

ANIMAL PROTECTION LAWS OF MONTANA

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This chapter contains Montana's general animal protection and related statutes with an effective date on or before September 1, 2017. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories. Within the first thirteen of these categories, the relevant part of each statute is italicized. Category 14 provides a non-italicized version of each of the previously referenced statutes, in numerical order. The penalties and related provisions for categories 12 and 13 are generally located within each of those respective sections.

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

MONTANA

1. <u>GENERAL PROHIBITIONS</u> *	Cruelty to animals MONT. CODE ANN. § 45-8-211(1) Aggravated cruelty to animals MONT. CODE ANN. § 45-8-217
<i>Animals Covered in Definition</i>	-----
<i>Classification of Crimes</i>	(1) [1 st offense]: Misdemeanor [Subsequent offenses]: Felony ----- (2) Felony
2. <u>MAXIMUM PENALTIES</u> **	(1) [1 st offense]: 1 year county jail <i>and/or</i> \$1,000 fine MONT. CODE ANN. § 45-8-211(2)(a) [Subsequent offenses]: 2 years prison <i>and/or</i> \$2,500 fine MONT. CODE ANN. § 45-8-211(2)(a) (2) 2 years prison <i>and/or</i> \$2,500 fine MONT. CODE ANN. § 45-8-211(2)(a)

MONTANA *continued*

3. <u>EXEMPTIONS</u> ***	1, 2, 3, 4, 5, 6, 7, 9 MONT. CODE ANN. § 45-8-211(4)
4. <u>COUNSELING / EVALUATIONS</u> ^H	-----
5. <u>PROTECTIVE ORDERS</u> ^H	-----
6. <u>RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS</u> ^H	<p>Upon petition by the prosecutor, the court may require the defendant to post a bond to cover the costs of care. MONT. CODE ANN. § 27-1-434(5)(b)</p> <p>The court shall require a defendant who is convicted of cruelty to animals to pay reasonable costs of veterinary care. MONT. CODE ANN. § 45-8-211(3)(a)</p> <p>The court may require defendant to pay reasonable costs of necessary care. MONT. CODE ANN. § 45-8-211(3)(b)</p>
7. <u>SEIZURE / ON-SITE SUPERVISION</u>	<p>Animals may be seized pursuant to an arrest for cruelty to animals. MONT. CODE ANN. § 27-1-434(1)</p>
8. <u>FORFEITURE / POSSESSION</u> ^H	<p>At a pre-trial animal welfare hearing, the court may order a seized animal retained by a shelter to be euthanized if seriously injured or suffering, or returned to the animal's owner. MONT. CODE ANN. § 27-1-434(5)(c),(d)</p> <p>Convicted owner may be required to forfeit affected animal(s) to the county. MONT. CODE ANN. § 45-8-211(2)(b)</p> <p>Court may prohibit or limit ownership/possession/custody of animals during term of sentence. MONT. CODE ANN. § 45-8-211(3)(c)</p>

MONTANA <i>continued</i>	
9. <u>CROSS ENFORCEMENT / REPORTING</u>	-----
10. <u>VETERINARIAN REPORTING / IMMUNITY</u>	-----
11. <u>LAW ENFORCEMENT POLICIES</u>	The court shall give an animal welfare hearing priority upon a showing that the animal exhibits extreme disease, injury, or suffering. MONT. CODE ANN. § 27-1-434(3)
12. <u>SEXUAL ASSAULT</u>	Definition MONT. CODE ANN. § 45-2-101 The sexual assault of an animal is a felony punishable by up to 10 years in the state prison and a \$50,000 fine. MONT. CODE ANN. § 45-8-218
13. <u>FIGHTING</u>	Various animal fighting activities are felonies punishable by up to 5 years in the state prison and a \$5,000 fine. MONT. CODE ANN. § 45-8-210
<i>Other Felony Provisions Affecting Animals</i>¹	Killing or injuring a commonly domesticated hoofed animal MONT. CODE ANN. § 45-6-101
<i>NOTES</i>	Exemplary damages may be awarded for inhumane injuries to animals MONT. CODE ANN. § 27-1-222 Harming a police dog MONT. CODE ANN. § 45-8-209

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

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

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

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

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

1. GENERAL PROHIBITIONS

MONT. CODE ANN. § 45-8-211 (2017). Cruelty to animals—exceptions.

(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*
- (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.*

(2)

- (a)** A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.
- (b)** If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
- (c)** For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

- (a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;
- (b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and
- (c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

- (a) a person humanely destroying an animal for just cause;
- (b) the use of commonly accepted agricultural and livestock practices on livestock;
- (c) rodeo activities that meet humane standards of the professional rodeo cowboys association;
- (d) lawful fishing, hunting, and trapping activities;
- (e) lawful wildlife management practices;
- (f) lawful scientific or agricultural research or teaching that involves the use of animals;
- (g) services performed by a licensed veterinarian;
- (h) lawful control of rodents and predators and other lawful animal damage control activities; or
- (i) accepted training and discipline methods.

MONT. CODE ANN. § 45-8-217 (2017). Aggravated animal cruelty.

A person commits the offense of aggravated animal cruelty if the person purposely or knowingly:

(1) kills or inflicts cruelty to an animal with the purpose of terrifying, torturing, or mutilating the animal; or

(2) inflicts cruelty to animals on a collection, kennel, or herd of 10 or more animals.

2. PENALTIES

MONT. CODE ANN. § 45-8-211 (2017). Cruelty to animals—exceptions.

(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

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

3. EXEMPTIONS

MONT. CODE ANN. § 45-8-211 (2017). Cruelty to animals—exceptions.

(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
- (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

- (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.
- (b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
- (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

- (a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;
- (b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and
- (c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) *This section does not prohibit:*

- (a) a person humanely destroying an animal for just cause;*
- (b) the use of commonly accepted agricultural and livestock practices on livestock;*
- (c) rodeo activities that meet humane standards of the professional rodeo cowboys association;*
- (d) lawful fishing, hunting, and trapping activities;*
- (e) lawful wildlife management practices;*
- (f) lawful scientific or agricultural research or teaching that involves the use of animals;*
- (g) services performed by a licensed veterinarian;*
- (h) lawful control of rodents and predators and other lawful animal damage control activities; or*
- (i) accepted training and discipline methods.*

4. COUNSELING

5. PROTECTIVE ORDERS

6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

MONT. CODE ANN. § 27-1-434 (2017). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

- (a) the purported facts regarding animal neglect and the current condition of the animal;
- (b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
- (c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

- (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
- (b) the extent of the animal's disease, injury, or suffering, if applicable;
- (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
- (d) the availability of funding to provide for the animal's treatment, shelter, and care.

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

- (a) immediate release of the animal to the owner;
- (b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;*
- (c) euthanization of severely diseased, injured, or suffering animals; or

(d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

MONT. CODE ANN. § 45-8-211 (2017). Cruelty to animals—exceptions.

(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

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) *In addition to the sentence provided in subsection (2), the court:*

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

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(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

7. SEIZURE / ON-SITE SUPERVISION

MONT. CODE ANN. § 27-1-434 (2017). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

- (a) the purported facts regarding animal neglect and the current condition of the animal;
- (b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
- (c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

- (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
- (b) the extent of the animal's disease, injury, or suffering, if applicable;
- (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
- (d) the availability of funding to provide for the animal's treatment, shelter, and care.

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

- (a) immediate release of the animal to the owner;
- (b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;
- (c) euthanization of severely diseased, injured, or suffering animals; or
- (d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

8. FORFEITURE / POSSESSION

MONT. CODE ANN. § 27-1-434 (2017). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

- (a) the purported facts regarding animal neglect and the current condition of the animal;
- (b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
- (c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) *At the hearing, the court may consider the following factors:*

- (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;*
- (b) the extent of the animal's disease, injury, or suffering, if applicable;*
- (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and*
- (d) the availability of funding to provide for the animal's treatment, shelter, and care.*

(5) *Upon consideration of the factors listed in subsection (4), the court may order any of the following:*

- (a) immediate release of the animal to the owner;
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- (c) *euthanization of severely diseased, injured, or suffering animals; or*

(d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

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- (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
- (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) *In addition to the sentence provided in subsection (2), the court:*

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) *shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.*

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

(b) the use of commonly accepted agricultural and livestock practices on livestock;

(c) rodeo activities that meet humane standards of the professional rodeo cowboys association;

(d) lawful fishing, hunting, and trapping activities;

(e) lawful wildlife management practices;

(f) lawful scientific or agricultural research or teaching that involves the use of animals;

(g) services performed by a licensed veterinarian;

(h) lawful control of rodents and predators and other lawful animal damage control activities; or

(i) accepted training and discipline methods.

9. CROSS ENFORCEMENT / REPORTING

10. VETERINARIAN REPORTING / IMMUNITY

11. LAW ENFORCEMENT POLICIES

MONT. CODE ANN. § 27-1-434 (2017). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

- (a) the purported facts regarding animal neglect and the current condition of the animal;
- (b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
- (c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

- (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
- (b) the extent of the animal's disease, injury, or suffering, if applicable;
- (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
- (d) the availability of funding to provide for the animal's treatment, shelter, and care.

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

- (a) immediate release of the animal to the owner;
- (b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;
- (c) euthanization of severely diseased, injured, or suffering animals; or

(d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

12. SEXUAL ASSAULT

MONT. CODE ANN. § 45-2-101 (2017). General definitions.

Unless otherwise specified in the statute, all words will be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

* * * * *

(21) *“Deviate sexual relations” means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.*

* * * * *

MONT. CODE ANN. § 45-8-218 (2017). Deviate sexual conduct.

(1) *A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct.*

(2) *A person convicted of the offense of deviate sexual conduct shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.*

13. FIGHTING

MONT. CODE ANN. § 45-8-210 (2017). Causing animals to fight—owners, trainers, and spectators—penalties—exception—definition.

(1) A person commits the offense of causing animals to fight if he:

(a) owns, possesses, keeps, or trains any animal with the intent that such animal fight or be engaged in an exhibition of fighting with another animal;

(b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain;

(c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under his charge or control, or aids or abets any such act;

(d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain.

(2) A person convicted of violating this section is guilty of a felony and shall be fined an amount not to exceed \$5,000 or imprisoned in the state prison for a term of not less than 1 year or more than 5 years, or both such fine and imprisonment.

(3) Nothing in this section prohibits the following:

(a) accepted husbandry practices used in the raising of livestock or poultry;

(b) the use of animals in the normal and usual course of rodeo events; or

(c) the use of animals in hunting and training as permitted by law.

(4) For purposes of this section, “animal” means any cock, bird, dog, or mammal except man.

14. REFERENCED STATUTES

MONT. CODE ANN. § 27-1-434 (2017). Animal welfare hearing.

(1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

- (a) the purported facts regarding animal neglect and the current condition of the animal;
- (b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
- (c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

- (a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
- (b) the extent of the animal's disease, injury, or suffering, if applicable;
- (c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
- (d) the availability of funding to provide for the animal's treatment, shelter, and care.

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

- (a) immediate release of the animal to the owner;
- (b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;
- (c) euthanization of severely diseased, injured, or suffering animals; or

(d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

MONT. CODE ANN. § 45-2-101 (2017). General definitions.

Unless otherwise specified in the statute, all words will be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title:

* * * * *

(21) “Deviate sexual relations” means sexual contact or sexual intercourse between two persons of the same sex or any form of sexual intercourse with an animal.

* * * * *

MONT. CODE ANN. § 45-8-209 (2017). Harming a police dog – penalty – definition.

(1) A person commits the offense of harming a police dog if the person purposely or knowingly shoots, kills, or otherwise injures a police dog being used by a:

(a) law enforcement officer in discharging or attempting to discharge a legal duty in a reasonable and proper manner; or

(b) person while the person is under the control of and acting under the direction of an officer of an official law enforcement agency during the performance of the agency’s law enforcement or search and rescue duties.

(2) A person convicted of the offense of harming a police dog may be fined an amount not to exceed \$ 5,000 or be imprisoned in the state prison for a term not to exceed 1 year, or both.

(3) As used in this section, the following definitions apply:

(a) “Law enforcement officer” means a person who is a peace officer, as defined in 46-1-202, or any other agent of a criminal justice agency.

(b) “Police dog” means a dog that is:

(i) used by a law enforcement agency, as defined in 44-11-303, in the exercise of its authority;

- (ii) specifically trained for law enforcement or search and rescue work; and
- (iii) under the control of a law enforcement officer.

MONT. CODE ANN. § 45-8-210 (2017). Causing animals to fight—owners, trainers, and spectators—penalties—exception—definition.

- (1) A person commits the offense of causing animals to fight if he:
 - (a) owns, possesses, keeps, or trains any animal with the intent that such animal fight or be engaged in an exhibition of fighting with another animal;
 - (b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain;
 - (c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under his charge or control, or aids or abets any such act;
 - (d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain.
- (2) A person convicted of violating this section is guilty of a felony and shall be fined an amount not to exceed \$5,000 or imprisoned in the state prison for a term of not less than 1 year or more than 5 years, or both such fine and imprisonment.
- (3) Nothing in this section prohibits the following:
 - (a) accepted husbandry practices used in the raising of livestock or poultry;
 - (b) the use of animals in the normal and usual course of rodeo events; or
 - (c) the use of animals in hunting and training as permitted by law.
- (4) For purposes of this section, “animal” means any cock, bird, dog, or mammal except man.

MONT. CODE ANN. § 45-8-211 (2017). Cruelty to animals—exceptions.

- (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

(e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2)

(a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

- (a) a person humanely destroying an animal for just cause;
- (b) the use of commonly accepted agricultural and livestock practices on livestock;
- (c) rodeo activities that meet humane standards of the professional rodeo cowboys association;
- (d) lawful fishing, hunting, and trapping activities;
- (e) lawful wildlife management practices;
- (f) lawful scientific or agricultural research or teaching that involves the use of animals;
- (g) services performed by a licensed veterinarian;
- (h) lawful control of rodents and predators and other lawful animal damage control activities; or
- (i) accepted training and discipline methods.

MONT. CODE ANN. § 45-8-217 (2017). Aggravated animal cruelty.

A person commits the offense of aggravated animal cruelty if the person purposely or knowingly:

- (1) kills or inflicts cruelty to an animal with the purpose of terrifying, torturing, or mutilating the animal; or
- (2) inflicts cruelty to animals on a collection, kennel, or herd of 10 or more animals.

MONT. CODE ANN. § 45-8-218 (2017). Deviate sexual conduct.

(1) A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct.

(2) A person convicted of the offense of deviate sexual conduct shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.