



## Animal Protection Laws of New York

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*This chapter contains New York’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.*

*New York 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 NEW YORK

## NEW YORK

1. <u>DEFINITION OF "ANIMAL"</u>	<p>"[E]very living creature except a human being"  <b>N.Y. AGRI &amp; MKTS LAW § 350(1)</b></p>
2. <u>GENERAL CRUELTY *</u>	<p><b>Definitions</b>  <b>N.Y. AGRI &amp; MKTS LAW § 350</b></p> <p>Overdriving, torturing and injuring animals  <b>N.Y. AGRI &amp; MKTS LAW § 353</b>  <i>Class A misdemeanor, treated as if in Penal Code</i></p> <p>Aggravated cruelty to animals  <b>N.Y. AGRI &amp; MKTS LAW § 353-a</b>  <i>Class E felony, 2 years imprisonment and \$5,000 fine</i></p> <p>Failure to provide appropriate shelter for dogs left outdoors  <b>N.Y. AGRI &amp; MKTS LAW § 353-b</b>  <i>1<sup>st</sup> offense: Violation, \$50-\$100 fine</i>  <i>Subsequent offenses: Violation, \$100-250 fine</i></p> <p>Tattooing or piercing a companion animal  <b>N.Y. AGRI &amp; MKTS LAW § 353-f</b>  <i>Violation pursuant to penal law</i></p> <p>Sale of baby chicks and rabbits, or dyed chicks and rabbits  <b>N.Y. AGRI &amp; MKTS LAW § 354</b>  <i>Misdemeanor, 1 year imprisonment, and/or \$500 fine</i></p> <p>Abandonment of animals  <b>N.Y. AGRI &amp; MKTS LAW § 355</b>  <i>Misdemeanor, 1 year imprisonment and/or \$1,000 fine</i></p> <p>Failure to provide proper food and drink to impounded animals  <b>N.Y. AGRI &amp; MKTS LAW § 356</b>  <i>Misdemeanor, 1 year imprisonment and/or \$1,000 fine</i></p> <p>Selling disabled horses</p>

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	<p>N.Y. AGRI &amp; MKTS LAW § 358 <i>6 months imprisonment and/or \$5-\$100 fine</i></p> <p>Carrying animal in a cruel manner N.Y. AGRI &amp; MKTS LAW § 359 <i>Misdemeanor, 1 year imprisonment and/or \$1,000 fine</i></p> <p>Transporting horses in a cruel manner N.Y. AGRI &amp; MKTS LAW § 359-a <i>1<sup>st</sup> offense: Violation, \$250 fine</i> <i>Subsequent offenses: Misdemeanor, 1 year imprisonment and/or \$1,000 fine</i></p> <p>Poisoning or attempting to poison animals N.Y. AGRI &amp; MKTS LAW § 360 <i>Any animal other than a horse, mule, or cattle: Misdemeanor, 1 year imprisonment and/or \$1,000 fine</i> <i>Horse, mule or cattle: unclassified felony</i></p> <p>Interfering with or injuring an animal used for racing or breeding N.Y. AGRI &amp; MKTS LAW § 361 <i>Unclassified felony</i></p> <p>Throwing substance injurious to animals in public places N.Y. AGRI &amp; MKTS LAW § 362 <i>Misdemeanor, 1 year imprisonment and/or \$1,000 fine</i></p> <p>Docking a horse's tail N.Y. AGRI &amp; MKTS LAW § 368 <i>Misdemeanor, 1 year imprisonment and/or \$500 fine</i></p> <p>Killing or injuring a law enforcement animal N.Y. PENAL LAW § 195.06-a <i>Class E felony</i></p> <p>Harming a service animal in the first degree N.Y. PENAL LAW § 242.15 <i>Class E felony</i></p>
3. <u>EXEMPTIONS</u>	Research animals

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	<p>N.Y. AGRI &amp; MKTS LAW § 353</p> <p>Research animals, wildlife, other N.Y. AGRI &amp; MKTS LAW § 353-a(1),(2)</p>
<p><b>4. <u>FIGHTING &amp; RACKETEERING</u></b></p>	<p>Procedural matters relating to the authority of officers to take possession of animals involved in animal fighting located in the <a href="#">Seizure</a> section of this document.</p> <p>Procedural matters relating to the disposition of animals used in animal fighting in the <a href="#">Forfeiture &amp; Possession Bans</a> section of this document.</p> <p>Various animal fighting activities are felonies, including breeding, selling, or offering for sale, an animal used for fighting N.Y. AGRI &amp; MKTS LAW § 351(2) <i>Felony, 4 years imprisonment and/or \$25,000 fine</i></p> <p>Owning or possessing a fighting animal N.Y. AGRI &amp; MKTS LAW § 351(3) <i>Misdemeanor, 1 year imprisonment and/or \$15,000 fine</i></p> <p>Being a spectator at an animal fight N.Y. AGRI &amp; MKTS LAW § 351(4),(5) <i>Generally: Class B Misdemeanor, 3 months imprisonment and/or \$500 fine</i> <i>Subsequent offenses, or 1<sup>st</sup> offense if paid an admission fee or placed a wager: Misdemeanor, 1 year imprisonment and/or \$1,000 fine</i></p> <p>Owning or possessing or fighting paraphernalia N.Y. AGRI &amp; MKTS LAW § 351(6) <i>1<sup>st</sup> offense: Class B misdemeanor, 90 days imprisonment and/or \$500 fine</i> <i>Subsequent offenses: 1 year imprisonment and/or \$1,000 fine</i></p>
<p><b>5. <u>SEXUAL ASSAULT</u></b></p>	<p>Engaging in sexual conduct with an animal N.Y. PENAL LAW § 130.20 <i>Class A misdemeanor</i></p>

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**6. MAXIMUM PENALTIES & STATUTE OF LIMITATIONS\*\***

**NOTE:** Penalties for most violations are defined in the substantive statutes, available in the [General Cruelty](#) and [Fighting & Racketeering](#) sections of this document.

Unclassified felonies are Class E felonies  
 Misdemeanors without a classification specified are Class A misdemeanors

**N.Y. PENAL LAW § 55.10**

Indeterminate sentences

**N.Y. PENAL LAW § 70.00(1)**

**N.Y. PENAL LAW § 70.00(3)**

Definitive sentences

**N.Y. PENAL LAW § 70.00(4)**

Class E felony

*4 years imprisonment and \$5,000 fine*

**N.Y. PENAL LAW § 70.00(2)(e)**

**N.Y. PENAL LAW § 80.00(1)(a)**

Class A misdemeanor

*1 year imprisonment and \$1,000 fine*

**N.Y. PENAL LAW § 70.15(1)**

**N.Y. PENAL LAW § 80.05(1)**

Class B misdemeanor

*3 months imprisonment and \$500 fine*

**N.Y. PENAL LAW § 70.15(2)**

**N.Y. PENAL LAW § 80.05(2)**

Violation

*15 days imprisonment and \$250 fine*

**N.Y. PENAL LAW § 70.15(4)**

**N.Y. PENAL LAW § 80.05(4)**

Statute of limitations

*Petty offense: 1 year*

*Misdemeanor: 2 years*

*Class E felony: 5 years*

**N.Y. CRIM. PROC. LAW § 30.10**

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<p><b><u>7. CROSS ENFORCEMENT &amp; REPORTING</u></b></p>	<p>----</p>
<p><b><u>8. VETERINARIAN REPORTING &amp; IMMUNITY</u></b></p>	<p>A veterinarian may report suspected animal cruelty and is immune from civil or criminal liability for such reports made reasonably and with good faith.  <b>N.Y. EDUC. LAW § 6714</b></p>
<p><b><u>9. LAW ENFORCEMENT POLICIES</u></b></p>	<p>Police officers must, and humane society agents and officers may, arrest offenders and intervene to prevent cruelty.  <b>N.Y. AGRI &amp; MKTS LAW § 371</b></p> <p>Humane society agents and officers may be issued search warrants.  <b>N.Y. AGRI &amp; MKTS LAW § 372</b></p> <p>Law enforcement officers will check property for companion animals before executing a warrant and provide for the safe and proper care of any companion animals.  <b>N.Y. RAPAPL § 749</b></p>
<p><b><u>10. SEIZURE</u></b></p>	<p>Search warrants shall be issued for reasonable cause of violations of laws affecting animals.  <b>N.Y. AGRI &amp; MKTS LAW § 372</b></p> <p>Any police officer or agent or ASPCA officer may seize animals not properly cared for.  <b>N.Y. AGRI &amp; MKTS LAW § 373(1-5)</b></p> <p>Law enforcement officers and humane agents may be authorized to supervise care of animals on owner's property prior to trial date.  <b>N.Y. AGRI &amp; MKTS LAW § 373(7)</b></p> <p>Authorized officers may seize animal and implements used for fighting.  <b>N.Y. AGRI &amp; MKTS LAW § 375</b></p>
<p><b><u>11. COURTROOM ANIMAL ADVOCATE PROGRAM</u></b></p>	<p>-----</p>

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<p><b>12. <u>PROTECTION ORDERS</u></b><sup>†</sup></p>	<p>Protection of victims from family and other offenses  <b>N.Y. CRIM. PRO. LAW §§ 530.12(1)(a)(6), 530.13(1)(c)</b></p> <p>Protection orders  <b>N.Y. FAM. CT. LAW §§ 656(i), 842(i), 1056(1)(g)</b></p>
<p><b>13. <u>RESTITUTION</u></b> <sup>†</sup></p>	<p>Costs of care may be collected from owner.  <b>N.Y. AGRI &amp; MKTS LAW § 356</b></p> <p>Court may authorize petition filed by impounding organization requiring owner to post a security bond for the costs of care.  <b>N.Y. AGRI &amp; MKTS LAW § 373(6)</b></p>
<p><b>14. <u>FORFEITURE &amp; POSSESSION BANS</u></b> <sup>†</sup></p>	<p>In the case of an animal other than a companion animal or pet, if the owner fails to post a court-ordered security for costs of care, the court may order forfeiture.  <b>N.Y. AGRI &amp; MKTS LAW § 373(5), (6)(b)(3), (6)(c)</b></p> <p>Upon conviction for various animal cruelty crimes, the court may order the animal that was the subject of the conviction to be forfeited. The court may also impose a possession ban for a reasonable amount of time. Forfeited farm animals may be ordered to be sold.  <b>N.Y. AGRI &amp; MKTS LAW § 374(6), (8)(a), (c), (d)-(g)</b></p> <p>Upon conviction for animal fighting, seized animals and implements shall be forfeited.  <b>N.Y. AGRI &amp; MKTS LAW § 376</b></p>
<p><b>15. <u>COURT-ORDERED TREATMENT</u></b><sup>†</sup></p>	<p>-----</p>
<p><b>16. <u>HOT CARS</u></b></p>	<p>Confinement of companion animals in vehicles during extreme temperatures; authority of law enforcement to remove animal  <b>N.Y. AGRI &amp; MKTS LAW § 353-d</b>  <i>Violation</i></p>
<p><b>17. <u>CIVIL NUISANCE ABATEMENT</u></b></p>	<p>-----</p>

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<b>18. <u>AG-GAG LAWS</u></b>	-----
<b>19. <u>BREED SPECIFIC LEGISLATION</u></b>	A municipality may adopt its own program for the control of dangerous dogs, but not in a manner that is specific as to breed. <i>N.Y. Agri &amp; Mkts Law § 107</i>

- \* 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”

#### **N.Y. AGRICULTURE & MARKETS LAW § 350. Definitions.**

1. *“Animal,” as used in this article, includes every living creature except a human being;*
2. *“Torture” or “cruelty” includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.*
3. *“Adoption” means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, seized or surrendered.*
4. *“Farm animal”, as used in this article, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in section 11-1907 of the environmental conservation law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.*
5. *“Companion animal” or “pet” means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. “Pet” or “companion animal” shall not include a “farm animal” as defined in this section.*

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### 2. GENERAL CRUELTY

#### N.Y. AGRI & MKTS LAW § 350. Definitions.

1. *“Animal,” as used in this article, includes every living creature except a human being;*
2. *“Torture” or “cruelty” includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.*
3. *“Adoption” means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, seized or surrendered.*
4. *“Farm animal”, as used in this article, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in section 11-1907 of the environmental conservation law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.*
5. *“Companion animal” or “pet” means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. “Pet” or “companion animal” shall not include a “farm animal” as defined in this section.*

#### N.Y. AGRI & MKTS LAW § 353. Overdriving, torturing and injuring animals; failure to provide proper sustenance.

*A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class A misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law.*

Nothing herein contained shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The state commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The state commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be

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revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

### N.Y. AGRI & MKTS LAW § 353-a. Aggravated cruelty to animals.

1. *A person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, "aggravated cruelty" shall mean conduct which:*
  - (i) *is intended to cause extreme physical pain; or*
  - (ii) *is done or carried out in an especially depraved or sadistic manner.*
2. Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.
3. *Aggravated cruelty to animals is a felony. A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years.*

### N.Y. AGRI & MKTS LAW § 353-b. Appropriate shelter for dogs left outdoors.

1. *For purposes of this section:*
  - (a) *"Physical condition" shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.*
  - (b) *"Inclement weather" shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.*
  - (c) *"Dogs that are left outdoors" shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.*
- 2.

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- (a) *Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate. Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense.*
- (b) *The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the seizure of a dog for a violation of this section pursuant to the authority granted in this article.*
- 3. *Minimum standards for determining whether shelter is appropriate to a dog's breed, physical condition and the climate shall include:*
  - (a) *For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.*
  - (b) *For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material; dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.*
- 4. *Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.*
- 5. *Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.*
- 6. *Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.*

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### N.Y. AGRI & MKTS LAW § 353-f. Companion animal piercing and tattooing prohibited.

1. *No person shall pierce or cause to have pierced a companion animal unless such piercing provides a medical benefit to the companion animal. Such piercing shall be performed by a licensed veterinarian or under the supervision of a licensed veterinarian. Nothing in this section shall be construed to apply to ear tags on rabbits and covies.*
2. No person shall tattoo or cause to have tattooed a companion animal unless such tattoo:
  - (a) is done in conjunction with a medical procedure for the benefit of the companion animal and to indicate that such medical procedure has been done, provided that such tattoo is not for design purposes; or
  - (b) is done for the purpose of identification of the companion animal and not for design purposes, and such tattoo includes only such numbers and/or letters allotted by a corporation that, in the regular course of its business, maintains an animal tattoo identification registry.
3. For the purposes of this section, “tattoo” shall mean a mark on the body made with indelible ink or pigments injected beneath the outer layer of the skin.
4. Tattooing done in conjunction with a medical procedure for the benefit of a companion animal that indicates that such medical procedure has been done shall be performed by a licensed veterinarian or under the supervision of a licensed veterinarian.
5. *Any person who knowingly violates the provisions of this section shall be guilty of a violation punishable pursuant to the penal law.*

### N.Y. AGRI & MKTS LAW § 354. Sale of baby chicks and baby rabbits.

1. *No person shall sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl or baby rabbits unless such person provides proper brooder facilities where appropriate for the care of such baby chicks, ducklings or other fowl or baby rabbits during the time they are in the possession of such person. For the purposes of this section, a baby rabbit shall be a rabbit of less than two months of age.*
2. *No person shall sell, offer for sale, barter or display living baby chicks, ducklings or other fowl or baby rabbits which have been dyed, colored or otherwise treated so as to impart to them an artificial color.*
- 2-a. No provision of subdivision two shall be interpreted or applied to prevent or restrict teachers and qualified instructors of youth under the guidance and supervision of the New York state cooperative extension service from using eggs for non-profit educational purposes or from observing fowl hatched from such eggs for non-profit educational purposes.
3. *No person shall sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl or baby rabbits under two months of age in any quantity less than six.*
4. *A violation of the provisions of this section is a misdemeanor, punishable by*

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*imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both.*

### **N.Y. AGRI & MKTS LAW § 355. Abandonment of animals.**

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

### **N.Y. AGRI & MKTS LAW § 356. Failure to provide proper food and drink to impounded animal.**

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

### **N.Y. AGRI & MKTS LAW § 358. Selling disabled horses.**

*It shall be unlawful for any person holding an auctioneer's license knowingly to receive or offer for sale or to sell at public auction, other than at a sheriff's or judicial sale under a court order, any horse which by reason of debility, disease or lameness, or for any other cause, could not be worked in this state without violating the law against cruelty to animals. Any person violating any provision of this section shall be punishable by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.*

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### **N.Y. AGRI & MKTS LAW § 359. Carrying animal in a cruel manner.**

1. *A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*
2. *A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-eight consecutive hours, or thirty-six consecutive hours where consent is given in the manner hereinafter provided, without unloading for rest, water and feeding, during five consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. The consent which will extend the period from twenty-eight to thirty-six hours shall be given by the owner, or by person in custody of a particular shipment, by a writing separate and apart from any printed bill of lading or other railroad form. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed.*

### **N.Y. AGRI & MKTS LAW § 359-a. Transportation of horses.**

1. *Every vehicle utilized for the transportation of more than six horses shall meet the following requirements:*
  - a. *The interiors of compartments containing horses shall be constructed of smooth materials, containing no sharp objects or protrusions which are hazardous;*
  - b. *The floors shall be of such construction or covered with abrasive material so as to prevent horses from skidding or sliding;*
  - c. *There shall be sufficient apertures to insure adequate ventilation;*
  - d. *There shall be sufficient insulation or coverings to maintain an adequate temperature in the compartment containing horses;*
  - e. *Partitions of sturdy construction shall be placed a maximum of ten feet apart in vehicles which do not have stalls;*
  - f. *Doorways shall be of sufficient height to allow safe ingress and egress of each horse contained in the compartment;*
  - g. *Each compartment containing horses shall be of such height so as to allow sufficient clearance above the poll and withers of each horse in the compartment;*
  - h. *Ramps sufficient for loading and unloading horses shall be provided if the vertical distance from the floor of the compartment containing horses to the ground is greater than fifteen inches; and*
  - i. *There shall be at least two doorways for ingress and egress, which shall not be on the same side.*



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2. *Every vehicle utilized for the transportation of more than six horses over a highway shall have no more than one tier.*
3.
  - a. *Transporting a horse in violation of this section shall be a violation punishable by a fine of not more than two hundred fifty dollars.*
  - b. *Any subsequent violation of this section on a date following a conviction under the provisions of this section shall be a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both.*
4. *The commissioner shall promulgate rules and regulations, including size specifications, and establish guidelines in order to facilitate compliance with the provisions of this section.*
5.
  - a. *The term “horse” as used throughout this section shall apply to the entire family of equidae.*
  - b. *The term “vehicle” as used throughout this section shall apply to every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.*
6. *The court in which a conviction under the provisions of this section is obtained, shall, within thirty days of such conviction, transmit a copy of the record of conviction to the department which shall maintain a record of such conviction for the purpose of identifying subsequent violations of this section.*

### **N.Y. AGRICULTURE & MARKETS LAW § 360. Poisoning or attempting to poison animals.**

*A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule or domestic cattle or unjustifiably exposes any such drug or substance with intent that the same shall be taken by horse, mule or by domestic cattle, whether such horse, mule or domestic cattle be the property of himself or another, is guilty of a felony. A person who unjustifiably administers any poisonous or noxious drug or substance to an animal, other than a horse, mule or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule or domestic cattle, whether such animal be the property of himself or another, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*



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### **N.Y. AGRI & MKTS LAW § 361. Interference with or injury to certain domestic animals.**

*A person who wilfully or unjustifiably interferes with, injures, destroys or tampers with or who willfully sets on foot, instigates, engages in or in any way furthers any act by which any horse, mule, dog or any other domestic animal used for the purposes of racing, breeding or competitive exhibition of skill, breed or stamina, is interfered with, injured, destroyed or tampered with, or any act tending to produce such interference, injury, destruction or tampering, whether such horse, mule, dog or other domestic animal be the property of himself or another, is guilty of a felony.*

### **N.Y. AGRI & MKTS LAW § 362. Throwing substance injurious to animals in public place.**

*A person who wilfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.*

### **N.Y. AGRI & MKTS LAW § 368. Operating upon tails of horses unlawful**

- 1. Any person who cuts the bone, tissues, muscles or tendons of the tail of any horse, mare or gelding, or otherwise operates upon it in any manner for the purpose or with the effect of docking, setting, or otherwise altering the natural carriage of the tail, or who knowingly permits the same to be done upon premises of which he is the owner, lessee, proprietor or user, or who assists in or is voluntarily present at such cutting, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars or by both. If a horse is found with the bone, tissues, muscles or tendons of its tail cut as aforesaid and with the wound resulting therefrom unhealed, upon the premises or in the charge and custody of any person, such fact shall be prima facie evidence of a violation of this section by the owner or user of such premises or the person having such charge or custody, respectively.*
- 2. Any person who shows or exhibits at any horse show or other like exhibition in this state a horse, mare or gelding, the tail of which has been cut or operated upon in the manner referred to in section one hereof, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both; provided that the provisions of this section shall not apply with respect to an animal the tail of which has been so cut or operated upon, if the owner thereof furnishes to the manager or other official having charge of the horse show or exhibition at which such animal is shown or exhibited an affidavit by the owner, or a licensed veterinarian, in a form approved by the state department of agriculture and*

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markets, stating either that the tail of such horse was so cut prior to June first, nineteen hundred sixty-four, or that it was so cut in a state wherein such cutting was not then specifically prohibited by the laws thereof. Said affidavit shall, to the best of affiant's knowledge, information and belief, identify the animal with respect to sex, age, markings, sire and dam, and state either that the cutting was done prior to June first, nineteen hundred sixty-four, or the time and place of such cutting and the name and address of the person by whom performed. The affidavit shall be subject to inspection at all reasonable times by any peace officer, acting pursuant to his special duties, or police officer of this state, or by a designated representative of the commissioner. In lieu of furnishing such affidavit to the manager or other official having charge of such horse show or exhibition, the owner of such horse may specify on the entry blank for the horse show or exhibition the name and address of a central registry office designated by the state department of agriculture and markets where such an affidavit has already been filed and is available for inspection.

### **N.Y. PENAL LAW § 195.06-a. Killing a police work dog or police work horse.**

*A person is guilty of killing a police work dog or police work horse when such person intentionally kills a police work dog or police work horse while such dog or horse is in the performance of its duties and under the supervision of a police officer. For purposes of this section, "police work dog" or "police work horse," as the case may be, shall mean any dog or horse owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.*

Killing a police work dog or police work horse is a *class E felony*.

### **N.Y. PENAL LAW § 242.15. Harming a service animal in the first degree.**

*A person is guilty of harming a service animal in the first degree when, he or she commits the crime of harming a service animal in the second degree, and has been convicted of harming a service animal in the first or second degree within the prior five years.*

Harming a service animal in the first degree is a *class E felony*.

## ANIMAL PROTECTION LAWS OF NEW YORK

### 3. EXEMPTIONS

#### **N.Y. AGRI & MKTS LAW § 353. Overdriving, torturing and injuring animals; failure to provide proper sustenance.**

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

*Nothing herein contained shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The state commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The state commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.*

#### **N.Y. AGRI & MKTS LAW § 353-a. Aggravated cruelty to animals.**

1. A person is guilty of aggravated cruelty to animals when, *with no justifiable purpose*, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, “aggravated cruelty” shall mean conduct which:
  - (i) is intended to cause extreme physical pain; or
  - (ii) is done or carried out in an especially depraved or sadistic manner.

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**ANIMAL PROTECTION LAWS OF NEW YORK**

2. *Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals, where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.*
3. Aggravated cruelty to animals is a felony. A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be a definite sentence, which may not exceed two years.

## ANIMAL PROTECTION LAWS OF NEW YORK

### 4. FIGHTING AND RACKETEERING

Procedural matters relating to the authority of officers to take possession of animals involved in animal fighting located in the [seizure](#) section of this document.

Procedural matters relating to the disposition of animals used in animal fighting in the [forfeiture & possession bans](#) section of this document.

#### **N.Y. AGRI & MKTS LAW § 351. Prohibition of animal fighting.**

1. *For purposes of this section, the term “animal fighting” shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons, except in exhibitions of a kind commonly featured at rodeos.*
2. *Any person who engages in any of the following conduct is guilty of a felony punishable by imprisonment for a period not to exceed four years, or by a fine not to exceed twenty-five thousand dollars, or by both such fine and imprisonment:*
  - (a) *For amusement or gain, causes any animal to engage in animal fighting; or*
  - (b) *Trains any animal under circumstances evincing an intent that such animal engage in animal fighting for amusement or gain; or*
  - (c) *Breeds, sells or offers for sale any animal under circumstances evincing an intent that such animal engage in animal fighting; or*
  - (d) *Permits any act described in paragraph (a), (b) or (c) of this subdivision to occur on premises under his control; or*
  - (e) *Owns, possesses or keeps any animal trained to engage in animal fighting on premises where an exhibition of animal fighting is being conducted under circumstances evincing an intent that such animal engage in animal fighting.*
3.
  - (a) *Any person who engages in conduct specified in paragraph (b) of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed fifteen thousand dollars, or by both such fine and imprisonment.*
  - (b) *The owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting.*
4.
  - (a) *Any person who engages in conduct specified in paragraph (b) hereof is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.*

## ANIMAL PROTECTION LAWS OF NEW YORK

- (b) *The knowing presence as a spectator having paid an admission fee or having made a wager at any place where an exhibition of animal fighting is being conducted.*
- 5.
- (a) *Any person who engages in the conduct specified in paragraph (b) of this subdivision is guilty of a class B misdemeanor punishable by imprisonment for a period not to exceed three months, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in paragraph (b) of this subdivision after having been convicted within the previous five years of a violation of this subdivision or subdivision four of this section is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.*
- (b) *The knowing presence as a spectator at any place where an exhibition of animal fighting is being conducted.*
- 6.
- (a) *Any person who intentionally owns, possesses, sells, transfers or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate animal fighting as defined in subdivision one of this section is guilty of a class B misdemeanor punishable by imprisonment for a period of up to ninety days, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in this subdivision after having been convicted within the previous five years of a violation of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.*
- (b) *For purposes of this section, animal fighting paraphernalia shall mean equipment, products, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning or furtherance of animal fighting. Animal fighting paraphernalia includes the following:*
- (i) *A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;*
  - (ii) *A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;*
  - (iii) *A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing places;*
  - (iv) *A springpole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;*

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## ANIMAL PROTECTION LAWS OF NEW YORK

- (v) *A fighting pit, which means a walled area, or otherwise defined area, designed to contain an animal fight;*
- (vi) *Any other instrument commonly used in the furtherance of pitting an animal against another animal.*

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**ANIMAL PROTECTION LAWS OF NEW YORK****5 SEXUAL ASSAULT****N.Y. PENAL LAW § 130.20. Sexual misconduct.**

*A person is guilty of sexual misconduct when:*

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. *He or she engages in sexual conduct with an animal or a dead human body.*

*Sexual misconduct is a class A misdemeanor.*



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### 6. MAXIMUM PENALTIES & STATUTES OF LIMITATIONS

**NOTE:** Penalties for most violations are defined in the substantive statutes, available in the [General Cruelty](#) and [Fighting & Racketeering](#) sections of this document.

#### **N.Y. PENAL LAW § 55.10. Designation of offenses.**

1. *Felonies.*
  - (a) The particular classification or subclassification of each felony defined in this chapter is expressly designated in the section or article defining it.
  - (b) *Any offense defined outside this chapter which is declared by law to be a felony without specification of the classification thereof, or for which a law outside this chapter provides a sentence to a term of imprisonment in excess of one year, shall be deemed a class E felony.*
2. *Misdemeanors.*
  - (a) Each misdemeanor defined in this chapter is either a class A misdemeanor or a class B misdemeanor, as expressly designated in the section or article defining it.
  - (b) *Any offense defined outside this chapter which is declared by law to be a misdemeanor without specification of the classification thereof or of the sentence therefor shall be deemed a class A misdemeanor.*
  - (c) Except as provided in paragraph (b) of subdivision three, where an offense is defined outside this chapter and a sentence to a term of imprisonment in excess of fifteen days but not in excess of one year is provided in the law or ordinance defining it, such offense shall be deemed an unclassified misdemeanor.
3. *Violations.* Every violation defined in this chapter is expressly designated as such. Any offense defined outside this chapter which is not expressly designated a violation shall be deemed a violation if:
  - (a) Notwithstanding any other designation specified in the law or ordinance defining it, a sentence to a term of imprisonment which is not in excess of fifteen days is provided therein, or the only sentence provided therein is a fine; or
  - (b) A sentence to a term of imprisonment in excess of fifteen days is provided for such offense in a law or ordinance enacted prior to the effective date of this chapter but the offense was not a crime prior to that date.
4. *Traffic infraction.* Notwithstanding any other provision of this section, an offense which is defined as a “traffic infraction” shall not be deemed a violation or a misdemeanor by virtue of the sentence prescribed therefor.

#### **N.Y. PENAL LAW § 70.00. Sentence of imprisonment for felony**

1. *Indeterminate sentence.* *Except as provided in subdivisions four and five of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony*

## ANIMAL PROTECTION LAWS OF NEW YORK

*defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.*

2. *Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:*
  - (a) For a class A felony, the term shall be life imprisonment;
  - (b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years;
  - (c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;
  - (d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and
  - (e) *For a class E felony, the term shall be fixed by the court, and shall not exceed four years.*
3. *Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:*
  - (a) In the case of a class A felony, the minimum period shall be fixed by the court and specified in the sentence.
    - (i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.
    - (ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child

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as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

*(b) For any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed.*

4. *Alternative definite sentence for class D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.*
5. Life imprisonment without parole. Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime. A defendant who was eighteen years of age or older at the time of the commission of the crime must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony; the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter; or the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter. A defendant who was seventeen years of age or younger at the time of the commission of the crime may be sentenced, in accordance with law, to the applicable indeterminate sentence with a maximum term of life imprisonment. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

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### **N.Y. PENAL LAW § 70.15. Sentences of imprisonment for misdemeanors and violation.**

1. *Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed one year; provided, however, that a sentence of imprisonment imposed upon a conviction of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 must be for a period of no less than one year when the conviction was the result of a plea of guilty entered in satisfaction of an indictment or any count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, except that the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a felony or a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime.*
2. *Class B misdemeanor. A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months.*
3. *Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime.*
4. *Violation. A sentence of imprisonment for a violation shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed fifteen days. In the case of a violation defined outside this chapter, if the sentence is expressly specified in the law or ordinance that defines the offense and consists solely of a fine, no term of imprisonment shall be imposed.*

### **N.Y. PENAL LAW § 80.00. Fine for felony.**

1. *A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding the higher of*
  - a. *five thousand dollars; or*
  - b. *double the amount of the defendant's gain from the commission of the crime or, if the defendant is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the defendant's gain from the commission of such offense; or*
  - c. *if the conviction is for any felony defined in article two hundred twenty or two*

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hundred twenty-one of this chapter, according to the following schedule:

- (i) for A-I felonies, one hundred thousand dollars;
- (ii) for A-II felonies, fifty thousand dollars;
- (iii) for B felonies, thirty thousand dollars;
- (iv) for C felonies, fifteen thousand dollars.

When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support.

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.
3. When the court imposes a fine for a felony pursuant to paragraph b of subdivision one of this section, the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support such a finding or to permit adequate consideration of the matters specified in paragraph c of subdivision one of this section, the court may conduct a hearing upon such issues.
4. Exception. The provisions of this section shall not apply to a corporation.
5. All moneys in excess of five thousand dollars received or collected in payment of a fine imposed pursuant to paragraph c of subdivision one of this section are the property of the state and the state comptroller shall deposit all such fines to the rehabilitative alcohol and substance treatment fund established pursuant to section ninety-seven-cc of the state finance law.
6. Notwithstanding any inconsistent provision of subdivision one of this section a sentence to pay a fine for a felony set forth in the vehicle and traffic law shall be a sentence to pay an amount fixed by the court in accordance with the provisions of the law that defines the crime.
7. When the court imposes a fine pursuant to section 145.22 or 145.23 of this chapter, the court shall direct that no less than ten percent of such fine be credited to the state cemetery vandalism restoration and administration fund created pursuant to section ninety-seven-r of the state finance law.

### **N.Y. PENAL LAW § 80.05. Fines for misdemeanors and violation.**

1. *Class A misdemeanor. A sentence to pay a fine for a class A misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding one thousand dollars, provided, however, that a sentence imposed for a violation of section 215.80 of this chapter may include a fine in an amount equivalent to double the value of the property*

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- unlawfully disposed of in the commission of the crime.
2. *Class B misdemeanor. A sentence to pay a fine for a class B misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding five hundred dollars.*
  3. *Unclassified misdemeanor. A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, in accordance with the provisions of the law or ordinance that defines the crime.*
  4. *Violation. A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding two hundred fifty dollars. In the case of a violation defined outside this chapter, if the amount of the fine is expressly specified in the law or ordinance that defines the offense, the amount of the fine shall be fixed in accordance with that law or ordinance.*
  5. *Alternative sentence. If a person has gained money or property through the commission of any misdemeanor or violation then upon conviction thereof, the court, in lieu of imposing the fine authorized for the offense under one of the above subdivisions, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense; provided, however, that the amount fixed by the court pursuant to this subdivision upon a conviction under section 11-1904 of the environmental conservation law shall not exceed five thousand dollars. In such event the provisions of subdivisions two and three of section 80.00 shall be applicable to the sentence.*
  6. *Exception. The provisions of this section shall not apply to a corporation.*

### **N.Y. CRIM. PROC. LAW § 30.10. Timelines of prosecutions; periods of limitation.**

1. A criminal action must be commenced within the period of limitation prescribed in the ensuing subdivisions of this section.
2. Except as otherwise provided in subdivision three:
  - (a) A prosecution for a class A felony, or rape in the first degree as defined in section 130.35 of the penal law, or a crime defined or formerly defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law, or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law may be commenced at any time;
  - (b) *A prosecution for any other felony must be commenced within five years after the commission thereof;*
  - (c) *A prosecution for a misdemeanor must be commenced within two years after the commission thereof;*
  - (d) *A prosecution for a petty offense must be commenced within one year after the commission thereof.*
3. Notwithstanding the provisions of subdivision two, the periods of limitation for the commencement of criminal actions are extended as follows in the indicated circumstances:

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- (a) A prosecution for larceny committed by a person in violation of a fiduciary duty may be commenced within one year after the facts constituting such offense are discovered or, in the exercise of reasonable diligence, should have been discovered by the aggrieved party or by a person under a legal duty to represent him who is not himself implicated in the commission of the offense.
- (b) A prosecution for any offense involving misconduct in public office by a public servant including, without limitation, an offense defined in article four hundred ninety-six of the penal law, may be commenced against a public servant, or any other person acting in concert with such public servant at any time during such public servant's service in such office or within five years after the termination of such service; provided however, that in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two of this section.
- (c) A prosecution for any crime set forth in title twenty-seven or<sup>1</sup> article seventy-one of the environmental conservation law may be commenced within four years after the facts constituting such crime are discovered or, in the exercise of reasonable diligence, should have been discovered by a public servant who has the responsibility to enforce the provisions of said title and article.
- (d) A prosecution for any misdemeanor set forth in the tax law or chapter forty-six of the administrative code of the city of New York must be commenced within three years after the commission thereof.
- (e) A prosecution for course of sexual conduct against a child in the second degree as defined in section 130.80 of the penal law may be commenced within five years of the commission of the most recent act of sexual conduct.
- (f) For purposes of a prosecution involving a sexual offense as defined in article one hundred thirty of the penal law, other than a sexual offense delineated in paragraph (a) of subdivision two of this section, committed against a child less than eighteen years of age, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a child in a sexual performance as defined in section 263.05 of the penal law, the period of limitation shall not begin to run until the child has reached the age of eighteen or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier.
- (g) A prosecution for any felony defined in article four hundred ninety of the penal law must be commenced within eight years after the commission thereof provided, however, that in a prosecution for a felony defined in article four hundred ninety of the penal law, if the commission of such felony offense resulted in, or created a foreseeable risk of, death or serious physical injury to another person, the prosecution may be commenced at any time; provided, however, that nothing in this paragraph shall be deemed to shorten or otherwise lessen the period, defined in any other applicable law, in which a prosecution for



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a felony designated in this paragraph may be commenced.

4. In calculating the time limitation applicable to commencement of a criminal action, the following periods shall not be included:
  - (a) Any period following the commission of the offense during which (i) the defendant was continuously outside this state or (ii) the whereabouts of the defendant were continuously unknown and continuously unascertainable by the exercise of reasonable diligence. However, in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two.
  - (b) When a prosecution for an offense is lawfully commenced within the prescribed period of limitation therefor, and when an accusatory instrument upon which such prosecution is based is subsequently dismissed by an authorized court under directions or circumstances permitting the lodging of another charge for the same offense or an offense based on the same conduct, the period extending from the commencement of the thus defeated prosecution to the dismissal of the accusatory instrument does not constitute a part of the period of limitation applicable to commencement of prosecution by a new charge.



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**7. CROSS ENFORCEMENT & REPORTING**

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### 8. VETERINARY REPORTING & IMMUNITY

#### N.Y. EDUC. LAW § 6714. Treatment records.

1. Upon written request from the owner of an animal which has received treatment from or under the supervision of a veterinarian, such veterinarian shall provide to such owner within a reasonable time period a copy of all records relating to the treatment of such animal. For the purposes of this section, the term "records" shall mean all information concerning or related to the examination or treatment of the animal kept by the veterinarian in the course of his or her practice. A veterinarian may impose a reasonable charge for providing copies of such records. A veterinarian may make available to the owner either the original or a copy of such record or document including x-rays, electrocardiograms and other diagnostic tests and may impose a reasonable fee for the reproduction of such copies.
2. *A veterinarian licensed pursuant to this article, may disclose records, as defined in this section, concerning a companion animal as defined in section three hundred fifty of the agriculture and markets law which has received treatment by such veterinarian without the consent of the companion animal's owner under the following circumstances:*
  - (a) *When a veterinarian reasonably and in good faith suspects that a companion animal's injury, illness or condition is the result of animal cruelty or a violation of any state or federal law pertaining to the care, treatment, abuse or neglect of a companion animal, the veterinarian may report the incident and disclose records concerning the companion animal's condition and treatment to the police, duly incorporated society for the prevention of cruelty to animals, peace officer, district attorney's office, animal control officer, department of agriculture and markets, other appropriate government agency, or any agent thereof.*
  - (b) *When a veterinarian reasonably believes that disclosure of records as defined in this section, is necessary to protect the health or welfare of a companion animal, a person or the public, the veterinarian may disclose such records to the police, duly incorporated society for the prevention of cruelty to animals, peace officer, animal control officer, department of agriculture and markets, other appropriate government agency, or any agent thereof.*
3. *A veterinarian acts in good faith within the meaning of this section when he or she reasonably believes that his or her actions are necessary to protect the health and welfare of the companion animal or the public.*
4. *A veterinarian who reasonably and in good faith reports or discloses records in accordance with this section shall be immune from liability in the form of damages in any civil or criminal proceeding on account of such reporting or disclosure.*

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### 9. LAW ENFORCEMENT POLICIES

#### **N.Y. AGRI & MKTS LAW § 371. Powers of peace officers.**

*A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the agriculture and markets law. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken.*

#### **N.Y. AGRI & MKTS LAW § 372. Issuance of warrants upon complaint.**

*Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.*

#### **N.Y. RPAPL § 749. Warrant.**

1. Upon rendering a final judgment for petitioner, the court shall issue a warrant directed to the sheriff of the county or to any constable or marshal of the city in which the property, or a portion thereof, is situated, or, if it is not situated in a city, to any constable of any town in the county, describing the property, and commanding the officer to remove all persons, and, except where the case is within [section 715](#), to put the petitioner into full possession.
2.
  - (a) The officer to whom the warrant is directed and delivered shall give at least seventy-two hours notice, excluding any period which occurs on a Saturday, Sunday or a public holiday, in writing and in the manner prescribed in this article for the service of a notice of petition, to the person or persons to be evicted or dispossessed and shall execute the warrant between the hours of sunrise and sunset.

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- (b) *Such officer shall check such property for the presence of a companion animal prior to executing such warrant and coordinate with such person or persons to be evicted or dispossessed to provide for the safe and proper care of such companion animal or animals.* If such persons to be evicted or dispossessed cannot be found after reasonable efforts are made to coordinate with such persons, or if such person is found and declines to take possession of such animal or animals, such officer shall promptly coordinate with the duly incorporated humane society, duly incorporated society for the prevention of cruelty to animals or pound maintained by or under contract or agreement with the municipality in which the animal was found for the safe removal of such companion animal or animals. Such officer shall make reasonable efforts to provide notice to the person or persons to be evicted regarding the location of such companion animal or animals. Disposition of such companion animal or animals shall be in accordance with the provisions of sections one hundred seventeen and three hundred seventy-four of the agriculture and markets law, and all other laws, rules and regulations that govern the humane treatment of animals. "Companion animal," as used in this paragraph, shall have the same meaning as provided in subdivision five of section three hundred fifty of the agriculture and markets law.
3. The issuing of a warrant for the removal of a tenant cancels the agreement under which the person removed held the premises, and annuls the relation of landlord and tenant, but nothing contained herein shall deprive the court of the power to vacate such warrant for good cause shown prior to the execution thereof. Petitioner may recover by action any sum of money which was payable at the time when the special proceeding was commenced and the reasonable value of the use and occupation to the time when the warrant was issued, for any period of time with respect to which the agreement does not make any provision for payment of rent.

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### 10. SEIZURE

#### **N.Y. AGRI & MKTS LAW § 372. Issuance of warrants upon complaint.**

*Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.*

#### **N.Y. AGRI & MKTS LAW § 373. Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept.**

1. *Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.*
- 1-a. *Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.*
2. *Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.*
3. *Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.*
4. *When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.*

## ANIMAL PROTECTION LAWS OF NEW YORK

5. *Nothing herein contained shall restrict the rights and powers derived from section one hundred seventeen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.*
- 6.
- a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges, or within a reasonable time thereafter, the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the “impounding organization”, may file a petition with the court in which criminal charges have been filed requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The district attorney prosecuting the charges may file and obtain the requested relief on behalf of the impounding organization if requested to do so by the impounding organization. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.
  - b.
    - (1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney if the district attorney has not filed the petition on behalf of the petitioner. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner or the district attorney acting on behalf of the petitioner, shall have the burden of proving by a

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- preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.
- (2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred seventeen of this chapter or section three hundred seventy- four of this article.
  - (3) In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.
  - (4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.
- c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person

## ANIMAL PROTECTION LAWS OF NEW YORK

from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

7. *Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.*

### **N.Y. AGRI & MKTS LAW § 375. Officer may take possession of animals or implements used in fights among animals.**

*Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals. He shall state to the person in charge thereof, at the time of such taking, his name and residence, and also, the time and place at which the application provided for by the next section will be made.*



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**ANIMAL PROTECTION LAWS OF NEW YORK**

**11. COURTROOM ANIMAL ADVOCATE PROGRAM**

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**ANIMAL PROTECTION LAWS OF NEW YORK****12. PROTECTION ORDERS****N.Y. CRIM. PRO. LAW § 530.12. Protection for victims of family offenses.**

1. *When a criminal action is pending involving a complaint charging any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household, as members of the same family or household are defined in subdivision one of section 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of any order of recognizance or bail or an adjournment in contemplation of dismissal.*
  - (a) *In addition to any other conditions, such an order may require the defendant:*
    - (1) to stay away from the home, school, business or place of employment of the family or household member or of any designated witness, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such temporary order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the temporary order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, past or present injury, threats, drug or alcohol abuse, and access to weapons;
    - (2) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;
    - (3) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;
    - (4) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;
    - (5) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law;

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- (6)
- (A) *to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by the victim or a minor child residing in the household.*
- (B) *“Companion animal”, as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law;*
- (7)
- (A) to promptly return specified identification documents to the protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may: (i) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (ii) specify the manner in which such return shall be accomplished.
- (B) For purposes of this subparagraph, “identification document” shall mean any of the following: (i) exclusively in the name of the protected party: birth certificate, passport, social security card, health insurance or other benefits card, a card or document used to access bank, credit or other financial accounts or records, tax returns, any driver’s license, and immigration documents including but not limited to a United States permanent resident card and employment authorization document; and (ii) upon motion and after notice and an opportunity to be heard, any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party: any card or document used to access bank, credit or other financial accounts or records, tax returns, and any other identifying cards and documents.
- (b) The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.
2. Notwithstanding any other provision of law, a temporary order of protection issued or continued by a family court pursuant to section eight hundred thirteen of the family court act shall continue in effect, absent action by the appropriate criminal court pursuant to subdivision three of this section, until the defendant is arraigned upon an accusatory instrument filed pursuant to section eight hundred thirteen of the family court act in such criminal court.
3. The court may issue a temporary order of protection ex parte upon the filing of an accusatory instrument and for good cause shown. When a family court order of protection is modified, the criminal court shall forward a copy of such modified order to the family court issuing the original order of protection; provided, however, that where a

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copy of the modified order is transmitted to the family court by facsimile or other electronic means, the original copy of such modified order and accompanying affidavit shall be forwarded immediately thereafter.

- 3-a. Emergency powers when family court not in session; issuance of temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis issue a temporary order of protection pending a hearing in family court, provided that a sworn affidavit, verified in accordance with subdivision one of section 100.30 of this chapter, is submitted: (i) alleging that the family court is not in session; (ii) alleging that a family offense, as defined in subdivision one of section eight hundred twelve of the family court act and subdivision one of section 530.11 of this article, has been committed; (iii) alleging that a family offense petition has been filed or will be filed in family court on the next day the court is in session; and (iv) showing good cause. Upon appearance in a local criminal court, the petitioner shall be advised that he or she may continue with the proceeding either in family court or upon the filing of a local criminal court accusatory instrument in criminal court or both. Upon issuance of a temporary order of protection where petitioner requests that it be returnable in family court, the local criminal court shall transfer the matter forthwith to the family court and shall make the matter returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the order. The local criminal court, upon issuing a temporary order of protection returnable in family court pursuant to this subdivision, shall immediately forward, in a manner designed to insure arrival before the return date set in the order, a copy of the temporary order of protection and sworn affidavit to the family court and shall provide a copy of such temporary order of protection to the petitioner; provided, however, that where a copy of the temporary order of protection and affidavit are transmitted to the family court by facsimile or other electronic means, the original order and affidavit shall be forwarded to the family court immediately thereafter. Any temporary order of protection issued pursuant to this subdivision shall be issued to the respondent, and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section. Any temporary order of protection issued pursuant to this subdivision shall plainly state the date that such order expires which, in the case of an order returnable in family court, shall be not more than four calendar days after its issuance, unless sooner vacated or modified by the family court. A petitioner requesting a temporary order of protection returnable in family court pursuant to this subdivision in a case in which a family court petition has not been filed shall be informed that such temporary order of protection shall expire as provided for herein, unless the petitioner files a petition pursuant to subdivision one of section eight hundred twenty-one of the family court act on or before the return date in family court and the family court issues a temporary order of protection or order of protection as authorized under article eight of the family court act. Nothing in this subdivision shall limit or restrict the petitioner's right to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen

## ANIMAL PROTECTION LAWS OF NEW YORK

of the family court act and section 100.07 of this chapter.

- 3-b. Emergency powers when family court not in session; modifications of orders of protection or temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis modify a temporary order of protection or order of protection which has been issued under article four, five, six or eight of the family court act pending a hearing in family court, provided that a sworn affidavit verified in accordance with subdivision one of section 100.30 of this chapter is submitted: (i) alleging that the family court is not in session and (ii) showing good cause, including a showing that the existing order is insufficient for the purposes of protection of the petitioner, the petitioner's child or children or other members of the petitioner's family or household. The local criminal court shall make the matter regarding the modification of the order returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the modified order. The court shall immediately forward a copy of the modified order, if any, and sworn affidavit to the family court and shall provide a copy of such modified order, if any, and affidavit to the petitioner; provided, however, that where copies of such modified order and affidavit are transmitted to the family court by facsimile or other electronic means, the original copies of such modified order and affidavit shall be forwarded to the family court immediately thereafter. Any modified temporary order of protection or order of protection issued pursuant to this subdivision shall be issued to the respondent and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section.
4. The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant for the arrest of defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.
5. Upon sentencing on a conviction for any crime or violation between spouses, between a parent and child, or between members of the same family or household as defined in subdivision one of section 530.11 of this article, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and; (A) in the case of a felony conviction, shall not exceed the greater of: (i) eight years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a felony sexual assault, as provided in subparagraph (iii) of paragraph (a) of subdivision three of section 65.00 of the penal law, in which case, ten years from the date of such sentencing, or (ii) eight years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or (B) in the case of a conviction for a class A misdemeanor, shall not exceed the greater of: (i) five years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a misdemeanor sexual assault, as

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provided in subparagraph (ii) of paragraph (b) of subdivision three of section 65.00 of the penal law, in which case, six years from the date of such sentencing, or (ii) five years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed; or (C) in the case of a conviction for any other offense, shall not exceed the greater of: (i) two years from the date of sentencing, or (ii) two years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:

- (a) to stay away from the home, school, business or place of employment of the family or household member, the other spouse or the child, or of any witness designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons;
  - (b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;
  - (c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons; or
  - (d) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;
  - (e) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law.
6. An order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, four or five of this section shall bear in a conspicuous manner the term "order of protection" or "temporary order of protection" as the case may be and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which the complainant resides, or, if the complainant resides within a city, with the police department of such city. The order of protection or temporary order of protection shall also contain the following notice: "This order of protection will remain in effect even if the protected party has, or consents to have, contact or communication with the party

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against whom the order is issued. This order of protection can only be modified or terminated by the court. The protected party cannot be held to violate this order nor be arrested for violating this order.” The absence of such language shall not affect the validity of such order. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff’s office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the complainant at the appropriate police department or sheriff’s office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

Such order of protection shall plainly state the date that such order expires.

- 6-a. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought.
7. A family offense subject to the provisions of this section which occurs subsequent to the issuance of an order of protection under this chapter shall be deemed a new offense for which the complainant may seek to file a new accusatory instrument and may file a family court petition under article eight of the family court act as provided for in section 100.07 of this chapter.
8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to his or her special duties or police officer shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford. The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in his or her favor nor may such protected party be arrested for violating such order.
9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him or her for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter.
10. Punishment for contempt based on a violation of an order of protection or temporary



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order of protection shall not affect the original criminal action, nor reduce or diminish a sentence upon conviction for the original crime or violation alleged therein or for a lesser included offense thereof.

11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:
  - (a) revoke an order of recognizance or revoke an order of bail or order forfeiture of such bail and commit the defendant to custody; or
  - (b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or
  - (c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or
  - (d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.
  - (e) [(e) Repealed. ]
12. The chief administrator of the courts shall promulgate appropriate uniform temporary orders of protection and orders of protection forms to be used throughout the state. Such forms shall be promulgated and developed in a manner to ensure the compatibility [compatibility] of such forms with the statewide computerized registry established pursuant to section two hundred twenty-one-a of the executive law.
13. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection when applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section 530.11 of this article.
14. The people shall make reasonable efforts to notify the complainant alleging a crime constituting a family offense when the people have decided to decline prosecution of such crime, to dismiss the criminal charges against the defendant or to enter into a plea agreement. The people shall advise the complainant of the right to file a petition in the family court pursuant to section 100.07 of this chapter and section one hundred fifteen of the family court act.
 

In any case where allegations of criminal conduct are transferred from the family court to the criminal court pursuant to paragraph (ii) of subdivision (b) of section eight hundred forty-six of the family court act, the people shall advise the family court making the transfer of any decision to file an accusatory instrument against the family court respondent and shall notify such court of the disposition of such instrument and the



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sentence, if any, imposed upon such respondent.

Release of a defendant from custody shall not be delayed because of the requirements of this subdivision.

15. Any motion to vacate or modify an order of protection or temporary order of protection shall be on notice to the non-moving party, except as provided in subdivision three-b of this section.

### **N.Y. CRIM. PRO. LAW § 530.13. Protection of victims of crimes, other than family offenses.**

1. *When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require that the defendant:*
  - (a) stay away from the home, school, business or place of employment of the victims of, or designated witnesses to, the alleged offense;
  - (b) refrain from harassing, intimidating, threatening or otherwise interfering with the victims of the alleged offense and such members of the family or household of such victims or designated witnesses as shall be specifically named by the court in such order [fig 1] ;
  - (c)
    - (1) *to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.*
    - (2) *"Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.*

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

2. The court may issue a temporary order of protection under this section ex parte upon the filing of an accusatory instrument and for good cause shown.
3. The court may issue or extend a temporary order of protection under this section ex parte simultaneously with the issuance of a warrant for the arrest of the defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.
4. Upon sentencing on a conviction for any offense, where the court has not issued an

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order of protection pursuant to section 530.12 of this article, the court may, in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and ; (A) in the case of a felony conviction, shall not exceed the greater of: (i) eight years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a felony sexual assault, as provided in subparagraph (iii) of paragraph (a) of subdivision three of section 65.00 of the penal law, in which case, ten years from the date of such sentencing, or (ii) eight years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or (B) in the case of a conviction for a class A misdemeanor, shall not exceed the greater of: (i) five years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a misdemeanor sexual assault, as provided in subparagraph (ii) of paragraph (b) of subdivision three of section 65.00 of the penal law, in which case, six years from the date of such sentencing or (ii) five years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed; or (C) in the case of a conviction for any other offense, shall not exceed the greater of: (i) two years from the date of sentencing, or (ii) two years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions such an order may require that the defendant:

- (a) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense;
  - (b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order;
  - (c)
    - (1) to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.
    - (2) "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law.
5. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought. An order of protection issued under this section shall plainly state the date that such order

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expires. Orders of protection issued to protect victims of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, shall be on uniform statewide forms that shall be promulgated by the chief administrator of the courts in a manner to ensure the compatibility of such forms with the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law. A copy of an order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, or four of this section shall be filed by the clerk of the court with the sheriff's office in the county in which such victim or victims reside, or, if the victim or victims reside within a city, with the police department of such city. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the victim or victims at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.

6. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the victim and the defendant and defense counsel and to any other person affected by the order, a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any police officer or peace officer acting pursuant to his or her special duties shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford.
7. Punishment for contempt based upon a violation of an order or [of] protection or temporary order of protection issued under this section shall not affect a pending criminal action, nor reduce or diminish a sentence upon conviction for any other crimes or offenses.
8. If a defendant is brought before the court for failure to obey any lawful order issued under this section and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:
  - (a) revoke an order of recognizance or bail and commit the defendant to custody; or
  - (b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody or impose or increase bail pending a trial of the original crime or violation; or

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- (c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or
  - (d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.
9. The chief administrator of the courts shall promulgate appropriate uniform temporary order of protection and order of protection forms to be used throughout the state.

### **N.Y. FAM. CT. LAW § 656. Order of protection.**

*The court may make an order of protection and an order of probation in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions of behavior to be observed for a specific time by any petitioner or any respondent, and shall specify if an order of probation is in effect. No order of protection may direct any party to observe conditions of behavior unless the party requesting the order of protection has served and filed a petition or counter-claim in accordance with section one hundred fifty-four-b of this act. Such an order may require the petitioner or the respondent:*

- (a) to stay away from the home, school, business or place of employment of any other party, the other spouse or parent, or the child, and to stay away from any other specific location designated by the court;
- (b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;
- (c) to refrain from committing a family offense, as defined in subdivision one of section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;
- (d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;
- (e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety or welfare of a child;
- (f) to participate in an educational program and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the state or any political subdivision thereof;
- (g) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order;

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- (h) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced;
- (i)
1. *to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.*
  2. *“Companion animal”, as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law;*
- (j)
1. to promptly return specified identification documents to the protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may: (A) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (B) specify the manner in which such return shall be accomplished.
  2. For purposes of this subdivision, “identification document” shall mean any of the following: (A) exclusively in the name of the protected party: birth certificate, passport, social security card, health insurance or other benefits card, a card or document used to access bank, credit or other financial accounts or records, tax returns, any driver’s license, and immigration documents including but not limited to a United States permanent resident card and employment authorization document; and (B) upon motion and after notice and an opportunity to be heard, any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party: any card or document used to access bank, credit or other financial accounts or records, tax returns, and any other identifying cards and documents; and
- (k) to observe such other conditions as are necessary to further the purposes of protection.

The court shall not require anyone seeking an order of protection under this section to first request that child protective services investigate the allegations or to first request permission to file a petition under article ten of this act.

Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this act.

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In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

### **N.Y. FAM. CT. LAW § 842. Order of protection.**

*An order of protection under section eight hundred forty-one of this part shall set forth reasonable conditions of behavior to be observed for a period not in excess of two years by the petitioner or respondent or for a period not in excess of five years upon (i) a finding by the court on the record of the existence of aggravating circumstances as defined in paragraph (vii) of subdivision (a) of section eight hundred twenty-seven of this article; or (ii) a finding by the court on the record that the conduct alleged in the petition is in violation of a valid order of protection. Any finding of aggravating circumstances pursuant to this section shall be stated on the record and upon the order of protection. Any order of protection issued pursuant to this section shall specify if an order of probation is in effect. Any order of protection issued pursuant to this section may require the petitioner or the respondent:*

- (a) to stay away from the home, school, business or place of employment of any other party, the other spouse, the other parent, or the child, and to stay away from any other specific location designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this subdivision, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons;
- (b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;
- (c) to refrain from committing a family offense, as defined in subdivision one of section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;
- (d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;
- (e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety or welfare of a child;

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- (f) to pay the reasonable counsel fees and disbursements involved in obtaining or enforcing the order of the person who is protected by such order if such order is issued or enforced;
- (g) to require the respondent to participate in a batterer’s education program designed to help end violent behavior, which may include referral to drug and alcohol counselling [counseling], and to pay the costs thereof if the person has the means to do so, provided however that nothing contained herein shall be deemed to require payment of the costs of any such program by the petitioner, the state or any political subdivision thereof;
- (h) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order.
- (i)
  1. *to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.*
  2. *“Companion animal”, as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law;*
- (j)
  1. to promptly return specified identification documents to the protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may: (A) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (B) specify the manner in which such return shall be accomplished.
  2. For purposes of this subdivision, “identification document” shall mean any of the following: (A) exclusively in the name of the protected party: birth certificate, passport, social security card, health insurance or other benefits card, a card or document used to access bank, credit or other financial accounts or records, tax returns, any driver’s license, and immigration documents including but not limited to a United States permanent resident card and employment authorization document; and (B) upon motion and after notice and an opportunity to be heard, any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party: any card or document used to access bank, credit or other financial accounts or records, tax returns, and any other identifying cards and documents; and
- (k) to observe such other conditions as are necessary to further the purposes of protection.



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The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. The court may also upon the showing of special circumstances extend the order of protection for a reasonable period of time.

Notwithstanding the provisions of section eight hundred seventeen of this article, where a temporary order of child support has not already been issued, the court may in addition to the issuance of an order of protection pursuant to this section, issue an order for temporary child support in an amount sufficient to meet the needs of the child, without a showing of immediate or emergency need. The court shall make an order for temporary child support notwithstanding that information with respect to income and assets of the respondent may be unavailable. Where such information is available, the court may make an award for temporary child support pursuant to the formula set forth in subdivision one of section four hundred thirteen of this act. Temporary orders of support issued pursuant to this article shall be deemed to have been issued pursuant to section four hundred thirteen of this act.

Upon making an order for temporary child support pursuant to this subdivision, the court shall advise the petitioner of the availability of child support enforcement services by the support collection unit of the local department of social services, to enforce the temporary order and to assist in securing continued child support, and shall set the support matter down for further proceedings in accordance with article four of this act.

Where the court determines that the respondent has employer-provided medical insurance, the court may further direct, as part of an order of temporary support under this subdivision, that a medical support execution be issued and served upon the respondent's employer as provided for in section fifty-two hundred forty-one of the civil practice law and rules.

In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the petitioner and respondent and his counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or the department of corrections and community supervision where the individual is under probation or parole supervision.



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Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this article.

In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

### **N.Y. FAM. CT. LAW § 1056. Order of protection.**

1. *The court may make an order of protection in assistance or as a condition of any other order made under this part. Such order of protection shall remain in effect concurrently with, shall expire no later than the expiration date of, and may be extended concurrently with, such other order made under this part, except as provided in subdivision four of this section. The order of protection may set forth reasonable conditions of behavior to be observed for a specified time by a person who is before the court and is a parent or a person legally responsible for the child's care or the spouse of the parent or other person legally responsible for the child's care, or both. Such an order may require any such person*
  - (a) to stay away from the home, school, business or place of employment of the other spouse, parent or person legally responsible for the child's care or the child, and to stay away from any other specific location designated by the court;
  - (b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;
  - (c) to refrain from committing a family offense, as defined in subdivision one of the section eight hundred twelve of this act, or any criminal offense against the child or against the other parent or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;
  - (d) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this act or the domestic relations law;
  - (e) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child;
  - (f) to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order;
  - (g)
    1. *to refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased,*

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*kept or held by the person protected by the order or a minor child residing in such person's household.*

2. *"Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law;*

(h)

1. to promptly return specified identification documents to the protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may: (A) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (B) specify the manner in which such return shall be accomplished.
  2. For purposes of this subdivision, "identification document" shall mean any of the following: (A) exclusively in the name of the protected party: birth certificate, passport, social security card, health insurance or other benefits card, a card or document used to access bank, credit or other financial accounts or records, tax returns, any driver's license, and immigration documents including but not limited to a United States permanent resident card and employment authorization document; and (B) upon motion and after notice and an opportunity to be heard, any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party: any card or document used to access bank, credit or other financial accounts or records, tax returns, and any other identifying cards and documents; and
    - (i) to observe such other conditions as are necessary to further the purposes of protection.
2. The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency. In making orders of protection, the court shall so act as to insure that in the care, protection, discipline and guardianship of the child his religious faith shall be preserved and protected.
  3. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection where applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section eight hundred twelve of this act.
  4. The court may enter an order of protection independently of any other order made under this part, against a person who was a member of the child's household or a person legally responsible as defined in section one thousand twelve of this chapter, and who is no longer a member of such household at the time of the disposition and who is not related

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by blood or marriage to the child or a member of the child's household. An order of protection entered pursuant to this subdivision may be for any period of time up to the child's eighteenth birthday and upon such conditions as the court deems necessary and proper to protect the health and safety of the child and the child's caretaker.

5. The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.

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### 13. RESTITUTION

#### **N.Y. AGRI & MKTS LAW § 356. Failure to provide proper food and drink to impounded animal.**

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

#### **N.Y. AGRI & MKTS LAW § 373. Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept.**

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.
- 1-a. Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.
2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.
3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.
4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the

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possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.

5. Nothing herein contained shall restrict the rights and powers derived from section one hundred seventeen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.
6.
  - a. *If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges, or within a reasonable time thereafter, the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the "impounding organization", may file a petition with the court in which criminal charges have been filed requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The district attorney prosecuting the charges may file and obtain the requested relief on behalf of the impounding organization if requested to do so by the impounding organization. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.*
  - b.
    - (1) *Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney if the district attorney has not filed the petition on behalf of the petitioner. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner or the district attorney*

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- acting on behalf of the petitioner, shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.*
- (2) *If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred seventeen of this chapter or section three hundred seventy-four of this article.*
- (3) *In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.*
- (4) *Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.*
- c. *In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from*

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*whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.*

7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.



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### 14. FORFEITURE & POSSESSION BANS

#### N.Y. AGRI & MKTS LAW § 373. Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept.

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.
- 1-a. Any police officer in Lewis county may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.
2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.
3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.
4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.
5. *Nothing herein contained shall restrict the rights and powers derived from section one hundred seventeen of this chapter relating to seizure of unlicensed dogs and the disposition to be made of animals so seized or taken, nor those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.*
6.
  - a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-d of this article or section three hundred seventy-five of this article for any violation of this article, upon arraignment of charges, or within a reasonable time thereafter, the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the



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“impounding organization”, may file a petition with the court in which criminal charges have been filed requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The district attorney prosecuting the charges may file and obtain the requested relief on behalf of the impounding organization if requested to do so by the impounding organization. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring for the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

b.

- (1) Upon receipt of a petition pursuant to paragraph a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney if the district attorney has not filed the petition on behalf of the petitioner. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner or the district attorney acting on behalf of the petitioner, shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.
- (2) If the court orders the posting of a security, the security shall be posted with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred seventeen of this chapter or section three hundred seventy-four of this article.
- (3) *In the case of an animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to*

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*the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animal and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.*

- (4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.
- c. *In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was seized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not incurred by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.*
7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated.

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Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.

### **N.Y. AGRI & MKTS LAW § 374. Humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept.**

1. Any agent or officer of a duly incorporated society for the prevention of cruelty to animals, any dog control officer, or any police officer, may lawfully cause to be humanely destroyed (by means provided for in paragraph a of subdivision three of this section) any animal found abandoned and not properly cared for, or any lost, strayed, homeless or unwanted animal, if upon examination a licensed veterinarian shall certify in writing, or if two reputable citizens called upon by such agent, officer or police officer to view the same in his or her presence find that the animal is so maimed, diseased, disabled, or infirm so as to be unfit for any useful purpose and that humane euthanasia is warranted; or after such agent, officer or police officer has obtained in writing from the owner of such animal his or her consent to such destruction.
2. In the absence of such findings or certification a duly incorporated society for the prevention of cruelty to animals, or any pound maintained by or under contract or agreement with any county, city, town or village may after five days make available for adoption or have humanely destroyed in accordance with the provisions of this section and subject to subdivisions six, eight and nine of section one hundred eighteen of this chapter, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its owner.
3.
  - a. Except as provided in subdivision four of this section, euthanasia of animals pursuant to this section shall be accomplished solely by means of injection of sodium pentobarbital or sodium pentobarbital solution administered by a certified euthanasia technician, a licensed veterinarian or a licensed veterinary technician. Euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution shall be performed only upon animals that are heavily sedated, anesthetized, or comatose. However, only a licensed veterinarian may perform euthanasia by intracardiac injection of sodium pentobarbital or sodium pentobarbital solution upon animals that are not heavily sedated, anesthetized or comatose and only when such licensed veterinarian determines that such intracardiac injection is the most humane option available.

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Whenever a cardiac injection of sodium pentobarbital or sodium pentobarbital solution is administered by a licensed veterinarian upon an animal that is not heavily sedated, anesthetized or comatose, such veterinarian must document, in writing, the administration of such injection and the reason for its administration. Such documentation shall be retained for at least three years. Under no circumstances shall intracardiac injection be performed on animals that are not heavily sedated, anesthetized or comatose where such animals are under the care of any duly incorporated society for the prevention of cruelty to animals, animal shelter, humane society or pound.

- b. No animal shall be left unattended between the time that the euthanasia procedure begins and the time when death is confirmed. The body of a euthanized animal shall not be disposed of in any manner until death is confirmed by a licensed veterinarian, a certified euthanasia technician or a licensed veterinary technician. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.
  - c. The department of health shall promulgate regulations deemed necessary for implementation of the provisions of this subdivision, including regulations governing the training and certification of certified euthanasia technicians.
- 4.
- a. Any method of euthanasia other than that provided for in subdivision three of this section is prohibited except that euthanasia of an animal by gunshot is permissible as an emergency measure for an animal that is posing an imminent threat of serious physical injury to a person or to another animal as provided in section one hundred twenty-one-a of this chapter and where the use of a humane method of euthanasia prescribed in this section is rendered impossible or where a severely injured animal is suffering and cannot otherwise be aided.
  - b. Within ninety days of the effective date of this subdivision, any chamber used to induce hypoxia by means of a lethal gas shall be dismantled, rendered inoperable and beyond repair, and removed from the premises. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.
5. No person shall release any dog or cat from the custody or control of any pound, shelter, society for the prevention of cruelty to animals, humane society, dog protective association, dog control officer, peace officer or any agent thereof, for any purpose except adoption or redemption by its owner, provided, however, that after the time for redemption has expired, release may be made to another such pound, duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated animal protective association for the sole purpose of placing such animal in an adoptive home when such action is reasonably believed to improve the opportunity for adoption. Notwithstanding the penalties set forth in paragraph b of subdivision three of this section and paragraph b of subdivision four of this section, any violation of this subdivision, subdivision two, three or four of this section, shall constitute a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

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6. *In lieu of such destruction, redemption or other disposition pursuant to this section, such pound, shelter, or society may in its discretion lawfully and without liability deliver such animal for adoption to an individual other than the owner after the time for redemption has expired.*
7. Prior to such destruction or other disposition, the owner of the animal may redeem the same upon proving title to the satisfaction of such society and paying such society such amount, approved by a magistrate, as may have been reasonably expended by such society in connection with the care and maintenance thereof.
8.
  - a. *In addition to any other penalty provided by law, upon conviction for any violation of section three hundred fifty-one, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-three-b, three hundred fifty-five, three hundred fifty-six, three hundred fifty-nine, three hundred sixty, three hundred sixty-one, three hundred sixty-five or three hundred sixty-eight of this article, the convicted person may, after a duly held hearing pursuant to paragraph f of this subdivision, be ordered by the court to forfeit, to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, the animal or animals which are the basis of the conviction. Upon such an order of forfeiture, the convicted person shall be deemed to have relinquished all rights to the animals which are the basis of the conviction, except those granted in paragraph d of this subdivision.*
  - b. Pursuant to the provisions of subdivisions two, three, four and five of this section, no dog or cat in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society or its authorized agents thereof, or a pound or shelter, shall be sold, transferred or otherwise made available to any person for the purpose of research, experimentation or testing. No authorized agent of a duly incorporated society for the prevention of cruelty to animals, nor of a duly incorporated humane society, shall use any animal placed in its custody by the duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society for the purpose of research, experimentation or testing.
  - c. *The court may additionally order that the convicted person or any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, shall not own, harbor, or have custody or control of any other animals, other than farm animals, for a period of time which the court deems reasonable.*
  - d. *In the case of farm animals, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or*

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*who knew or should have known of the unlawful act.* The court shall reimburse the convicted person and any duly determined interested persons, pursuant to paragraph f of this subdivision, any money earned by the sale of the farm animals less any costs including, but not limited to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. *Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to paragraph e of this subdivision.*

- e. *A duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society in charge of animals forfeited pursuant to paragraph a of this subdivision may, in its discretion, lawfully and without liability, adopt them to individuals other than the convicted person or person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely dispose of them according to the provisions of subdivisions two, three, four and five of this section.*
- f.
  - (1) *Prior to an order of forfeiture of farm animals, a hearing shall be held within thirty days of conviction, to determine the pecuniary interests of any other person in the farm animals which were the basis of the conviction. Written notice shall be served at least five days prior to the hearing upon all interested persons. In addition, notice shall be made by publication in a local newspaper at least seven days prior to the hearing. For the purposes of this subdivision, interested persons shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity who the court determines may have a pecuniary interest in the farm animals which are the subject of the forfeiture action.*
  - (2) *All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person shall be entitled to be reimbursed his interest in the farm animals, less any costs, fines or penalties imposed by the court, as specified under paragraph d of this subdivision. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.*
- g. *Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any farm animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in farm animals or in the proceeds from the sale of such farm animals.*



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### **N.Y. AGRICULTURE & MARKETS LAW § 376. Disposition of animals or implements used in fights among animals.**

The officer, after taking possession of such animals, or implements, or other property, pursuant to the preceding section, shall apply to the magistrate before whom complaint is made against the offender violating such provision of law, for the order next hereinafter mentioned, and shall make and file an affidavit with such magistrate, stating therein the name of the offender charged in such complaint, the time, place and description of the animals, implements or other property so taken, together with the name of the party who claims the same, if known, and that the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender. He shall then deliver such animals, implements, or other property, to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person in such order named and designated, to be by him kept until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county. The officer or person so named and designated in such order, shall immediately thereupon assume such custody, and shall retain the same for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear, until his final discharge or conviction. *Upon the conviction of such offender, the animals, implements, or other property, shall be adjudged by the court to be forfeited. In the event of the acquittal or final discharge, without conviction, of such offender, such court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.*

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**ANIMAL PROTECTION LAWS OF NEW YORK**

**15. COURT-ORDERED TREATMENT**

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**ANIMAL PROTECTION LAWS OF NEW YORK****16. HOT CARS****N.Y. AGRI & MKTS LAW § 353-d. Confinement of companion animals in vehicles: extreme temperatures.**

1. *A person shall not confine a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.*
2. *Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, or peace officer acting as an agent of a duly incorporated humane society may take necessary steps to remove the animal or animals from the vehicle.*
3. *Police officers, peace officers or peace officers acting as agents of a duly incorporated humane society removing an animal or animals from a vehicle pursuant to this section shall place a written notice on or in the vehicle, bearing the name of the officer or agent, and the department or agency and address where the animal or animals will be taken.*
4. *An animal or animals removed from a vehicle pursuant to this section shall, after receipt of any necessary emergency veterinary treatment, be delivered to the duly incorporated humane society or society for the prevention of cruelty to animals, or designated agent thereof, in the jurisdiction where the animal or animals were seized.*
5. *Any person who knowingly violates the provisions of subdivision one of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for a second and subsequent offenses.*
6. *Officers shall not be held criminally or civilly liable for actions taken reasonably and in good faith in carrying out the provisions of this section.*
7. *Nothing contained in this section shall be construed to affect any other protections afforded to companion animals under any other provisions of this article.*

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**ANIMAL PROTECTION LAWS OF NEW YORK**

**17. CIVIL NUISANCE ABATEMENT**

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**ANIMAL PROTECTION LAWS OF NEW YORK**

**18. AG-GAG LAWS**

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**ANIMAL PROTECTION LAWS OF NEW YORK****19. BREED SPECIFIC LEGISLATION****N.Y. AGRI & MkTS LAW 107. Application.**

1. This article shall apply to all areas of the state except any city having a population of over two million [fig 1].
2. In the event that any dog owned by a resident of any city having a population of over two million or by a non-resident of this state is harbored within this state outside of any such city, the licensing municipality in which such animal is harbored may exempt such dog [fig 1] from the identification and licensing provisions of this article for a period of thirty days provided such dog is licensed pursuant to the provisions of law of the area of residence.
3. This article shall not apply to any dog confined to the premises of any public or private hospital devoted solely to the treatment of sick animals, or confined for the purposes of research to the premises of any college or other educational or research institution.
4. This article shall not apply to any dog confined to the premises of any person, firm or corporation engaged in the business of breeding or raising dogs for profit and licensed as a class A dealer under the Federal Laboratory Animal Welfare Act [fig 1].
5. Nothing contained in this article shall prevent a municipality from adopting its own program for the control of dangerous dogs; provided, however, that no such program shall be less stringent than this article, and *no such program shall regulate such dogs in a manner that is specific as to breed*. Notwithstanding the provisions of subdivision one of this section, this subdivision and [fig 1] sections one hundred twenty-three, one hundred twenty-three-a and one hundred twenty-three-b of this article shall apply to all municipalities including cities of two million or more.
6. Nothing contained in this article shall be construed to prohibit a county from administering a dog licensing program for the municipalities within its jurisdiction.