Partnership, Intervention & Tools in Long Beach, Cal. (May 17-18, 2006).
Following a trial on the complaint, the court has the authority to issue a permanent injunction to compel humane treatment or, upon certain findings, permanently transfer all interest and possessory rights in the animal to the complainant or appropriate successor guardian.

CIVIL INJUNCTIVE RELIEF FOR CRIMINAL VIOLATIONS

1. Purpose

It is the purpose of this Act to provide a civil action for the protection and humane treatment of animals, in addition to any criminal remedies that are available. It shall be proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. A real party in interest as plaintiff shall include any person even if the person does not have any legal interest or possessory rights in an animal. Such person has standing to bring an action under this Act based on the public policy against animal mistreatment as embodied in the [animal protection statutes]. A real party in interest as defendant shall include any guardian who has allegedly engaged in, or is engaging in, a violation of the [animal protection statutes].

2. Temporary/Preliminary Injunctive Relief; Bond; Costs

a. Upon the filing of a verified complaint in the [designated court] in the county in which a violation of the [animal protection statutes] has allegedly occurred, a temporary restraining order or preliminary injunction may be granted.

i. Every such order or injunction, if the plaintiff so requests, shall give the plaintiff, and any agents of the plaintiff, unrestricted access to the premises where the animal is located to evaluate, monitor and provide minimum care to the animal.

ii. Any such order or injunction shall also permit the plaintiff’s veterinarian to remove the animal if the veterinary care necessary cannot be reasonably completed on the premises where the animal is located.

iii. If it appears on the face of the complaint that the condition giving rise to the violation of the [animal protection statutes] requires the animal to be removed from the defendant, then it shall be proper for the court in the order or injunction to allow the plaintiff to take possession of the animal and provide minimum care.

b. If the court allows the plaintiff to take possession of the animal, the defendant shall post a bond with the court in an amount the court determines is sufficient to provide for the animal's minimum care for at least thirty days, including the day on which the plaintiff took possession of the animal. Such bond shall be filed with the court within ten days after the plaintiff takes possession of the animal. If a bond is not so posted, the court shall deem the animal to have been abandoned, terminate all of the defendant’s interest and possessory rights in the animal, and transfer all interest and possessory rights to the plaintiff or other appropriate successor guardian. At the end of the time for which expenses are covered by the bond, if the defendant desires to preserve the defendant’s interest and possessory rights in the animal, the defendant shall post a new bond with the court within ten days following the prior bond's expiration. If a new bond is not so posted, the court shall deem the animal to have been abandoned, terminate all of the defendant’s interest and possessory rights in the animal, and transfer all interest and possessory rights to the plaintiff or other appropriate successor guardian.

c. Nothing in subsection (b) shall prohibit the immediate euthanasia of the animal if, in the opinion of a licensed veterinarian, the animal is experiencing intractable extreme pain or suffering.
d. The defendant shall be liable for all costs of providing minimum care, euthanasia and disposal of the animal.

e. If a bond has been posted in accordance with subsection (b) of this section, the plaintiff may draw from the bond, and any additional bonds so posted, the actual reasonable costs incurred by the plaintiff in providing minimum care to the impounded animal from the date of initial possession to the date of final disposition of the animal in the civil action.

3. Permanent Injunction; Costs

a. A designated court in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as the court deems appropriate, including permanent injunction. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further violations of the animal protection statutes if returned to the possession of the defendant, the court shall terminate the defendant’s interest and possessory rights in the animal and transfer all interest and possessory rights to the plaintiff or other appropriate successor guardian.

b. If the court issues a permanent injunction or terminates the defendant's interest and possessory rights in the animal, the defendant shall be liable for all costs and fees incurred by the plaintiff in bringing the action.

I. Forfeiture & possession/contact bans

The sheer number of animals involved in neglect cases, and the level of individual suffering in such cases, is often staggering. Strong sentencing provisions send a clear message that this kind of maltreatment of animals will not be tolerated in our society. Such offenders have demonstrated their utter lack of responsibility when it comes to animals. The following provision permanently severs their legal interest in their victims upon conviction, thereby allowing these animals a chance at a better life with new guardians. Additionally, another provision includes a statutory period of time, following a conviction, during which the offender is barred from owning, possessing or residing with any animals. Not only does this seem warranted by the crime committed, but statistics continually demonstrate that many offenders will recommit similar crimes in the future if given the opportunity. An unambiguous ban of this type may help law enforcement stem this recidivism potential.

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FORFEITURE

In addition to any other sentence it may impose, a court shall require a defendant convicted under [any animal protection statute] to forfeit all legal interest of the defendant in the animal subjected to the violation. The court shall award all such interest to the animal to a humane society, animal shelter or other organization that has as its principal purpose the humane treatment of animals.

POSSSESSION OF ANIMALS

1. In addition to any other penalty imposed by law, a person convicted of any misdemeanor violation of the [animal protection statutes], shall not possess or reside with any animal for a period of five years following entry of the conviction. An offense under this subsection is a [Class __ misdemeanor] punishable by a fine not exceeding $1,000 and forfeiture of the animal as provided in [STATUTE xxx.xxx].

2. In addition to any other penalty imposed by law, a person convicted of any felony violation of the [animal protection statutes], shall not possess or reside with any animal for a period of 15 years following entry of the conviction. An offense under this subsection is a [Class __ misdemeanor] punishable by a fine not exceeding $5000 and forfeiture of the animal as provided under [STATUTE xxx.xxx].

J. Mental health evaluations & treatment

Having a mental health evaluation of the defendant available to the court prior to sentencing may lead to more appropriate sentencing, treatment, and, potentially, to the reduction of future offenses.

EVALUATION & TREATMENT

1. In addition to any other sentence it may impose, a court shall order the defendant to undergo a psychiatric, psychological or mental health evaluation, and if warranted by the condition of the defendant, shall order the defendant to undergo appropriate care or treatment.

2. All costs of the evaluation, care and treatment shall be borne by the defendant.

\[See supra p. 6, definition of “possession.”\]
K. Offender registration and community notification

Establishing a registry of those convicted of committing animal neglect, along with the means for the community to be notified or to have ready access to the information in the database may help to make it more difficult for offenders to reacquire new potential victims.

OFFENDER REGISTRATION & COMMUNITY NOTIFICATION

1. For purposes of this section, an “animal abuser” means a person over eighteen years of age who has been convicted of a violation of [any animal protection statute] of this state or of the comparable statutes of another state.

2. Any animal abuser physically within the boundaries of this state for more than ten consecutive days shall register with the county sheriff for the county in which the animal abuser is located before the end of the eleventh day in the state.

3. Any previously-registered animal abuser shall reregister with the county sheriff for the county in which the animal abuser is located no later than ten days after moving to a new location within the state.

4. When an animal abuser registers with the county sheriff, the animal abuser shall provide the following registration information:
   a. The legal name and any other names or aliases that the animal abuser is using or has used;
   b. The date of birth of the animal abuser;
   c. The social security number of the animal abuser;
   d. The current address or location of the animal abuser;
   e. The place of employment of the animal abuser;
   f. The animal protection offense for which the animal abuser was convicted; and
   g. The date and place of the animal protection offense conviction of the animal abuser.

5. When an animal abuser registers with a county sheriff, the sheriff shall obtain:
   a. A photograph of the animal abuser and a complete set of the animal abuser's fingerprints; and
   b. A description of any tattoos, scars or other distinguishing features on the animal abuser's body that would assist in identifying the animal abuser.

6. Following an animal abuser's initial registration pursuant to the provisions of this section, an animal abuser shall annually renew the animal abuser's registration with the county sheriff prior to December 31 of each subsequent calendar year for a period of fifteen years.

7. An animal abuser who intentionally or knowingly fails to comply with the registration requirements, or provides false information when complying with the registration requirements set forth in this section, is guilty of a [Class ___ misdemeanor].

8. Each county sheriff shall maintain a local registry of animal abusers in the sheriff's jurisdiction required to register pursuant to this section.
   a. The county sheriff shall forward all registration information obtained from animal abusers to the [State Department of Justice].
b. Within ten days of receiving initial registration information from an animal abuser, the county sheriff shall contact every residence, school, humane society, animal shelter and any other business within a half-mile radius of the animal abuser's residence or location and provide them with the animal abuser's registration information, with the exception of the animal abuser's social security number.

9. The [State Department of Justice] shall maintain a central registry of animal abusers required to register pursuant to the provisions of this section. The central registry of animal abusers shall be made available to the public through internet access, telephone access, written access and in-person access. All of the information contained in an animal abuser's registration, with the exception of the animal abuser's social security number, shall be made available. Records of each animal abuser's registration shall be maintained for the duration of the fifteen year period in which the animal abuser is required to be registered.