

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2905**

BY DELEGATES KESSINGER, ISNER, GEARHEART, BLAIR

AND BYRD

[Introduced March 9, 2017; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §7-1-14 of the Code of West Virginia, 1931, as amended; to amend  
 2 said code by adding thereto two new sections, designated §7-10-1a and §7-10-6; and to  
 3 amend and reenact §7-10-2 of said code, all relating to animal cruelty; requiring the  
 4 maintenance of a public animal shelter; providing definitions; providing for the inspection  
 5 of animal shelters by humane officers or others; establishing standards for animal shelters;  
 6 providing consequences for failure to follow the standards.

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

1 That §7-1-14 of the code of West Virginia, 1931, as amended, be amended and reenacted;  
 2 that said code be amended by adding thereto two new sections, designated §7-10-1a and §7-10-  
 3 6; and that §7-10-2 of said code be amended and reenacted, all to read as follows;

#### **ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

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

1 (a) The governing body of each county or municipality shall ensure a facility exists to house  
 2 and care for their community's animals in need, including stray animals, abandoned animals, and  
 3 surrendered animals, either by:

4 (1) Maintaining or causing to be maintained a public animal shelter;

5 (2) Contracting with a private group to house and care for animals; or

6 (3) Contracting with another municipality for the housing and care of animals.

7 (b) Any public animal shelter or shelter contracting with a county or municipality shall be  
 8 accessible to the public at reasonable hours during the week;

9 (c) Any public animal shelter or shelter contracting with a county or municipality must  
 10 provide care and housing for dogs, and may accept any other animals at its discretion.

1 ~~(a)~~ (d) Notwithstanding any provision of this code to the contrary, any county commission  
 2 may adopt ordinances, rules and regulations providing for the custody and care of animals that

3 have been abandoned, neglected or cruelly treated for the protection of any such animal and to  
4 prevent it from becoming a public nuisance or risk to public health or safety or the environment.

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

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

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

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

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

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

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

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

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

**ARTICLE 10. HUMANE OFFICERS.**

**§7-10-1a. Definitions.**

1 As used in this article,

2 (a) "Animal shelter" means a public or private facility which includes a physical structure

3 that provides housing for stray, abandoned, abused, or owner-surrendered dogs or cats and that  
4 is operated, owned, or maintained by a county or municipality for animal control purposes or by a  
5 duly incorporated humane society, animal welfare society, or other nonprofit organization.

6 (b) "Humane officer" means a person designated pursuant to section one, article ten,  
7 chapter seven of this code to investigate complaints of cruel or inhumane treatment of animals  
8 and enforce laws related to the prevention of cruelty to animals.

9 (c) "Primary Enclosure" means structure or device used to restrict an animal to a limited  
10 amount of space, such as a room, pen, run, cage, compartment, or hutch, where an animal will  
11 sleep, eat, and spend the majority of its time.

12 (d) "Temporary Enclosure" means a cage or crate designed for short-term, temporary  
13 confinement or travel (e.g., airline crates, transport carriers, etc.); dogs and cats may be housed  
14 in temporary enclosures for no longer than seventy-two hours after being taken into custody by  
15 an animal shelter.

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

1 (a) It is the duty of humane officers to prevent the perpetration or continuance of any act  
2 of cruelty upon any animal and to investigate and, upon probable cause, to cause the arrest and  
3 assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon  
4 reasonable cause, and as provided by law, such officers have the right to access and inspection  
5 of records and property as may be reasonably necessary to any investigation. Humane officers  
6 also have the duty to enforce the provisions of section six of this article, including the investigation  
7 of complaints against, and inspection of, animal shelters.

8 (b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a  
9 reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse  
10 or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the

11 grounds therefor. In the event of suspected child abuse or neglect, the humane officer shall report  
12 to the local child protective services agency of the Department of Health and Human Resources  
13 in accordance with the provisions of section five, article six-a, chapter forty-nine of this code. In  
14 the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall  
15 report to the department's local adult protective services agency in accordance with the provisions  
16 of section eleven, article six, chapter nine of this code. In the event of suspected domestic  
17 violence, he or she shall report to the State Police in accordance with the provisions of article  
18 twenty-seven, chapter forty-eight of this code.

19 (c) Any person who interferes with, obstructs or resists any humane officer in the discharge  
20 of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less  
21 than \$100 nor more than \$500 or confined in jail not more than thirty days, or both fined and  
22 confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to  
23 any penalties the person incurs for cruel or inhumane treatment of any animal.

**§7-10-6. Inspection of animal shelters; standards; penalties.**

1 (a) (1) Humane officers may inspect all animal shelters within the county and shall  
2 investigate all complaints about the care and welfare of animals in such facilities. Such inspections  
3 shall be unannounced and shall occur within the normal business hours of the animal shelter.  
4 Inspections shall be performed at least annually, and up to two routine inspections may be  
5 conducted per year. Additional inspections may be performed based on probable cause to believe  
6 a shelter might be in violation of these and other applicable standards, pursuant to a proper search  
7 warrant. The humane officer shall document the inspection or investigation, or both, and present  
8 copies of the report to the animal shelter and to the county commissioners.

9 (2) If the humane officer operates, is employed by or is otherwise affiliated with an animal  
10 shelter in the county, any inspection or investigation of that facility shall be done by a veterinarian  
11 licensed in the state if accompanied by the sheriff or a deputy not appointed as a humane officer.  
12 Such veterinarian shall document the inspection or investigation, or both, and present copies of

13 the report to the animal shelter and to the sheriff's department.

14 (b) All animal shelters shall:

15 (1) Separate animals by species in primary enclosures, separate unaltered male and  
16 female animals of the same species at all times, and ensure that all animals in the same enclosure  
17 at the same time are compatible;

18 (2) Provide adequate housing, including:

19 (A) Isolation of sick or injured animals sufficient to protect the health or safety of other  
20 animals; animals diagnosed with or suspected of communicable illness must be physically  
21 isolated from healthy animals either by permanent or temporary barriers sufficient to prevent the  
22 transmission of airborne and physical contaminants, and all appropriate steps must be taken to  
23 minimize transmission of disease.

24 (B) Indoor housing facilities with protection from extreme temperatures and weather  
25 conditions that may be hazardous to the animals, including heated quarters during cold weather;  
26 whenever possible, animals' primary housing should be indoors.

27 (C) Indoor housing facilities which are: Sanitary and in good repair; free of standing water;  
28 constructed of fully disinfectable materials (no wood or other porous surfaces); constructed of  
29 solid flooring (no mesh, wire or slatted floors); and sufficiently ventilated to provide for the animals'  
30 health and well-being and to minimize odors, drafts, ammonia levels, and moisture condensation.  
31 Ambient temperature must not fall below 50° F (10° C), or rise above 85° F (29.5° C) when animals  
32 are present, unless expressly authorized by a veterinarian;

33 (D) Outdoor housing facilities, if used to house animals, must be large enough to  
34 accommodate all animals in the enclosure simultaneously and allow the animals to remain dry  
35 and protected from extreme temperature or weather conditions that may be hazardous to the  
36 animals. Outdoor housing should not be considered suitable primary enclosures for cats and dogs  
37 unless no reasonable indoor option is available.

38 (E) Primary enclosures for dogs must be at least six inches higher than the head of the

39 tallest dog in the enclosure when the dog is in a normal standing position, and must allow sufficient  
40 space for sleeping, eating, and elimination, and must ensure that each animal has sufficient room  
41 to engage in normal behaviors;

42 (F) Primary enclosures for cats must allow each animal to fully extend its limbs, including  
43 its tail, and must allow for sleeping, eating, and elimination areas; enclosures ideally should  
44 provide two feet of triangulated distance between bedding, litterbox and food/water bowls;

45 (G) Primary enclosures for all animals must be large enough for each animal to turn about  
46 freely, stand erect, lie down in a natural position, and fully extend their limbs.

47 (3) Clean primary enclosures and housing facilities to remove feces, hair, dirt, debris and  
48 food waste at least daily, or more often if necessary to prevent accumulation and to reduce  
49 disease hazards, insects, pests and odors. While animals need not necessarily be removed from  
50 housing areas during cleaning, they may not be permitted to come into direct contact with  
51 disinfectants, cleaning solutions, or other potentially harmful products, nor may they be permitted  
52 to become wet during the cleaning process, either directly or indirectly; in no case may high  
53 pressure water systems be used to clean kennels with animals still inside them;

54 (4) Provide adequate veterinary care for sick or injured animals, such that animals  
55 suspected of illness or injury receive veterinary care within twenty-four hours and are provided  
56 medication necessary to alleviate pain;

57 (5) Provide continuous access to potable, uncontaminated water that is not frozen and is  
58 readily accessible to all animals in the enclosure, unless otherwise directed by a veterinarian for  
59 the health of the animal;

60 (6) Provide palatable, uncontaminated food at least once daily, unless otherwise directed  
61 by a veterinarian for the health of the animal;

62 (7) Ensure each animal is individually observed at least once in every twenty-four hour  
63 period by an animal shelter supervisor tasked with overseeing the welfare and care of the animals;

64 (8) Provide all animals with daily enrichment to ensure adequate mental and physical

65 stimulation, either outside or inside the animals' primary enclosure. Dogs should be removed from  
66 their primary enclosures for exercise (walks, playgroup sessions, etc.) at least three times per  
67 week, unless inclement weather, isolation/quarantine/health restrictions or staffing limitations  
68 prevent their removal; in such cases, shelters must document daily in-kennel enrichment provided  
69 to maintain the physical and psychological well-being of dogs not afforded outdoor exercise.

70 (9) Keep written records of the care of each animal, including, but not limited to,  
71 documentation of daily cleanings, individual observation of each animal, and outdoor access, as  
72 well as veterinary treatment, and provide these records to the humane officer or other inspector  
73 authorized by subsection (a) upon request.

74 (c) Humane officers or other inspectors authorized by subsection (a) may issue orders to  
75 address violations of this section, including, but not limited to, ordering suspension of intake of  
76 animals until violations are corrected and permanent closure of the facility.

77 (d) If the humane officer or other inspector authorized by subsection (a) finds that the  
78 animal shelter is not in compliance with the standards established in this section, the humane  
79 officer or other authorized inspector shall issue orders as follows:

80 (1) For the first noncompliant inspection, the animal shelter shall be issued a warning and  
81 shall be reinspected thirty days after the date of the first inspection.

82 (2) If, after the second inspection, the animal shelter remains noncompliant, the animal  
83 shelter shall be subject to a fine of not less than \$100 nor more than \$500 and/or the humane  
84 officer or other authorized inspector shall issue an order requiring the animal shelter to suspend  
85 intake of animals for a period of 15-30 days, as needed to address the noncompliance. After such  
86 period, the animal shelter shall be reinspected.

87 (3) If, after the third inspection, the animal shelter remains noncompliant, the humane  
88 officer or other authorized inspector shall issue an order permanently closing the facility. Such  
89 order shall grant the animal shelter a period of 30-90 days, as needed, to transfer all animals in  
90 the facility to other animal shelters, organizations or individuals within the state. Animals from



- 91 animal shelters subject to a closure order may be transferred out of the state as long as the  
92 transfer does not violate laws of this state or of the importing state.
- 93 (e) Nothing in this section prevents any local, state or federal law-enforcement agency  
94 from investigating animal cruelty in animal shelters.

NOTE: The purpose of this bill is to prevent animal cruelty; requiring the maintenance of a public animal shelter; providing definitions; providing for the inspection of animal shelters by humane officers or others; establishing standards for animal shelters; providing consequences for failure to follow the standards.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.