

**H. B. 4246**

(By Delegates Butcher, Guthrie, Stowers, Mahan,  
Poore, Wells, Barill, Brown, Longstreth  
and Marshall)

[Introduced January 20, 2012; referred to the  
Committee on Agriculture then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §19-20C-1, §19-20C-2,  
§19-20C-3, §19-20C-4, §19-20C-5, §19-20C-6, §19-20C-7, §19-  
20C-8, §19-20C-9, §19-20C-10 and §19-20C-11, all relating to  
creating the "West Virginia Companion Animal Protection Act";  
providing a short title; definitions; and generally governing  
the manner in which animals are to be treated by sheltering  
agencies and rescue groups; providing animal care standards,  
including humane treatment and killing of animals; requiring  
record keeping; and providing for court procedure to compel  
compliance with animal care standards.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new article, designated §19-20C-1, §19-20C-2,  
§19-20C-3, §19-20C-4, §19-20C-5, §19-20C-6, §19-20C-7, §19-20C-8,  
§19-20C-9, §19-20C-10 and §19-20C-11, all to read as follows:

**ARTICLE 20C. WEST VIRGINIA COMPANION ANIMAL PROTECTION ACT.**

1 **§19-20C-1. Short title.**

2 This article may be cited as the "West Virginia Companion  
3 Animal Protection Act."

4 **§19-20C-2. Definitions.**

5 For purposes of this article, the following definitions shall  
6 apply:

7 (a) "Animal" means any domestic nonhuman living creature of a  
8 species normally kept as a pet.

9 (b) "Dangerous Dog" means a dog adjudicated to be vicious  
10 under the provisions of sections twenty and twenty-one, article  
11 twenty of this chapter by a court of competent jurisdiction and  
12 where all appeals of that judicial determination have been  
13 unsuccessful.

14 © "Healthy animal" means any animal that is not sick or  
15 injured.

16 (d) "Impounded animal" means any animal that enters a public  
17 or private sheltering agency or rescue group regardless of whether  
18 the animal is a stray, owner-relinquished, seized, taken into  
19 protective custody, transferred from another private or public  
20 sheltering agency or is an animal whose owner requests that the  
21 animal be killed, except for any animal presented to a medical  
22 clinic associated with such agencies for purposes of preventative  
23 or rehabilitative medical care or sterilization.

24 (e) "Irremediably Suffering animal" means any animal with a

1 medical condition that has a poor or grave prognosis for being able  
2 to live without severe, unremitting pain as determined by a  
3 veterinarian licensed to practice in this state.

4 (f) "Nonrehabilitatable animal" means any animal with severe  
5 illness or injury whose prognosis for rehabilitation is either poor  
6 or grave as determined by a veterinarian licensed to practice in  
7 this state.

8 (g) "Private Sheltering Agency" means a shelter, society for  
9 the prevention of cruelty to animals, humane society or animal  
10 adoption group which is designated as a nonprofit with the  
11 Secretary of State and under Section 501(c)(3) of the Internal  
12 Revenue Code, and: (1) Does not receive public funding nor has a  
13 contract with a city, town or municipality under which it accepts  
14 stray or owner-relinquished animals; (2) accepts animals into a  
15 physical facility other than a private residence; and (3) places  
16 into new homes stray or owner-relinquished animals or animals who  
17 have been removed from a public or private sheltering agency.

18 (h) "Public Sheltering Agency" means a public animal control  
19 shelter or private shelter, society for the prevention of cruelty  
20 to animals, humane society or any person or group that receives  
21 public funding or has a contract with a city, town or municipality  
22 under which it accepts stray or owner-relinquished animals, or both  
23 receives public funding and has such a contract.

24 (I) "Rescue Group" means a collaboration of individuals not

1 operated for a profit, whose primary stated purpose is animal  
2 adoption, animal rescue or formed for the prevention of cruelty to  
3 animals.

4 (j) "Savable animal" means any animal that is either healthy  
5 or treatable and is not a dangerous dog.

6 (k) "Stray animal" means any animal that is impounded without  
7 a known owner present at impound who is voluntarily relinquishing  
8 custody.

9 (l) "Treatable animal" means any animal that is sick or  
10 injured, whose prognosis for rehabilitation of that illness or  
11 injury is excellent, good, fair or guarded as determined by a  
12 veterinarian licensed to practice in this state.

13 (m) "Unweaned animal" means any neonatal animal that, in the  
14 absence of its mother, requires supplemental bottle feeding by  
15 humans in order to survive. When puppies and kittens, unweaned  
16 animals are animals that fit the above description and are from  
17 zero to four weeks of age.

18 (n) "Vicious Dog" means a dog that exhibits aggression to  
19 people even when the dog is not hungry, in pain or frightened and  
20 whose prognosis for rehabilitation of that aggression is poor or  
21 grave as determined by a trained behaviorist who is an expert on  
22 canine behavior.

23

24 **§19-20C-3. Holding periods.**

1       (a) The required holding period for a stray animal impounded  
2 by any public or private sheltering agency or picked up by a humane  
3 officer shall be five business days, not including the day of  
4 impoundment, unless otherwise provided in this section.

5       (b) Stray animals without any form of identification and  
6 without a known owner shall be held for owner redemption during the  
7 first two days of the holding period, not including the day of  
8 impoundment, and shall be available for owner redemption, transfer,  
9 and adoption for the remainder of the holding period.

10       © Stray animals may be adopted into new homes or transferred  
11 to a rescue group or private sheltering agency for the purpose of  
12 adoption after the first two days of the holding period, not  
13 including the day of impoundment, except as otherwise provided in  
14 this section.

15       (d) If a stray animal is impounded with a license tag,  
16 microchip or other form of identification or belongs to a known  
17 owner, the animal shall be held for owner redemption during the  
18 first three days of the holding period, not including the day of  
19 impoundment and shall be available for owner redemption, transfer  
20 and adoption for the remainder of the holding period;

21       (e) Stray animals may be transferred to a private sheltering  
22 agency or rescue group immediately after impoundment, subject to  
23 the same rights of redemption by the owner;

24       (f) Irremediably suffering animals shall be euthanized without

1 delay, upon a determination made in writing and signed by a  
2 veterinarian licensed to practice medicine in this state. The  
3 certification shall be made available for free public inspection  
4 for no less than three years;

5 (g) Unweaned animals impounded without their mother may be  
6 killed so long as the shelter has demonstrated that they have  
7 exhausted all efforts to place the animals in foster care, made an  
8 emergency appeal under the requirements of section five of this  
9 article, and certified that it is unable to provide the needed care  
10 and feeding in its facility. The certification shall also state in  
11 clear and definitive terms why the agency is unable to place the  
12 animals in foster care, which private sheltering agencies and  
13 rescue groups it made an appeal to; what would be required in the  
14 future in order to provide the needed care and feeding in foster  
15 care or its facility; what steps are being taken; and a reasonable  
16 time frame for this action. This certification shall be made in  
17 writing, signed by the director of the agency or by a veterinarian  
18 licensed to practice medicine in the state and be made available  
19 for free public inspection for no less than three years.

20 (h) The required holding period for an owner relinquished  
21 animal impounded by all public or private sheltering agencies shall  
22 be three days, not including the day of impoundment, with all the  
23 same duties to that of stray animals, except as follows:

24 (1) Any owner-relinquished animal that is impounded shall be

1 held in the event the owner changes his or her mind, for adoption  
2 into a new home and for transfer to a private sheltering agency or  
3 rescue group for the entirety of the holding period;

4 (2) Owner-relinquished animals may be adopted into new homes  
5 or transferred to a private sheltering agency or rescue group at  
6 any time after impoundment.

7 **§19-20C-4. Animal care standards.**

8 (a) Except as otherwise provided in this section, public and  
9 private sheltering agencies shall provide all animals during the  
10 entirety of their shelter stay with fresh food, fresh water,  
11 environmental enrichment to promote their psychological well-being  
12 such as socialization, toys and treats and exercise as needed,  
13 however, never less than once daily, except that vicious dogs,  
14 unsocial cats, or dangerous dogs are not required to be exercised  
15 during the holding period.

16 (b) Notwithstanding subsection (a) of this section, public and  
17 private sheltering agencies shall work with a veterinarian licensed  
18 to practice medicine in this state to develop and follow a care  
19 protocol, which is consistent with this article, for animals with  
20 special needs such as, but not limited to, nursing mothers,  
21 unweaned animals, sick or injured animals, geriatric animals or  
22 animals needing therapeutic exercise. This care protocol shall  
23 specify any deviation from the standard requirements of subsection  
24 (a) of this section and the reasons for the deviation(s).

1 Alternatively, sheltering agencies may use protocols and guidelines  
2 established by the Association of Shelter Veterinarians. A copy of  
3 the care protocol shall be posted at the facility and shall be  
4 available to the public.

5 © During the entirety of their shelter stay, animals shall be  
6 provided prompt and necessary cleaning of their cages, kennels or  
7 other living environments no less than two times per day, to ensure  
8 environments that are welcoming to the public, hygienic for both  
9 the public and animals and to prevent disease. This cleaning shall  
10 be conducted in accordance with a protocol developed in  
11 coordination with a veterinarian licensed to practice medicine in  
12 this state or by utilizing protocols and guidelines established by  
13 the Association of Shelter Veterinarians: *Provided, That* animals  
14 shall be temporarily removed from their cages, kennels or other  
15 living environments during the process of cleaning, to prevent them  
16 from being exposed to water from hoses or sprays, cleaning  
17 solutions, detergents, solvents or chemicals. All feeding bowls  
18 and cleaning implements shall also be subject to a cleaning  
19 protocol established in accordance with this section.

20 (d) During the entirety of their shelter stay and while all  
21 requirements of this article are in progress, all animals shall be  
22 provided with prompt and necessary veterinary care, including, but  
23 not limited to, preventative vaccinations, cage rest, fluid  
24 therapy, pain management, and antibiotics, sufficient to alleviate



1 any pain caused by disease or injury, to prevent a condition from  
2 worsening and to allow them to leave the shelter in reasonable  
3 condition, even if the animals are not candidates for redemption,  
4 transfer or adoption.

5 (e) Public and private sheltering agencies shall work with a  
6 veterinarian licensed to practice medicine in this state to develop  
7 and follow a protocol to prevent the spread of disease, including,  
8 but not limited to, appropriate quarantine, evaluation and testing  
9 of newly impounded animals, administration of vaccines, proper  
10 isolation and handling of sick animals and measures to protect  
11 those animals most vulnerable to infection. Alternatively,  
12 sheltering agencies may use protocols and guidelines established by  
13 the Association of Shelter Veterinarians. A copy of the care  
14 protocol shall be posted at the facility and shall be available to  
15 the public.

16 **§19-20C-5. Animal care standards -- sheltering agencies to**  
17 **maintain registry of organizations willing to**  
18 **accept animals.**

19 (a) All public and private sheltering agencies that kill  
20 animals shall maintain a registry of organizations willing to  
21 accept animals as follows:

22 (1) All public or private sheltering agencies, and rescue  
23 groups designated as nonprofits by Section 501(c)(3) of the  
24 Internal Revenue Code, shall be immediately placed on this registry

1 upon their request, regardless of the organizations' geographical  
2 location or any other factor except as described under subsection  
3 (a) (5) of this section;

4 (2) The public or private sheltering agency may also include  
5 on the registry any individual rescuers or rescue groups that are  
6 not designated as nonprofits under Section 501(c)(3) of the  
7 Internal Revenue Code so long as the sheltering agency is satisfied  
8 with the record and policies of the rescuer or rescue group;

9 (3) The registry shall include the following information as  
10 provided by the registered organization: organization name, mailing  
11 address and telephone number, website and e-mail address, if any,  
12 emergency contact information for the organization, the types of  
13 animals about whom the organization wishes to be contacted,  
14 including species-type and breed, and whether the organization is  
15 willing and able to care for unweaned animals, sick or injured  
16 animals or aggressive animals;

17 (4) A public or private sheltering agency may refuse to  
18 include an organization on the registry, or delete it from the  
19 registry, until such time as this is no longer the case: (A) If any  
20 of the organization's current directors, officers, staff or  
21 volunteers have been convicted in a court of competent jurisdiction  
22 of a crime consisting of cruelty to animals or neglect of animals;  
23 (B) if such charges are pending; or © if that organization is  
24 constrained by a court order that prevents the organization from

1 taking in or keeping animals. An agency may require an  
2 organization to disclose any or all convictions, charges and legal  
3 impediments described in this subsection;

4 (5) A public or private sheltering agency may require that  
5 registered organizations provide the following summary information  
6 on no more than a quarterly basis: The total number of animals the  
7 organization has taken from the agency who have been adopted, died,  
8 were transferred, were killed and are still under the  
9 organization's care. This information may be provided in an  
10 informal format, such as via electronic mail;

11 (6) A public or private sheltering agency may not demand  
12 additional information, other than that described in this section,  
13 as a prerequisite for including an organization on the registry or  
14 for continuing to maintain that organization on the registry.

15 (b) A public or private sheltering agency may not kill an  
16 animal unless the agency has notified, or can demonstrate they made  
17 a reasonable attempt to notify, all organizations on the registry  
18 described in subsection (a) of this section that have indicated a  
19 willingness to take an animal of that type.

20 (1) The notification must take place at least twenty-four  
21 hours prior to the killing of the animal;

22 (2) At a minimum, the notification shall include verifiable  
23 electronic communication. Notification is considered complete as  
24 to each individual group when this has been accomplished;

1       (3) An animal may not be killed if an organization on the  
2 registry indicates, before the killing of the animals, its  
3 willingness to take possession of the animal;

4       (4) The organization agreeing to take possession of the  
5 animals must do so within two business days of notifying the agency  
6 having possession of the animal;

7       (5) A fee may not be assessed for animals released to  
8 organizations listed on the registry.

9       © The following exceptions apply to the requirements of  
10 subsection (b) of this section:

11       (1) All irremediably suffering animals shall be euthanized  
12 without delay. The determination that an animal is irremediably  
13 suffering shall be made in writing, signed by a veterinarian  
14 licensed to practice medicine in this state, and made available for  
15 free public inspection for no less than three years;

16       (2) Dangerous dogs pursuant to the provisions of sections  
17 twenty and twenty-one, article twenty of this chapter;

18       (3) Upon the impoundment of unweaned animals without their  
19 mother, all public and private sheltering agencies which have not  
20 placed the animals into foster care or are not able to provide  
21 supplemental feeding shall immediately make an emergency appeal to  
22 organizations on the registry that have indicated that they are  
23 willing and able to care for unweaned animals, and give such  
24 organizations a reasonable amount of time, but not less than

1 twenty-four hours, to respond to the appeal.

2 **§19-20C-6. Animal care standards--identification methods.**

3 All public and private sheltering agencies shall take  
4 appropriate action to ensure that all animals are checked for all  
5 currently acceptable methods of identification, including  
6 microchips, identification tags, and licenses. All public and  
7 private sheltering agencies shall maintain continuously updated  
8 lists of animals reported lost, and match these lost reports with  
9 animals reported found and animals in the shelter, and shall also  
10 post all stray animals on the Internet with sufficient detail and  
11 a photograph within twenty-four hours of being impounded to allow  
12 them to be recognized and claimed by their owners. If a possible  
13 owner is identified, the agencies shall undertake reasonable  
14 efforts to notify the owner or caretaker of the whereabouts of the  
15 animal and any procedures available for the lawful recovery of the  
16 animal. These efforts shall include, but are not limited to,  
17 notifying the possible owner by telephone, mail and personal  
18 service to the last known address. Upon the owner's or caretaker's  
19 initiation of recovery procedures, the agencies shall retain  
20 custody of the animal for not less than the holding period to allow  
21 for completion of the recovery process. Efforts to locate or  
22 contact an owner or caretaker and communications with persons  
23 claiming to be owners or caretakers, shall be recorded and be made  
24 available for free public inspection for no less than three years.

1 **§19-20C-7. Animal care standards -- adoption criteria.**

2 A public or private sheltering agency may not ban, bar, limit  
3 or otherwise obstruct the adoption or transfer of any animal based  
4 on arbitrary criteria, such as breed, age, color or any other  
5 criteria except as to the individual animal's medical condition and  
6 aggression or the adopter's fitness to adopt.

7 **§19-20C-8. Animal care standards -- conditions met before killing.**

8 (a) A savable animal in a public or private sheltering agency  
9 may not be killed simply because the holding period has expired.  
10 Before an animal is killed, all of the following conditions must be  
11 met:

12 (1) There are no empty cages, kennels, or other living  
13 environments in the shelter;

14 (2) The animal cannot share a cage or kennel with another  
15 animal because the animal is aggressive to other animals, has a  
16 contagious illness the other animal does not have, or is injured  
17 and sharing the cage with another animal will aggravate the injury;

18 (3) A foster home is not available;

19 (4) Organizations listed on the registry described in section  
20 five of this article are not willing to accept the animal;

21 (5) All mandates, programs and services of this article have  
22 been met; and

23 (6) The director of the agency certifies on the animal's  
24 official record that he or she has no other alternative.

1       (b) The determination that all conditions of subsection (a) of  
2 this section have been met and documented shall be made in writing,  
3 signed by the director of the agency, and be made available for  
4 free public inspection for no less than three years.

5 **§19-20C-9. Animal care standards -- methods of killing animals.**

6       (a) All animals impounded by a public or private sheltering  
7 agency or rescue group shall be killed, only when necessary and  
8 consistent with the requirements of this article, by lethal  
9 intravenous injection of sodium pentobarbital, in accordance with  
10 the standards of the Association of Shelter Veterinarians  
11 guidelines except as follows:

12       (1) Intraperitoneal injections may be used only under the  
13 direction of a licensed veterinarian, and only when intravenous  
14 injection is not possible for infant animals, companion animals  
15 other than cats and dogs, or in comatose animals with depressed  
16 vascular function.

17       (2) Intracardiac injections may be used only when intravenous  
18 injection is not possible for animals who are completely  
19 unconscious or comatose, for exotic animals such as rats after  
20 proper sedation, and then only under the direction of a  
21 veterinarian.

22       (b) An animal may not be allowed to witness any other animal  
23 being killed or being tranquilized or sedated for the purpose of  
24 being killed or see the bodies of animals which have already been

1 killed.

2 © Animals shall be sedated or tranquilized as necessary to  
3 minimize their stress or discomfort or, in the case of vicious  
4 animals, to ensure staff safety, except that neuromuscular blocking  
5 agents may not be used.

6 (d) Following their injection, animals shall be lowered to the  
7 surface on which they are being held and may not be permitted to  
8 drop or otherwise collapse without support.

9 (e) An animal may not be left unattended between the time  
10 procedures to kill the animal are commenced and the time death  
11 occurs, nor may the body be disposed of until death is verified.

12 (f) Verification of death shall be confirmed for each animal  
13 in all of the following ways:

14 (1) By lack of heartbeat, verified by a stethoscope;

15 (2) By lack of respiration, verified by observation;

16 (3) By pale, bluish gums and tongue, verified by observation;

17 and

18 (4) By lack of eye response, verified if lid does not blink  
19 when eye is touched and pupil remains dilated when a light is  
20 shined on it.

21 (g) The room in which animals are killed shall be cleaned and  
22 regularly disinfected as necessary, but no less than once per day  
23 on days the room is used, except that the area where the procedure  
24 is performed shall be cleaned and disinfected between each



1 procedure.

2 (h) The room in which animals are killed shall have adequate  
3 ventilation that prevents the accumulation of odors.

4 (I) A veterinarian licensed to practice medicine in this state  
5 or a euthanasia technician certified by the state euthanasia  
6 certification program shall perform these procedures, except that  
7 if a state certification program does not exist, the procedure may  
8 be performed by a trained euthanasia technician working under the  
9 direction of a veterinarian.

10 **§19-20C-10. Public or private sheltering agency accountability.**

11 (a) A public or private sheltering agency must post, in a  
12 conspicuous place where animals are being relinquished by owners,  
13 a sign which is clearly visible and readable from any vantage point  
14 in the area which has all of the following information identified  
15 by species-type:

16 (1) The number of animals impounded for the prior calendar  
17 year;

18 (2) The number of animals impounded for the prior calendar  
19 year that were adopted;

20 (3) The number of animals impounded for the prior calendar  
21 year transferred to other agencies;

22 (4) The number of animals impounded for the prior calendar  
23 year reclaimed by their owners;

24 (5) The number of animals impounded for the prior calendar

1 year who died, were lost or were stolen while under the direct or  
2 constructive care of the agency; and

3 (6) The number of animals impounded for the prior calendar  
4 year who were killed by the agency, at the agency's direction, with  
5 the agency's permission or by a representative of the agency.

6 (b) A public or private sheltering agency shall provide a  
7 monthly summary report, upon request for free public inspection and  
8 included on the agencies website, if they have one, that includes  
9 the following information by species-type:

10 (1) The number of animals impounded during the previous month;

11 (2) The number of animals killed by the agency, at the  
12 agency's direction, with the agency's permission or by a  
13 representative of the agency during the previous month;

14 (3) The number of animals that died, were lost or were stolen  
15 while in the direct or constructive care of the agency during the  
16 previous month;

17 (4) The number of animals returned to their owners during the  
18 previous month;

19 (5) The number of animals adopted during the previous month;

20 and

21 (6) The number of animals were transferred to other  
22 organizations during the previous month.

23 © A public or private sheltering agency shall provide an  
24 annual summary report, upon request for free public inspection and

1 posted on the agencies website if they have one, which includes the  
2 following information by species-type:

3 (1) The number of animals impounded during the previous  
4 calendar year;

5 (2) The number of animals that were killed by the agency, at  
6 the agency's direction, with the agency's permission or by a  
7 representative of the agency during the previous calendar year;

8 (3) The number of animals that died, were lost or were stolen  
9 while in the direct or constructive care of such agency during the  
10 previous calendar year;

11 (4) The number of animals that were returned to their owners  
12 during the previous calendar year;

13 (5) the number of animals who were adopted during the previous  
14 calendar year; and

15 (6) The number of animals who were transferred to other  
16 organizations during the previous calendar year.

17 **§19-20C-11. Public or private sheltering agency accountability --**  
18 **mandates compelled by court action.**

19 Any public or private sheltering agency or rescue group may  
20 compel a public or private sheltering agency to follow the mandates  
21 of this article through an action for declaratory and injunctive  
22 relief, and other appropriate remedies at law which will compel  
23 compliance.

NOTE: The purpose of this bill is to create the "West Virginia Companion Animal Protection Act", generally governing the manner in which animals are to be treated by sheltering agencies and rescue groups. The bill provides animal care standards, including humane treatment and killing of animals; requires record keeping; and among other things, provides for court mandate procedure to compel compliance with animal care standards.

NOTE: This article is new; therefore it has been completely underscored.