



Animal Protection Laws of Montana

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This chapter contains Montana’s general animal protection and related statutes with an effective date on or before September 1, 2018. 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 with the relevant part of each statute italicized.

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

ANIMAL PROTECTION LAWS OF MONTANA

MONTANA

1. <u>DEFINITION OF "ANIMAL"</u>	-----
2. <u>GENERAL CRUELTY *</u>	<p>Killing or injuring a commonly domesticated hoofed animal MONT. CODE ANN. § 45-6-101 10 years imprisonment and/or \$50,000 fine</p> <p>Harming a police dog MONT. CODE ANN. § 45-8-209 1 year imprisonment and/or \$5,000 fine</p> <p>Cruelty to animals MONT. CODE ANN. § 45-8-211(1) 1st offense: Misdemeanor, 1 year county jail and/or \$1,000 fine Subsequent offenses: Felony, 2 years prison and/or \$2,500 fine</p> <p>Aggravated cruelty to animals MONT. CODE ANN. § 45-8-217 Felony, 2 years prison and/or \$2,500 fine</p>
3. <u>EXEMPTIONS</u>	<p>Veterinary practice, research animals, wildlife, accepted farm animal practices, slaughter, pest control, rodeo, other MONT. CODE ANN. § 45-8-211(4)</p>
4. <u>FIGHTING & RACKETEERING</u>	<p>Various animal fighting activities MONT. CODE ANN. § 45-8-210 Felony, 5 years state prison and/or \$5,000 fine</p>
5. <u>SEXUAL ASSAULT</u>	<p>Definition MONT. CODE ANN. § 45-2-101</p> <p>The sexual assault of an animal MONT. CODE ANN. § 45-8-218 Felony, 10 years state prison and/or \$50,000 fine</p>

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<p><u>6. MAXIMUM PENALTIES & STATUTE OF LIMITATIONS**</u></p>	<p>NOTE: Penalties for violations of §§ 45-6-101; 45-8-209; 45-8-210; 45-8-211; 45-8-217; and 45-8-218 are defined in the substantive statutes, available in the <u>General Cruelty, Fighting & Racketeering</u>, and <u>Sexual Assault</u> sections of this document.</p> <p>Statute of limitations <i>Misdemeanor: 1 year</i> <i>Felony: 5 years</i> Mont. Code Ann. § 45-1-205(2)</p>
<p><u>7. CROSS ENFORCEMENT & REPORTING</u></p>	<p>-----</p>
<p><u>8. VETERINARIAN REPORTING & IMMUNITY</u></p>	<p>-----</p>
<p><u>9. LAW ENFORCEMENT POLICIES</u></p>	<p>The court shall give an animal welfare hearing priority upon a showing that the animal exhibits extreme disease, injury, or suffering. MONT. CODE ANN. § 27-1-434(3)</p>
<p><u>10. SEIZURE</u></p>	<p>Animals may be seized pursuant to an arrest for cruelty to animals. MONT. CODE ANN. § 27-1-434(1)</p>
<p><u>11. COURTROOM ANIMAL ADVOCATE PROGRAM</u></p>	<p>-----</p>
<p><u>12. PROTECTION ORDERS†</u></p>	<p>-----</p>
<p><u>13. RESTITUTION †</u></p>	<p>Exemplary damages may be awarded for inhumane injuries to animals MONT. CODE ANN. § 27-1-222</p> <p>Upon petition by the prosecutor, the court may require the defendant to post a bond to cover the costs of care. MONT. CODE ANN. § 27-1-434(5)(b)</p> <p>The court shall require a defendant who is convicted of cruelty to animals to pay reasonable costs of veterinary care.</p>

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	<p>MONT. CODE ANN. § 45-8-211(3)(a)</p> <p>The court may require defendant to pay reasonable costs of necessary care.</p> <p>MONT. CODE ANN. § 45-8-211(3)(b)</p>
<p>14. <u>FORFEITURE & POSSESSION BANS</u> †</p>	<p>At a pre-trial animal welfare hearing, the court may order a seized animal retained by a shelter to be euthanized if seriously injured or suffering, or returned to the animal's owner.</p> <p>MONT. CODE ANN. § 27-1-434(5)(c),(d)</p> <p>Convicted owner may be required to forfeit affected animal(s) to the county.</p> <p>MONT. CODE ANN. § 45-8-211(2)(b)</p> <p>Court may prohibit or limit ownership/possession/custody of animals during term of sentence.</p> <p>MONT. CODE ANN. § 45-8-211(3)(c)</p>
<p>15. <u>COURT-ORDERED TREATMENT</u> †</p>	-----
<p>16. <u>HOT CARS</u></p>	-----
<p>17. <u>CIVIL NUISANCE ABATEMENT</u></p>	-----
<p>18. <u>AG-GAG LAWS</u></p>	MONT. CODE ANN. §§ 81-30-102; 103; 104; 105
<p>19. <u>BREED SPECIFIC LEGISLATION</u></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.

† 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.

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1. DEFINITION OF “ANIMAL”

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2. GENERAL CRUELTY

MONT. CODE ANN. § 45-6-101. Criminal mischief.

- (1) A person commits the offense of criminal mischief if the person knowingly or purposely:
 - (a) injures, damages, or destroys any property of another or public property without consent;
 - (b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;
 - (c) damages or destroys property with the purpose to defraud an insurer; or
 - (d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.
- (2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.
- (3) *A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$1,500, injures or kills a commonly domesticated hooved animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.*
- (4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.
- (5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving property owned or administered by the department of fish, wildlife, and parks shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture.

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

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

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- (a) *law enforcement officer in discharging or attempting to discharge a legal duty in a reasonable and proper manner; or*
- (b) *person while the person is under the control of and acting under the direction of an officer of an official law enforcement agency during the performance of the agency's law enforcement or search and rescue duties.*
- (2) *A person convicted of the offense of harming a police dog may be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 1 year, or both.*
- (3) As used in this section, the following definitions apply:
 - (a) "Law enforcement officer" means a person who is a peace officer, as defined in 46-1-202, or any other agent of a criminal justice agency.
 - (b) "Police dog" means a dog that is:
 - i. used by a law enforcement agency, as defined in 44-11-303, in the exercise of its authority;
 - ii. specifically trained for law enforcement or search and rescue work; and
 - iii. under the control of a law enforcement officer.

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

- (1) *A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:*
 - (a) *overworking, beating, tormenting, torturing, injuring, or killing the animal;*
 - (b) *carrying or confining the animal in a cruel manner;*
 - (c) *failing to provide an animal in the person's custody with:*
 - (i) *food and water of sufficient quantity and quality to sustain the animal's normal health;*
 - (ii) *minimum protection for the animal from adverse weather conditions, with consideration given to the species;*
 - (iii) *in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;*
 - (d) *abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or*
 - (e) *promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.*
- (2)
 - (a) *A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of*

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corrections for a term not to exceed 2 years, or both.

- (b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
- (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.
- (3) In addition to the sentence provided in subsection (2), the court:
 - (a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;
 - (b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and
 - (c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.
- (4) This section does not prohibit:
 - (a) a person humanely destroying an animal for just cause;
 - (b) the use of commonly accepted agricultural and livestock practices on livestock;
 - (c) rodeo activities that meet humane standards of the professional rodeo cowboys association;
 - (d) lawful fishing, hunting, and trapping activities;
 - (e) lawful wildlife management practices;
 - (f) lawful scientific or agricultural research or teaching that involves the use of animals;
 - (g) services performed by a licensed veterinarian;
 - (h) lawful control of rodents and predators and other lawful animal damage control activities; or
 - (i) accepted training and discipline methods.

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

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

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

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3. EXEMPTIONS

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

- (1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:
 - (a) overworking, beating, tormenting, torturing, injuring, or killing the animal;
 - (b) carrying or confining the animal in a cruel manner;
 - (c) failing to provide an animal in the person's custody with:
 - (i) food and water of sufficient quantity and quality to sustain the animal's normal health;
 - (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;
 - (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;
 - (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
 - (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.
- (2)
 - (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.
 - (b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
 - (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.
- (3) In addition to the sentence provided in subsection (2), the court:
 - (a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;
 - (b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and
 - (c) shall prohibit or limit the defendant's ownership, possession, or custody of

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animals, as the court believes appropriate during the term of the sentence.

(4) *This section does not prohibit:*

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

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4. FIGHTING AND RACKETEERING

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

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

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5. SEXUAL ASSAULT

MONT. CODE ANN. § 45-2-101. General definitions.

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

* * * * *

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

* * * * *

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

- (1) *A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct.*
- (2) *A person convicted of the offense of deviate sexual conduct shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.*

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6. MAXIMUM PENALTIES & STATUTES OF LIMITATIONS

NOTE: Penalties for violations of §§ 45-6-101; 45-8-209; 45-8-210; 45-8-211; 45-8-217; and 45-8-218 are defined in the substantive statutes, available in the [General Cruelty, Fighting & Racketeering](#), and [Sexual Assault](#) sections of this document.

MONT. CODE ANN. § 45-1-205. General Time Limitations.

- (1)
 - (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.
 - (b) Except as provided in subsection (9), a prosecution for a felony offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507(4) or (5), 45-5-625, or 45-5-627 may be commenced within 10 years after it is committed, except that it may be commenced within 20 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.
 - (c) Except as provided in subsection (9), a prosecution under 45-5-507(1), (2), (3), or (6) may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.
- (2) *Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:*
 - (a) *A prosecution for a felony must be commenced within 5 years after it is committed.*
 - (b) *A prosecution for a misdemeanor must be commenced within 1 year after it is committed.*
- (3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:
 - (a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;
 - (b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.
- (4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent

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- an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.
- (5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.
 - (6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.
 - (7)
 - (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.
 - (b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.
 - (8) A prosecution is commenced either when an indictment is found or an information or complaint is filed.
 - (9) If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection (1)(b) or (1)(c) has expired, a prosecution may be commenced within 1 year after the suspect is conclusively identified by DNA testing.
 - (10) A prosecution for reckless driving resulting in death may be commenced within 3 years after the offense is committed.
 - (11) A prosecution of careless driving resulting in death may be commenced within 3 years after the offense is committed.

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7. CROSS ENFORCEMENT & REPORTING

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8. VETERINARY REPORTING & IMMUNITY

ANIMAL PROTECTION LAWS OF MONTANA

9. LAW ENFORCEMENT POLICIES

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

- (1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.
- (2) The petition must contain:
 - a. the purported facts regarding animal neglect and the current condition of the animal;
 - b. any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
 - c. the name and address of the respondent.
- (3) *If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.*
- (4) At the hearing, the court may consider the following factors:
 - a. the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
 - b. the extent of the animal's disease, injury, or suffering, if applicable;
 - c. the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
 - d. the availability of funding to provide for the animal's treatment, shelter, and care.
- (5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:
 - a. immediate release of the animal to the owner;
 - b. imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;
 - c. euthanization of severely diseased, injured, or suffering animals; or
 - d. retention of the animal in a humane animal treatment shelter.
- (6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

ANIMAL PROTECTION LAWS OF MONTANA**10. SEIZURE****MONT. CODE ANN. § 27-1-434. Animal welfare hearing.**

- (1) *When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.*
- (2) The petition must contain:
 - a. the purported facts regarding animal neglect and the current condition of the animal;
 - b. any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
 - c. the name and address of the respondent.
- (3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.
- (4) At the hearing, the court may consider the following factors:
 - a. the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
 - b. the extent of the animal's disease, injury, or suffering, if applicable;
 - c. the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
 - d. the availability of funding to provide for the animal's treatment, shelter, and care.
- (5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:
 - a. immediate release of the animal to the owner;
 - b. imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;
 - c. euthanization of severely diseased, injured, or suffering animals; or
 - d. retention of the animal in a humane animal treatment shelter.
- (6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

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11. COURTROOM ANIMAL ADVOCATE PROGRAM

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12. PROTECTION ORDERS

ANIMAL PROTECTION LAWS OF MONTANA**13. RESTITUTION****MONT. CODE ANN. § 27-1-222. Exemplary damages for inhumane injuries to animals.**

- (1) For wrongful injuries to animals, being subjects of property, committed willfully or by gross negligence in disregard of humanity, exemplary damages may be given.
- (2) As used in this section, “animals” includes ostriches, rheas, and emus.

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

- (1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.
- (2) The petition must contain:
 - a. the purported facts regarding animal neglect and the current condition of the animal;
 - b. any facts demonstrating the animal’s extreme disease, injury, or suffering, if applicable; and
 - c. the name and address of the respondent.
- (3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.
- (4) At the hearing, the court may consider the following factors:
 - a. the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
 - b. the extent of the animal’s disease, injury, or suffering, if applicable;
 - c. the likelihood of viable treatment of the animal’s condition, if applicable, based upon available veterinary testimony; and
 - d. the availability of funding to provide for the animal’s treatment, shelter, and care.
- (5) *Upon consideration of the factors listed in subsection (4), the court may order any of the following:*
 - a. immediate release of the animal to the owner;
 - b. *imposition of a bond or security in an amount sufficient to provide for the animal’s care for a minimum of 30 days from the date of seizure;*
 - c. euthanization of severely diseased, injured, or suffering animals; or
 - d. retention of the animal in a humane animal treatment shelter.
- (6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

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

- (1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:
 - (a) overworking, beating, tormenting, torturing, injuring, or killing the animal;
 - (b) carrying or confining the animal in a cruel manner;
 - (c) failing to provide an animal in the person's custody with:
 - (i) food and water of sufficient quantity and quality to sustain the animal's normal health;
 - (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;
 - (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;
 - (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
 - (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.
- (2)
 - (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.
 - (b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.
 - (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.
- (3) *In addition to the sentence provided in subsection (2), the court:*
 - (a) *shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;*
 - (b) *may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and*
 - (c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

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- (4) This section does not prohibit:
- (a) a person humanely destroying an animal for just cause;
 - (b) the use of commonly accepted agricultural and livestock practices on livestock;
 - (c) rodeo activities that meet humane standards of the professional rodeo cowboys association;
 - (d) lawful fishing, hunting, and trapping activities;
 - (e) lawful wildlife management practices;
 - (f) lawful scientific or agricultural research or teaching that involves the use of animals;
 - (g) services performed by a licensed veterinarian;
 - (h) lawful control of rodents and predators and other lawful animal damage control activities; or
 - (i) accepted training and discipline methods.

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14. FORFEITURE & POSSESSION BANS

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

- (1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.
- (2) The petition must contain:
 - a. the purported facts regarding animal neglect and the current condition of the animal;
 - b. any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and
 - c. the name and address of the respondent.
- (3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.
- (4) At the hearing, the court may consider the following factors:
 - a. the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;
 - b. the extent of the animal's disease, injury, or suffering, if applicable;
 - c. the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and
 - d. the availability of funding to provide for the animal's treatment, shelter, and care.
- (5) *Upon consideration of the factors listed in subsection (4), the court may order any of the following:*
 - a. immediate release of the animal to the owner;
 - b. imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;
 - c. *euthanization of severely diseased, injured, or suffering animals; or*
 - d. *retention of the animal in a humane animal treatment shelter.*
- (6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

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

- (1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:
 - (a) overworking, beating, tormenting, torturing, injuring, or killing the animal;
 - (b) carrying or confining the animal in a cruel manner;

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- (c) failing to provide an animal in the person's custody with:
 - (i) food and water of sufficient quantity and quality to sustain the animal's normal health;
 - (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;
 - (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;
 - (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
 - (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.
- (2)
- (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.
 - (b) *If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.*
 - (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.
- (3) *In addition to the sentence provided in subsection (2), the court:*
- (a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;
 - (b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and
 - (c) *shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.*
- (4) This section does not prohibit:
- (a) a person humanely destroying an animal for just cause;
 - (b) the use of commonly accepted agricultural and livestock practices on livestock;
 - (c) rodeo activities that meet humane standards of the professional rodeo cowboys association;
 - (d) lawful fishing, hunting, and trapping activities;
 - (e) lawful wildlife management practices;

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- (f) lawful scientific or agricultural research or teaching that involves the use of animals;
- (g) services performed by a licensed veterinarian;
- (h) lawful control of rodents and predators and other lawful animal damage control activities; or
- (i) accepted training and discipline methods.

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15. COURT-ORDERED TREATMENT

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16. HOT CARS

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17. CIVIL NUISANCE ABATEMENT

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18. AG-GAG LAWS

MONT. CODE ANN. § 81-30-102. Definitions.

As used in this chapter, the following definitions apply:

- (1) "Animal" means any warmblooded or coldblooded animal lawfully confined for food, fur, or fiber production, agriculture and its related activities, research, testing, or education. The term includes but is not limited to dogs, cats, poultry, fish, and invertebrates.
- (2) "Animal facility" includes a vehicle, building, structure, research facility, or premises where an animal is lawfully kept, handled, housed, exhibited, bred, or offered for sale.
- (3) "Consent" means agreement in fact, whether express or apparent.
- (4) "Deprive" means to:
 - (a) withhold an animal or other property from the owner permanently or for such a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner;
 - (b) restore the animal or other property only upon payment of reward or other compensation; or
 - (c) dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.
- (5) "Effective consent" means consent by the owner or by a person legally authorized to act for the owner. Consent is not effective if it is:
 - (a) induced by force or threat;
 - (b) given by a person that the offender knows is not legally authorized to act for the owner; or
 - (c) given by a person who by reason of youth, mental disease or disorder, or being under the influence of drugs or alcohol is known by the offender to be unable to make reasonable decisions.
- (6) "Notice" means:
 - (a) oral or written communication by the owner or someone with apparent authority to act for the owner;
 - (b) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or
 - (c) a sign or signs posted on the property or at the entrance to a building that are reasonably likely to come to the attention of intruders and that indicate that entry is forbidden.
- (7) "Owner" means a person who has:
 - (a) title to the property; or
 - (b) lawful possession of the property.
- (8) "Person" means an individual, state agency, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership; two or more persons having a joint or common interest; or some other legal entity.

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- (9) "Possession" means actual care, custody, control, or management.
- (10) "Research facility" means a place, laboratory, institution, medical care facility, elementary school, high school, college, or university at which a scientific test, experiment, or investigation involving the use of a living animal is lawfully carried out, conducted, or attempted.

MONT. CODE ANN. § 81-30-103. Unlawful acts.

- (1) *A person who does not have the effective consent of the owner may not acquire or otherwise exercise control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of the facility, animal, or property or to damage the enterprise conducted at the animal facility.*
- (2) A person who does not have the effective consent of the owner and who intends to damage the enterprise conducted at an animal facility may not:
 - (a) damage or destroy an animal facility or an animal or property in or on the premises of an animal facility;
 - (b) enter an animal facility that is at the time closed to the public with the intent to commit an act prohibited by this chapter;
 - (c) remain concealed in an animal facility with the intent to commit an act prohibited by this chapter;
 - (d) enter an animal facility and commit or attempt to commit an act prohibited by this chapter;
 - (e) *enter an animal facility to take pictures by photograph, video camera, or other means with the intent to commit criminal defamation; or*
 - (f) enter or remain on the premises of an animal facility if the person:
 - (i) had notice that the entry was forbidden; or
 - (ii) received notice to depart but failed to do so.
- (3) The provisions of this chapter do not apply to lawful activities of a:
 - (a) government agency or its employees who are carrying out their duties under law or to lawful activities of a financial institution or other secured party; and
 - (b) humane animal treatment shelter or its employees whose primary purpose is the bona fide control or humane care of animals or the enforcement of 45-8-211.

MONT. CODE ANN. § 81-30-104. Action for damage.

- (1) *A person who has been damaged by reason of a violation of 81-30-103 may bring against the person who caused the damage an action in the district court to recover:*
 - (a) *an amount equal to three times all actual and consequential damages; and*
 - (b) *court costs and reasonable attorney fees.*
- (2) This chapter may not be construed to affect any other rights of a person who has been

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damaged by reason of a violation of this chapter. The provisions of subsection (1) may not be construed to limit the exercise of any rights arising out of or relating to a violation of 81-30-103.

MONT. CODE ANN. § 81-30-105. Penalty.

- (1) *A person convicted of violating 81-30-103(2)(f) shall be fined not less than \$50 or more than \$500 or be imprisoned in the county jail for a term not to exceed 3 months, or both.*
- (2) *A person convicted of an act that violates 81-30-103(1) and (2)(a) through (2)(e) and that results in \$500 or less in damage or destruction shall be fined not more than \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.*
- (3) *A person convicted of an act that violates 81-30-103(1) and (2)(a) through (2)(e) and that results in more than \$500 in damage or destruction shall be fined not more than \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.*

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19. BREED SPECIFIC LEGISLATION
