

# ANIMAL PROTECTION LAWS OF WEST VIRGINIA

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*This chapter contains West Virginia'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.*

*West Virginia 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.*

## WEST VIRGINIA

<p><b>1. <u>GENERAL PROHIBITIONS</u></b> *</p>	<p>(1) Abuse or killing of a companion animal W. VA. CODE § 19-20-12(a)</p> <p>(2) Intentional theft of a companion animal W. VA. CODE § 19-20-12(b)</p> <p>(3) Malicious poisoning, maiming or killing of a horse, cow or other animal (excluding dogs) of another person W. VA. CODE § 61-3-27</p> <p>(4) Cruel treatment, neglect, abandonment of an animal, dangerous confinement in a vehicle, riding when unfit, baiting or harassing to make it perform, cruelly chaining, or using, training or possessing any domesticated animal for the purpose of maltreating another animal W. VA. CODE § 61-8-19(a)</p> <p>(5) Torture or malicious killing of an animal W. VA. CODE § 61-8-19(b)</p> <p>(6) Administering a controlled substance to animal engaged in a contest W. VA. CODE § 61-8-19(c)</p>
<p><i>Animals Covered in Definition</i></p>	<p>-----</p>
<p><i>Classification of Crimes</i></p>	<p>(1), (2), (3), (4), (6) Misdemeanor</p> <p>(3) [If value of animal is over \$100], (5) Felony</p>

**WEST VIRGINIA** *continued*

**2. MAXIMUM PENALTIES \*\***

(1)  
90 days community service  
*and/or*  
\$500 fine  
W. VA. CODE § 19-20-12(a)

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(2)  
[1<sup>st</sup> offense]:  
90 days community service  
*and/or*  
\$500 fine  
W. VA. CODE § 19-20-12(b)

[Subsequent offenses]:  
6 months county jail  
*or*  
one year community service  
*AND*  
\$1,000 fine  
W. VA. CODE § 19-20-12(b)

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(3)  
[If value of injured animal is less than \$100]:  
3 months jail  
*and*  
\$500 fine  
W. VA. CODE § 61-3-27

[If value of injured animal is \$100 or more]:  
10 years prison  
W. VA. CODE § 61-3-27

## WEST VIRGINIA *continued*

<p><b>2. MAXIMUM PENALTIES</b> ** <i>continued</i></p>	<p>(4) [1<sup>st</sup> offense]: 6 months jail <i>and/or</i> \$2,000 fine W. VA. CODE § 61-8-19(a)</p> <p>[Subsequent offenses]: 1 year jail <i>and/or</i> \$3,000 fine W. VA. CODE § 61-8-19(g)</p> <p>-----</p> <p>(5) 5 years jail <i>and</i> \$5,000 fine W. VA. CODE § 61-8-19(b)</p> <p>(6) \$2,000 fine W. VA. CODE § 61-8-19(c)</p>
<p><b>3. <u>EXEMPTIONS</u></b> ***</p>	<p>2, 3, 4 W. VA. CODE § 7-10-4(h)</p> <p>9 W. VA. CODE § 19-20-16</p> <p>1, 2, 3, 4, 9 W. VA. CODE § 61-8-19(c),(f)</p>
<p><b>4. <u>COUNSELING / EVALUATIONS</u></b> <sup>H</sup></p>	<p>Psychiatric evaluation required for probation. W. VA. CODE § 61-8-19(h)(1)</p> <p>Court may require offenders to complete an anger management program for perpetrators of animal cruelty. W. VA. CODE § 61-8-19(h)(2)</p>

**WEST VIRGINIA** *continued*

<b>5. <u>PROTECTIVE ORDERS</u></b> <sup>H</sup>	W. VA. CODE § 48-27-503(13)
<b>6. <u>RESTITUTION / REIMBURSEMENT OF COSTS / BONDING &amp; LIENS</u></b> <sup>H</sup>	<p>If probable cause is shown, defendant is liable for costs of care while animal is impounded. W. VA. CODE § 7-10-4(b),(d)</p> <p>Upon a finding of probable cause, the owner shall post a renewable bond for costs of care. W. VA. CODE § 7-10-4(c)</p> <p>Unrecovered expenses become a lien on the animal. W. VA. CODE § 7-10-4(d)</p> <p>Restitution is available for abuse or killing of companion animal. W. VA. CODE § 19-20-12(a)</p> <p>If convicted, defendant is liable for costs of care of seized animals. W. VA. CODE § 61-8-19(d)</p>
<b>7. <u>SEIZURE / ON-SITE SUPERVISION</u></b>	<p>Humane officers may seize cruelly treated animals drawing, or inside of, a vehicle. W. VA. CODE § 7-10-3</p> <p>Humane officers shall seize any abandoned, neglected, or cruelly treated animal, including birds and wildlife in captivity. W. VA. CODE § 7-10-4(a)</p> <p>If magistrate finds animal was cruelly treated, humane officer will maintain possession of seized animal pending further proceedings. W. VA. CODE § 7-10-4(c)</p> <p>Court shall issue search warrants for reasonable cause that animals are being cruelly treated. W. VA. CODE § 61-8-21</p>

**WEST VIRGINIA** *continued*

<p><b>8. <u>FORFEITURE / POSSESSION</u></b> <sup>H</sup></p>	<p>Upon a finding by a preponderance of the evidence that the owner of a seized animal did abandon, neglect or cruelly treat the animal, the animal shall be humanely disposed of unless a bond is posted. W. VA. CODE § 7-10-4(c)</p> <p>Any person convicted of a violation shall forfeit all interest in animal abused. W. VA. CODE § 61-8-19(d)</p> <p>Court shall prohibit anyone convicted from possessing, owning or residing with any animal for 5 years following a misdemeanor conviction, and for 15 years following a felony conviction. W. VA. CODE § 61-8-19(i)</p>
<p><b>9. <u>CROSS ENFORCEMENT / REPORTING</u></b></p>	<p>Humane officers shall report suspected child, elder and incapacitated person abuse or neglect, or suspected domestic violence. W. VA. CODE § 7-10-2(b); 49-2-803</p> <p>Humane officers shall report suspected circumstances whereby an incapacitated person may be abused, neglected or in an emergency situation. W. VA. CODE § 9-6-9</p> <p>Adult protective service and child protective service workers shall report suspected animal cruelty. W. VA. CODE §§ 9-6-9a, 49-2-806</p> <p>Law enforcement officers responding to domestic violence cases shall report suspected animal cruelty. W. VA. CODE § 48-27-702(c)</p>

**WEST VIRGINIA** *continued*

<b>10. <u>VETERINARIAN REPORTING / IMMUNITY</u></b>	<p>Veterinarian has no civil or criminal liability for making a determination that a seized animal should be humanely destroyed to end its suffering. W. VA. CODE § 7-10-4(e)</p> <p>Veterinarian has a duty to report suspected animal abuse or neglect, and has no civil or criminal liability from such reporting. W. VA. CODE § 7-10-4a(a)</p>
<b>11. <u>LAW ENFORCEMENT POLICIES</u></b>	<p>When a prosecuting attorney has information of the violation of any penal law committed within such county, he shall institute and prosecute all necessary and proper proceedings against the offender. W. VA. CODE § 7-4-1</p> <p>Designated humane officers shall investigate all complaints of cruelty and enforce related statutes. W. VA. CODE § 7-10-1</p> <p>Humane officers may arrest offenders upon probable cause and shall prevent the perpetration or continuance of any act of cruelty. W. VA. CODE § 7-10-2(a)</p> <p>Commissioner of agriculture may designate employees to investigate animal cruelty; state police and law enforcement authorities have authority and duty to enforce provisions relating to abuse and killing of companion animals. W. VA. CODE § 19-20-12(d),(e)</p>
<b>12. <u>SEXUAL ASSAULT</u></b>	-----

## WEST VIRGINIA *continued*

<p><b>13. <u>FIGHTING</u></b></p>	<p>Using, training or possessing a domesticated animal for seizing, detaining or maltreating another domesticated animal is a misdemeanor; search warrants may be issued for reasonable cause. W. VA. CODE §§ 61-8-19(a)(1)(I), 61-8-21</p> <p>Animal fighting ventures are prohibited and punishable as a misdemeanor or felony depending upon the species involved. W. VA. CODE § 61-8-19a</p> <p>Attending an animal fighting venture is a misdemeanor on first and second offense and felony on third and subsequent offenses. W. VA. CODE § 61-8-19b</p> <p>Wagering at animal fighting venture prohibited. W. VA. CODE § 61-8-19c</p> <p>Search warrants relating to birds and animals kept for fighting may be issued for reasonable cause. W. VA. CODE § 61-8-22</p> <p>A search without a warrant is authorized at animal fighting exhibitions. W. VA. CODE § 61-8-23</p>
<p><b><i>Other Felony Provisions Affecting Animals</i><sup>1</sup></b></p>	<p>Intentionally injuring/killing a law enforcement animal; injury to explosives-detection animal W. VA. CODE §§ 19-20-24, 61-3E-6</p>
<p><b><i>NOTE</i></b></p>	<p>Notwithstanding any statute to the contrary, counties may adopt laws providing for the custody and care of animals that have been abandoned, neglected or cruelly treated. W. VA. CODE § 7-1-14</p>

\* 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

**W. VA. CODE § 19-20-12 (2017). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.**

*(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.*

*(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.*

*(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.*

*(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.*

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

**W. VA. CODE § 61-3-27 (2017). Malicious killing of animals by poison or otherwise; penalty.**

*If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of one hundred dollars or more, the person is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than one hundred dollars, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than five hundred dollars: Provided, That this section shall not be construed to include dogs.*

**W. VA. CODE § 61-8-19 (2017). Cruelty to animals; penalties; exclusions.**

(a)

*(1) It is unlawful for any person to intentionally, knowingly or recklessly,*

*(A) Mistreat an animal in cruel manner;*

*(B) Abandon an animal;*

*(C) Withhold:*

*(i) Proper sustenance, including food or water;*

*(ii) Shelter that protects from the elements of weather; or*

*(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;*

*(D) Abandon an animal to die;*

*(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;*

*(F) Ride an animal when it is physically unfit;*

*(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;*

*(H) Cruelly chain or tether an animal; or*

*(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.*

*(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.*

*(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.*

*(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.*

*(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.*

*(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.*

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) *Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor* and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

## 2. PENALTIES

### **W. VA. CODE § 19-20-12 (2017). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.**

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, *shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both.* However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, *shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both.* Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, *shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars.* In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

**W. VA. CODE § 61-3-27 (2017). Malicious killing of animals by poison or otherwise; penalty.**

If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of one hundred dollars or more, the person is guilty of a felony, *and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than one hundred dollars, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than five hundred dollars: Provided, That this section shall not be construed to include dogs.*

**W. VA. CODE § 61-8-19 (2017). Cruelty to animals; penalties; exclusions.**

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, *shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.*

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, *shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.*

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, *shall be fined not less than five hundred nor more than two thousand dollars.*

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a *misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.*

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. *A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.*



### 3. EXEMPTIONS

#### **W. VA. CODE § 7-10-4 (2017). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.**

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

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

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [ §§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [ § 29A-3-15],

article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal's suffering and to protect other persons and animals.

*(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.*

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

**W. VA. CODE § 19-20-16 (2017). Same—When lawful to kill dog.**

*A person may kill a dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry outside of the enclosure of the owner of the dog, unless the chasing or worrying be done by the direction of the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry.*

**W. VA. CODE § 61-8-19 (2017). 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 intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result, or rides an animal when it is physically unfit, or baits or harasses any animal for the purpose of making it perform for a person's amusement, or cruelly chains any animal 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 two thousand dollars or confined in jail not more than six months, or both.

(b) If any person intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, he or she is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, “torture” means an action taken for the primary purpose of inflicting pain.

(c) Any person, *other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian*, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal’s performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section shall forfeit his or her interest in any animal and all interest in the animal shall vest in the humane society or county pound of the county in which the conviction was rendered and the person shall, in addition to any fine imposed, be liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term “controlled substance” has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

*(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.*

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of said subsection is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection shall be mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of said evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

#### **4. COUNSELING / EVALUATIONS**

##### **W. VA. CODE § 61-8-19 (2017). Cruelty to animals; penalties; exclusions.**

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

*(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.*

*(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.*

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.



## **5. PROTECTIVE ORDERS**

### **W. VA. CODE § 48-27-503 (2017). Permissive provisions in protective order.**

*The terms of a protective order may include:*

- (1) Granting possession to the petitioner of the residence or household jointly resided in at the time the abuse occurred;
- (2) Ordering the respondent to refrain from entering or being present in the immediate environs of the residence of the petitioner;
- (3) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children named in the order;
- (4) Establishing terms of temporary visitation with regard to the minor children named in the order including, but not limited to, requiring third party supervision of visitations if necessary to protect the petitioner and/or the minor children;
- (5) Ordering the noncustodial parent to pay to the caretaker parent a sum for temporary support and maintenance of the petitioner and children, if any;
- (6) Ordering the respondent to pay to the petitioner a sum for temporary support and maintenance of the petitioner, where appropriate;
- (7) Ordering the respondent to refrain from entering the school, business or place of employment of the petitioner or household or family members for the purpose of violating the protective order;
- (8) Ordering the respondent to participate in an intervention program for perpetrators;
- (9) Ordering the respondent to refrain from contacting, telephoning, communicating, harassing or verbally abusing the petitioner;
- (10) Providing for either party to obtain personal property or other items from a location, including granting temporary possession of motor vehicles owned by either or both of the parties, and providing for the safety of the parties while this occurs, including ordering a law-enforcement officer to accompany one or both of the parties;
- (11) Ordering the respondent to reimburse the petitioner or other person for any expenses incurred as a result of the domestic violence, including, but not limited to, medical expenses, transportation and shelter;

(12) Ordering the petitioner and respondent to refrain from transferring, conveying, alienating, encumbering or otherwise dealing with property which could otherwise be subject to the jurisdiction of the court or another court in an action for divorce or support, partition or in any other action affecting their interests in property;

*(13) Awarding the petitioner the exclusive care, possession, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and prohibiting the respondent from taking, concealing, molesting, physically injuring, killing or otherwise disposing of the animal and limiting or precluding contact by the respondent with the animal; and*

(14) Ordering any other relief the court deems necessary to protect the physical safety of petitioner or those persons for whom a petition may be filed as provided in subdivision (2), section three hundred five of this article.

## 6. RESTITUTION / REIMBURSEMENT OF COSTS / BONDING & LIENS

### **W. VA. CODE § 7-10-4 (2017). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.**

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

*(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.*

(c)

*(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.*

*(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.*

*(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.*

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [ §§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

**W. VA. CODE § 19-20-12 (2017). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.**

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. *Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.*

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

**W. VA. CODE § 61-8-19 (2017). Cruelty to animals; penalties; exclusions.**

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) *Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.*

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.



(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

## **7. SEIZURE / ON-SITE SUPERVISION**

### **W. VA. CODE § 7-10-3 (2017). Cruel treatment of animal drawing or in vehicle; custody and care thereof by humane officers.**

*When any person arrested is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, such officer shall take charge of such animal and of such vehicle and its contents, and of the animal or animals drawing the same, and shall, if the person in charge thereof be not the owner, give notice of such seizure to the owner, and provide for them until their owner shall take charge of the same; and if the person in charge of or driving such animals be the owner thereof, the same shall not be returned to him until he has been tried for the offense and acquitted, or if convicted, until he shall give bond in the penalty of five hundred dollars with approved security before the tribunal trying the case conditioned not to again cruelly treat such animals; and the officer shall have a lien upon such animals and the vehicle and its contents for the expenses of such care and provision, or such expenses or any part thereof remaining unpaid may be recovered by such humane officer in a civil action.*

### **W. VA. CODE § 7-10-4 (2017). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.**

*(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.*

*(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.*

(c)

*(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals.* After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

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

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [ §§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [ § 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [ § 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

**W. VA. CODE § 61-8-21 (2017). Search warrants relating to cruelty to animals.**

*If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.*

## 8. FORFEITURE / POSSESSION

### **W. VA. CODE § 7-10-4 (2017). Custody and care of animals abandoned, neglected or cruelly treated; hearing; bonds; liability for costs; liens; exclusions.**

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. *The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal.* At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

*(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.*

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

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [ §§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

**W. VA. CODE § 61-8-19 (2017). Cruelty to animals; penalties; exclusions.**

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:



- (i) Proper sustenance, including food or water;
- (ii) Shelter that protects from the elements of weather; or
- (iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

*(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.*

(e) For the purpose of this section, the term “controlled substance” has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

*(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.*

## **9. CROSS ENFORCEMENT / REPORTING**

### **W. VA. CODE § 7-10-2 (2017). Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.**

(a) It is the duty of humane officers to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate and, upon probable cause, to cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspection of records and property as may be reasonably necessary to any investigation.

*(b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds therefor. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Health and Human Resources in accordance with the provisions of section five, article six-a, chapter forty-nine of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of section eleven, article six, chapter nine of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of article twenty-seven, chapter forty-eight of this code.*

(c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars or confined in jail not more than thirty days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

### **W. VA. CODE § 9-6-9 (2017). Mandatory reporting of incidences of abuse, neglect or emergency situation.**

*(a) If any medical, dental or mental health professional, Christian Science practitioner, religious healer, social service worker, law-enforcement officer, humane officer, state or regional ombudsman or any employee of any nursing home or other residential facility has reasonable cause to believe that an incapacitated adult or facility resident is or has been neglected, abused or placed in an emergency situation, or if such person observes an incapacitated adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person shall immediately report the circumstances pursuant to the provisions of section eleven of this article: Provided, That nothing in this article is intended to prevent individuals from reporting on their own behalf.*

(b) In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of an incapacitated adult or facility resident or the existence of an emergency situation, any other person may make such a report.

(c) The secretary shall develop a form for the filing of written complaints, as provided by section eleven of this article, and provide these forms to all nursing homes or other residential facilities, hospitals, ombudsmen and adult protective service agencies in this state. The forms shall be designed to protect the identity of the complainant, if desired, and to facilitate the prompt filing of complaints.

(d) The Department of Health and Human Resources shall develop and implement a procedure to notify any person mandated to report suspected abuse and neglect of an incapacitated adult or facility resident of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

**W. VA. CODE § 9-6-9a (2017). Mandatory reporting [of suspected] animal cruelty by adult protective service workers.**

*In the event an adult protective service worker, in response to a report mandated by section nine of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.*

**W. VA. CODE § 48-27-702 (2017). Law-enforcement officers to provide information, transportation and to report suspicions of animal cruelty.**

(a) Any law-enforcement officer responding to an alleged incident of domestic violence shall inform the parties of the availability of the possible remedies provided by this article and the possible applicability of the criminal laws of this state. Any law-enforcement officer investigating an alleged incident of domestic violence shall advise the victim of such violence of the availability of the family protection shelter to which such person may be admitted.

(b) If there is reasonable cause to believe that a person is a victim of domestic violence or is likely to be a victim of domestic violence, a law-enforcement officer responding to an alleged incident of domestic violence shall, in addition to providing the information required in subsection (a) of this section, provide transportation for or facilitate transportation of the victim, upon the request of such victim, to a shelter or an appropriate court.

*(c) Whenever a law-enforcement officer, pursuant to a response to an alleged incident of domestic violence, forms a reasonable suspicion that an animal is a victim of cruel or inhumane treatment, he or she shall report the suspicion and the grounds therefor to the county humane officer within twenty-four hours of the response to the alleged incident of domestic violence.*

**W. VA. CODE § 49-2-803 (2017). Persons mandated to report suspected abuse and neglect.**

(a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, *humane officer*, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than forty-eight hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources: Provided, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint: Provided, however, That any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made.

(b) Any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than forty-eight hours after receiving such a disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report. In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm: Provided, That the individual makes the report as soon as practicable after the threat of harm has been reduced. The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

(c) Any school teacher or other school personnel who receives a disclosure from a witness, which a reasonable prudent person would deem credible, or personally observes any sexual contact, sexual intercourse or sexual intrusion, as those terms are defined in article eight-b, chapter sixty-one, of a child on school premises or on school buses or on transportation used in furtherance of a school purpose shall immediately, but not more than 24 hours, report the circumstances or cause a report to be made to the State Police or other law-enforcement agency having jurisdiction to investigate the report:

Provided, That this subsection will not impose any reporting duty upon school teachers or other school personnel who observe, or receive a disclosure of any consensual sexual contact, intercourse, or intrusion occurring between students who would not otherwise be subject to section three, five, seven or nine of article eight-8, chapter sixty-one of this code: Provided, however, That any teacher or other school personnel shall not be in violation of this section if he or she makes known immediately, but not more than 24 hours. to the principal, assistant principal or similar person in charge, a disclosure from a witness, which a reasonable prudent person would deem credible, or personal observation of conduct described in this section: Provided further, That a principal, assistant principal or similar person in charge made aware of such disclosure or observation from a teacher or other school personnel shall be responsible for immediately, but not more than 24 hours, reporting such conduct to law enforcement.

(d) County boards of education and private school administrators shall provide all employees with a written statement setting forth the requirement contained in this subsection and shall obtain and preserve a signed acknowledgment from school employees that they have received and understand the reporting requirement.

(e) The reporting requirements contained in this section specifically include reported, disclosed or observed conduct involving or between students enrolled in a public or private institution of education, or involving a student and school teacher or personnel. When the alleged conduct is between two students or between a student and school teacher or personnel, the law enforcement body that received the report under this section is required to make such a report under this section shall additionally immediately, but not more than 24 hours, notify the students' parents, guardians, and custodians about the allegations.

(f) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

**W. VA. CODE § 49-2-806 (2017). Mandatory reporting of suspected animal cruelty by child protective service workers.**

*In the event a child protective service worker, in response to a report mandated by section two of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.*

## **10. VETERINARIAN REPORTING / IMMUNITY**

### **W. VA. CODE § 7-10-4 (2017). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.**

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

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

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

*(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.*

(f)

(1) The term “humanely destroyed” as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [§§ 30-10A-1 et seq.], chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15],



article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal's suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

**W. VA. CODE § 7-10-4a (2017). Reporting of animals abandoned, neglected or cruelly treated; enforcement.**

(a) *It is the duty of any licensed veterinarian and the right of any other person to report to a humane officer any animal found, reasonably known or believed to be abandoned, neglected or cruelly treated as set forth in this article, and such veterinarian or other person may not be subject to any civil or criminal liability as a result of such reporting.*

(b) Any person who, with force, assaults, resists, or impedes any other person engaged in the reporting of abandoned, neglected or cruelly treated animals as provided for in this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred fifty nor more than one thousand dollars, or confined in the county jail not more than one year, or both so fined and confined.

## **11. LAW ENFORCEMENT POLICIES**

### **W. VA. CODE § 7-4-1 (2017). Duties of prosecuting attorney; further duties upon request of Attorney General.**

*It shall be the duty of the prosecuting attorney to attend to the criminal business of the State in the county in which he is elected and qualified, and when he has information of the violation of any penal law committed within such county, he shall institute and prosecute all necessary and proper proceedings against the offender, and may in such case issue or cause to be issued a summons for any witness he may deem material.* Every public officer shall give him information of the violation of any penal law committed within his county. It shall also be the duty of the prosecuting attorney to attend to civil suits in such county in which the State, or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such county or any county board of education is interested.

It shall be the duty of the prosecuting attorney to keep his office open in the charge of a responsible person during the hours polls are open on general, primary and special county-wide election days, and the prosecuting attorney, or his assistant, if any, shall be available for the purpose of advising election officials. It shall be the further duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the Attorney General in performing, in the county in which he is elected, any legal duties required to be performed by the Attorney General, and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of such county. It shall also be the duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the attorney general in performing, any legal duties required to be performed by the Attorney General, in any county other than that in which such prosecuting attorney is elected, and for the performance of any such duties in any county other than that in which such prosecuting attorney is elected he shall be paid his actual expenses.

Upon the request of the Attorney General the prosecuting attorney shall make a written report of the state and condition of the several causes in which the State is a party, pending in his county, and upon any matters referred to him by the Attorney General as provided by law.

**W. VA. CODE § 7-10-1 (2017). Deputy sheriffs as humane officers.**

*The sheriff of each county of this state shall annually designate, by a record made in the office of the clerk of the county commission, one of his or her deputies to act as humane officer of the county; or, if the county commission and sheriff agree, the county dog warden may be designated to act as the humane officer or as an additional humane officer; any person designated to act as a humane officer and all peace officers designated by law as a humane officer or an additional humane officer shall investigate all complaints made to him or her of cruel or inhumane treatment of animals within the county and he or she shall personally see that the law relating to the prevention of cruelty to animals is enforced.*

*The wilful failure of such designee to investigate any complaint made to him or her and to take proper measures in such case or to perform his or her duty in any other respect may constitute good cause for removal from employment.*

**W. VA. CODE § 7-10-2 (2017). Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.**

*(a) It is the duty of humane officers to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate and, upon probable cause, to cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspection of records and property as may be reasonably necessary to any investigation.*

*(b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds therefor. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Health and Human Resources in accordance with the provisions of section five, article six-a, chapter forty-nine of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of section eleven, article six, chapter nine of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of article twenty-seven, chapter forty-eight of this code.*

*(c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars or confined in jail not more than thirty days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.*

**W. VA. CODE § 19-20-12 (2017). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.**

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

*(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.*

*(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.*

## **12. SEXUAL ASSAULT**

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### 13. FIGHTING

#### W. VA. CODE § 61-8-19 (2017). Cruelty to animals; penalties; exclusions.

(a)

*(1) It is unlawful for any person to intentionally, knowingly or recklessly,*

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

*(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;*

(H) Cruelly chain or tether an animal; or

*(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.*

*(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.*

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.



(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

**W. VA. CODE § 61-8-19a (2017). Animal fighting ventures prohibited.**

*(a) For the purpose of this article, “animal fighting venture” means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment: Provided, That it shall not be deemed to include any lawful activity the primary purpose of which involves the use of one or more animals in racing or in hunting another animal: Provided, however, That “animal fighting venture” does not include the lawful use of livestock as such is defined in section two [§ 19-10B-2], article ten-b, chapter nineteen of this code or exotic species of animals bred or possessed for exhibition purposes when such exhibition purposes do not include animal fighting or training therefor.*

*(b) It is unlawful for any person to conduct, finance, manage, supervise, direct, engage in, be employed at, or sell an admission to any animal fighting venture or to knowingly allow property under his care, custody or control to be so used.*

*(c) It is unlawful for any person to possess an animal with the intent to engage the animal in an animal fighting venture.*

*(d) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county jail not exceeding one year, or both so fined and confined: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two [§ 20-1-2], article one, chapter twenty of this code, or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, and imprisoned in a state correctional facility for not less than two nor more than five years, or both fined and imprisoned.*

*(e) Any person convicted of a violation of this section shall be divested of ownership and control of such animals and liable for all costs of their care and maintenance pursuant to section four [§ 7-10-4], article ten, chapter seven of this code.*

**W. VA. CODE § 61-8-19b (2017). Attendance at animal fighting ventures prohibited; penalty.**

*(a) It is unlawful for any person to knowingly attend or knowingly cause an individual who has not attained the age of eighteen to attend, an animal fighting venture involving animals as defined in section nineteen-a [§ 61-8-19a], article eight of this chapter.*

*(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county or regional jail not more than one year, or both fined and imprisoned.*

*(c) Notwithstanding the provisions of subsection (b) of this section, any person convicted of a third or subsequent violation of subsection (a) of this section is guilty of a felony and, shall be fined not less than \$2,500 and not more than \$5,000, imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.*

**W. VA. CODE § 61-8-19c (2017). Wagering at animal fighting venture prohibited; penalty.**

*(a) It is unlawful for any person to bet or wager money or any other thing of value in any location or place where an animal fighting venture occurs.*

*(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in jail not more than one year, or both fined and imprisoned.*

*(c) Notwithstanding the provisions of subsection (b) of this section, any person who is convicted of a third or subsequent violation of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, or imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.*

**W. VA. CODE § 61-8-21 (2017). Search warrants relating to cruelty to animals.**

*If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.*

**W. VA. CODE § 61-8-22 (2017). Search warrants relating to birds and animals kept for fighting.**

*If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept or trained for fighting at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable, or police officer, to search such place, building, or tenement at any hour of the day or night, and take possession of all such birds, dogs or other animals there found, and to arrest all persons there present at any such exhibition or where preparations for such an exhibition are being made, or where birds, dogs, or other animals are kept or trained for fighting.*

**W. VA. CODE § 61-8-23 (2017). Search without warrant where there is an exhibition of the fighting of birds or animals.**

*Any officer authorized to serve criminal process may, without warrant, enter any place, building, or tenement in which there is an exhibition of the fighting of birds, dogs, or other animals, or in which preparations are being made for such an exhibition and arrest all persons there present and take possession of and remove from the place of seizure the birds, dogs, or other animals engaged in fighting or there found and intended to be used or engaged in fighting, or kept or trained for fighting and hold the same in custody subject to the order of the court as hereinafter provided.*

## 14. REFERENCED STATUTES

**W. VA. CODE § 7-1-14 (2017). Custody and care of animals abandoned, neglected or cruelly treated; animals causing public nuisance, health risk or safety hazard; authority of county commission.**

(a) Notwithstanding any provision of this code to the contrary, any county commission may adopt ordinances, rules and regulations providing for the custody and care of animals that have been abandoned, neglected or cruelly treated for the protection of any such animal and to prevent it from becoming a public nuisance or risk to public health or safety or the environment.

(b) Any such ordinance, rule or regulation may require each owner to provide for each of his or her animals:

(1) Adequate food which provides sufficient quantity and nutritive value to maintain each animal in good health;

(2) Adequate water which provides easy access to clean, fresh, potable water of a drinkable temperature in sufficient volume and suitable intervals to maintain normal hydration for each animal;

(3) Adequate shelter to protect the animal from the elements and other animals;

(4) Adequate space in the primary enclosure for the particular animal depending upon its age, size, species and weight which is regularly cleaned to prevent an unsanitary accumulation of urine and feces;

(5) Adequate exercise to assure that the animal maintains normal muscle tone and mass for the age, species, size and condition of the animal; and

(6) Veterinary care when needed or to prevent suffering or disease transmission.

(c) Any such ordinance, rule or regulation may limit the number of animals owned, kept or maintained by an individual, group or organization, whether public or private based on the person's ability to provide for the animals as set forth in subsection (b) of this section.

(d) Any such ordinance, rule or regulation shall provide appropriate penalties for violations and shall authorize humane officers to take possession of any animal that is not properly cared for as required by such ordinance, rule or regulation.

**W. VA. CODE § 7-4-1 (2017). Duties of prosecuting attorney; further duties upon request of Attorney General.**

*It shall be the duty of the prosecuting attorney to attend to the criminal business of the State in the county in which he is elected and qualified, and when he has information of the violation of any penal law committed within such county, he shall institute and prosecute all necessary and proper proceedings against the offender, and may in such case issue or cause to be issued a summons for any witness he may deem material.* Every public officer shall give him information of the violation of any penal law committed within his county. It shall also be the duty of the prosecuting attorney to attend to civil suits in such county in which the State, or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such county or any county board of education is interested.

It shall be the duty of the prosecuting attorney to keep his office open in the charge of a responsible person during the hours polls are open on general, primary and special county-wide election days, and the prosecuting attorney, or his assistant, if any, shall be available for the purpose of advising election officials. It shall be the further duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the Attorney General in performing, in the county in which he is elected, any legal duties required to be performed by the Attorney General, and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of such county. It shall also be the duty of the prosecuting attorney, when requested by the Attorney General, to perform or to assist the attorney general in performing, any legal duties required to be performed by the Attorney General, in any county other than that in which such prosecuting attorney is elected, and for the performance of any such duties in any county other than that in which such prosecuting attorney is elected he shall be paid his actual expenses.

Upon the request of the Attorney General the prosecuting attorney shall make a written report of the state and condition of the several causes in which the State is a party, pending in his county, and upon any matters referred to him by the Attorney General as provided by law.

**W. VA. CODE § 7-10-1 (2017). Deputy sheriffs as humane officers.**

The sheriff of each county of this state shall annually designate, by a record made in the office of the clerk of the county commission, one of his or her deputies to act as humane officer of the county; or, if the county commission and sheriff agree, the county dog warden may be designated to act as the humane officer or as an additional humane officer; any person designated to act as a humane officer and all peace officers designated by law as a humane officer or an additional humane officer shall investigate all complaints made to him or her of cruel or inhumane treatment of animals within the county and he or she shall personally see that the law relating to the prevention of cruelty to animals is enforced. The wilful failure of such designee to investigate any complaint made to him or her and to take proper measures in such case or to perform his or her duty in any other respect may constitute good cause for removal from employment.

**W. VA. CODE § 7-10-2 (2017). Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.**

(a) It is the duty of humane officers to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate and, upon probable cause, to cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspection of records and property as may be reasonably necessary to any investigation.

(b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds therefor. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Health and Human Resources in accordance with the provisions of section five, article six-a, chapter forty-nine of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of section eleven, article six, chapter nine of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of article twenty-seven, chapter forty-eight of this code.

(c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars or confined in jail not more than thirty days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

**W. VA. CODE § 7-10-3 (2017). Cruel treatment of animal drawing or in vehicle; custody and care thereof by humane officers.**

When any person arrested is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, such officer shall take charge of such animal and of such vehicle and its contents, and of the animal or animals drawing the same, and shall, if the person in charge thereof be not the owner, give notice of such seizure to the owner, and provide for them until their owner shall take charge of the same; and if the person in charge of or driving such animals be the owner thereof, the same shall not be returned to him until he has been tried for the offense and acquitted, or if convicted, until he shall give bond in the penalty of five hundred dollars with approved security before the tribunal trying the case conditioned not to again cruelly treat such animals; and the officer shall have a lien upon such animals and the vehicle and its contents for the expenses of such care and provision, or such expenses or any part thereof remaining unpaid may be recovered by such humane officer in a civil action.

**W. VA. CODE § 7-10-4 (2017). Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; exclusions.**

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)

(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the

animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

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

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)

(1) The term "humanely destroyed" as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a [ §§ 30-10A-1 et seq.], chapter thirty of this code; or



(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U. S. C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

**W. VA. CODE § 7-10-4a (2017). Reporting of animals abandoned, neglected or cruelly treated; enforcement.**

(a) It is the duty of any licensed veterinarian and the right of any other person to report to a humane officer any animal found, reasonably known or believed to be abandoned, neglected or cruelly treated as set forth in this article, and such veterinarian or other person may not be subject to any civil or criminal liability as a result of such reporting.

(b) Any person who, with force, assaults, resists, or impedes any other person engaged in the reporting of abandoned, neglected or cruelly treated animals as provided for in this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred fifty nor more than one thousand dollars, or confined in the county jail not more than one year, or both so fined and confined.

**W. VA. CODE § 9-6-9 (2017). Mandatory reporting of incidences of abuse, neglect or emergency situation.**

(a) If any medical, dental or mental health professional, Christian Science practitioner, religious healer, social service worker, law-enforcement officer, humane officer, state or regional ombudsman or any employee of any nursing home or other residential facility has reasonable cause to believe that an incapacitated adult or facility resident is or has been neglected, abused or placed in an emergency situation, or if such person observes an incapacitated adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person shall immediately report the circumstances pursuant to the provisions of section eleven of this article: Provided, That nothing in this article is intended to prevent individuals from reporting on their own behalf.

(b) In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of an incapacitated adult or facility resident or the existence of an emergency situation, any other person may make such a report.

(c) The secretary shall develop a form for the filing of written complaints, as provided by section eleven of this article, and provide these forms to all nursing homes or other residential facilities, hospitals, ombudsmen and adult protective service agencies in this state. The forms shall be designed to protect the identity of the complainant, if desired, and to facilitate the prompt filing of complaints.

(d) The Department of Health and Human Resources shall develop and implement a procedure to notify any person mandated to report suspected abuse and neglect of an incapacitated adult or facility resident of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

**W. VA. CODE § 9-6-9a (2017). Mandatory reporting [of suspected] animal cruelty by adult protective service workers.**

In the event an adult protective service worker, in response to a report mandated by section nine of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

**W. VA. CODE § 19-20-12 (2017). Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.**

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the

provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

**W. VA. CODE § 19-20-16 (2017). Same—When lawful to kill dog.**

A person may kill a dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry outside of the enclosure of the owner of the dog, unless the chasing or worrying be done by the direction of the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry.

**W. VA. CODE § 48-27-503 (2017). Permissive provisions in protective order.**

The terms of a protective order may include:

- (1) Granting possession to the petitioner of the residence or household jointly resided in at the time the abuse occurred;
- (2) Ordering the respondent to refrain from entering or being present in the immediate environs of the residence of the petitioner;
- (3) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children named in the order;
- (4) Establishing terms of temporary visitation with regard to the minor children named in the order including, but not limited to, requiring third party supervision of visitations if necessary to protect the petitioner and/or the minor children;
- (5) Ordering the noncustodial parent to pay to the caretaker parent a sum for temporary support and maintenance of the petitioner and children, if any;
- (6) Ordering the respondent to pay to the petitioner a sum for temporary support and maintenance of the petitioner, where appropriate;
- (7) Ordering the respondent to refrain from entering the school, business or place of employment of the petitioner or household or family members for the purpose of violating the protective order;

- (8) Ordering the respondent to participate in an intervention program for perpetrators;
- (9) Ordering the respondent to refrain from contacting, telephoning, communicating, harassing or verbally abusing the petitioner;
- (10) Providing for either party to obtain personal property or other items from a location, including granting temporary possession of motor vehicles owned by either or both of the parties, and providing for the safety of the parties while this occurs, including ordering a law-enforcement officer to accompany one or both of the parties;
- (11) Ordering the respondent to reimburse the petitioner or other person for any expenses incurred as a result of the domestic violence, including, but not limited to, medical expenses, transportation and shelter;
- (12) Ordering the petitioner and respondent to refrain from transferring, conveying, alienating, encumbering or otherwise dealing with property which could otherwise be subject to the jurisdiction of the court or another court in an action for divorce or support, partition or in any other action affecting their interests in property;
- (13) Awarding the petitioner the exclusive care, possession, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and prohibiting the respondent from taking, concealing, molesting, physically injuring, killing or otherwise disposing of the animal and limiting or precluding contact by the respondent with the animal; and
- (14) Ordering any other relief the court deems necessary to protect the physical safety of petitioner or those persons for whom a petition may be filed as provided in subdivision (2), section three hundred five of this article.

**W. VA. CODE § 48-27-702 (2017). Law-enforcement officers to provide information, transportation and to report suspicions of animal cruelty.**

- (a) Any law-enforcement officer responding to an alleged incident of domestic violence shall inform the parties of the availability of the possible remedies provided by this article and the possible applicability of the criminal laws of this state. Any law-enforcement officer investigating an alleged incident of domestic violence shall advise the victim of such violence of the availability of the family protection shelter to which such person may be admitted.
- (b) If there is reasonable cause to believe that a person is a victim of domestic violence or is likely to be a victim of domestic violence, a law-enforcement officer responding to an alleged incident of domestic violence shall, in addition to providing the information required in subsection (a) of this section, provide transportation for or facilitate transportation of the victim, upon the request of such victim, to a shelter or an appropriate court.

(c) Whenever a law-enforcement officer, pursuant to a response to an alleged incident of domestic violence, forms a reasonable suspicion that an animal is a victim of cruel or inhumane treatment, he or she shall report the suspicion and the grounds therefor to the county humane officer within twenty-four hours of the response to the alleged incident of domestic violence.

**W. VA. CODE § 49-2-803 (2017). Persons mandated to report suspected abuse and neglect.**

(a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than forty-eight hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources: Provided, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint: Provided, however, That any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made.

(b) Any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than forty-eight hours after receiving such a disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report. In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm: Provided, That the individual makes the report as soon as practicable after the threat of harm has been reduced. The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

(c) Any school teacher or other school personnel who receives a disclosure from a witness, which a reasonable prudent person would deem credible, or personally observes any sexual contact, sexual intercourse or sexual intrusion, as those terms are defined in article eight-b, chapter sixty-one, of a child on school premises or on school buses or on transportation used in furtherance of a school purpose shall immediately, but not more than 24 hours, report the circumstances or cause a report to be made to the State Police or other law-enforcement agency having jurisdiction to investigate the report: Provided, That this subsection will not impose any reporting duty upon school teachers or other school personnel who observe, or receive a disclosure of any consensual sexual contact, intercourse, or intrusion occurring between students who would not otherwise be subject to section three, five, seven or nine of article eight-8, chapter sixty-one of this code: Provided, however, That any teacher or other school personnel shall not be in violation of this section if he or she makes known immediately, but not more than 24 hours. to the principal, assistant principal or similar person in charge, a disclosure from a witness, which a reasonable prudent person would deem credible, or personal observation of conduct described in this section: Provided further, That a principal, assistant principal or similar person in charge made aware of such disclosure or observation from a teacher or other school personnel shall be responsible for immediately, but not more than 24 hours, reporting such conduct to law enforcement.

(d) County boards of education and private school administrators shall provide all employees with a written statement setting forth the requirement contained in this subsection and shall obtain and preserve a signed acknowledgment from school employees that they have received and understand the reporting requirement.

(e) The reporting requirements contained in this section specifically include reported, disclosed or observed conduct involving or between students enrolled in a public or private institution of education, or involving a student and school teacher or personnel. When the alleged conduct is between two students or between a student and school teacher or personnel, the law enforcement body that received the report under this section is required to make such a report under this section shall additionally immediately, but not more than 24 hours, notify the students' parents, guardians, and custodians about the allegations.

(f) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

**W. VA. CODE § 49-2-806 (2017). Mandatory reporting of suspected animal cruelty by child protective service workers.**

In the event a child protective service worker, in response to a report mandated by section two of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

**W. VA. CODE § 61-3-27 (2017). Malicious killing of animals by poison or otherwise; penalty.**

If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of one hundred dollars or more, the person is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than one hundred dollars, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than five hundred dollars: Provided, That this section shall not be construed to include dogs.

**W. VA. CODE § 61-8-19 (2017). Cruelty to animals; penalties; exclusions.**

(a)

(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold:

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;



(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)

(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

**W. VA. CODE § 61-8-19a (2017). Animal fighting ventures prohibited.**

(a) For the purpose of this article, “animal fighting venture” means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment: Provided, That it shall not be deemed to include any lawful activity the primary purpose of which involves the use of one or more animals in racing or in hunting another animal: Provided, however, That “animal fighting venture” does not include the lawful use of livestock as such is defined in section two [§ 19-10B-2], article ten-b, chapter nineteen of this code or exotic species of animals bred or possessed for exhibition purposes when such exhibition purposes do not include animal fighting or training therefor.

(b) It is unlawful for any person to conduct, finance, manage, supervise, direct, engage in, be employed at, or sell an admission to any animal fighting venture or to knowingly allow property under his care, custody or control to be so used.

(c) It is unlawful for any person to possess an animal with the intent to engage the animal in an animal fighting venture.

(d) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county jail not exceeding one year, or both so fined and confined: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two [§ 20-1-2], article one, chapter twenty of this code, or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, and imprisoned in a state correctional facility for not less than two nor more than five years, or both fined and imprisoned.

(e) Any person convicted of a violation of this section shall be divested of ownership and control of such animals and liable for all costs of their care and maintenance pursuant to section four [§ 7-10-4], article ten, chapter seven of this code.

**W. VA. CODE § 61-8-19b (2017). Attendance at animal fighting ventures prohibited; penalty.**

(a) It is unlawful for any person to knowingly attend or knowingly cause an individual who has not attained the age of eighteen to attend, an animal fighting venture involving animals as defined in section nineteen-a [§ 61-8-19a], article eight of this chapter.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county or regional jail not more than one year, or both fined and imprisoned.

(c) Notwithstanding the provisions of subsection (b) of this section, any person convicted of a third or subsequent violation of subsection (a) of this section is guilty of a felony and, shall be fined not less than \$2,500 and not more than \$5,000, imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.

**W. VA. CODE § 61-8-19c (2017). Wagering at animal fighting venture prohibited; penalty.**

(a) It is unlawful for any person to bet or wager money or any other thing of value in any location or place where an animal fighting venture occurs.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in jail not more than one year, or both fined and imprisoned.

(c) Notwithstanding the provisions of subsection (b) of this section, any person who is convicted of a third or subsequent violation of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, or imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.

**W. VA. CODE § 61-8-21 (2017). Search warrants relating to cruelty to animals.**

If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

**W. VA. CODE § 61-8-22 (2017). Search warrants relating to birds and animals kept for fighting.**

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept or trained for fighting at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable, or police officer, to search such place, building, or tenement at any hour of the day or night, and take possession of all such birds, dogs or other animals there found, and to arrest all persons there present at any such exhibition or where preparations for such an exhibition are being made, or where birds, dogs, or other animals are kept or trained for fighting.

**W. VA. CODE § 61-8-23 (2017). Search without warrant where there is an exhibition of the fighting of birds or animals.**

Any officer authorized to serve criminal process may, without warrant, enter any place, building, or tenement in which there is an exhibition of the fighting of birds, dogs, or other animals, or in which preparations are being made for such an exhibition and arrest all persons there present and take possession of and remove from the place of seizure the birds, dogs, or other animals engaged in fighting or there found and intended to be used or engaged in fighting, or kept or trained for fighting and hold the same in custody subject to the order of the court as hereinafter provided.