

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4455**

BY DELEGATES OVERINGTON, ISNER, KESSINGER,  
HARSHBARGER, QUEEN, FAST, FOSTER, CANESTRARO,  
PAYNTER, R. MILLER AND MARTIN

[Introduced February 7, 2018; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designation §61-8-32, relating to the criminal offense of bestiality; prohibiting activities  
 3 connected with bestiality; establishing criminal penalties; providing for forfeiture of  
 4 animals, payment of associated costs, and restrictions on owning animals upon conviction;  
 5 and requiring psychiatric evaluation and counseling.

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

**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.**

**§61-8-32. Bestiality prohibited; penalties.**

1 (a) For the purpose of this section:

2 (1) "Animal" means every living nonhuman creature, either alive or dead.

3 (2) "Bestiality" means any act, done between a person and animal, involving contact  
 4 between the mouth, sex organ, or anus of a person and the mouth, sex organ or anus of an  
 5 animal; or without a bona fide veterinary or animal husbandry purpose; any touching or fondling,  
 6 either directly or through clothing, of the sex organs or anus of an animal, any transfer or  
 7 transmission of semen upon any part of the animal, or the insertion, however slight, of any  
 8 person's body or instrument, apparatus, or other object into the vaginal or anal opening of an  
 9 animal.

10 (b) A person is guilty of bestiality when such person knowingly and intentionally;

11 (1) Engages in bestiality;

12 (2) Causes, aids, or abets another person to engage in bestiality;

13 (3) Organizes, promotes, conducts, aids or abets, or participates in as an observer, in an  
 14 act involving any bestiality;

15 (4) Possesses, sells, transfers, purchases or otherwise obtains an animal with the intent  
 16 that it be used for bestiality;

17 (5) Permits bestiality to be conducted on any premises under his or her charge or control;

18 (6) Advertises offers, solicits or accepts the offer of an animal with the intent that it be used  
19 for bestiality in this state; or

20 (7) Forces or induces a child under 18 years of age to engage in bestiality, or engages in  
21 bestiality in the presence of a child under 18 years of age.

22 (c)(1) Any person who violates subsections (b)(1) through (b)(6) of this section is guilty of  
23 a misdemeanor and, upon conviction thereof, shall be confined in jail not more than 12 months or  
24 fined not less than \$300 nor more than \$2,000, or both fined and confined.

25 (2) Any person who violates any of subsections (b)(1) through (b)(6) of this section who:

26 (A) Has a previous conviction under §61-8B-1 et seq. of this code;

27 (B) Has a previous conviction of bestiality or another crime including the sexual assault  
28 and/or abuse of an animal in this or any other jurisdiction; or

29 (C) Causes serious bodily injury or death to the animal as a result of the violation, is guilty  
30 of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less  
31 than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.

32 (3) Any person who violates subsection (b)(7) of this section is guilty of a felony and, upon  
33 conviction thereof, shall be fined not more than \$10,000 or imprisoned in a state correctional  
34 facility not more than 10 years, or both fined and imprisoned.

35 (4) Any person convicted of a violation of this section shall be divested of ownership and  
36 control of all animals in his or her possession and is, in addition to any fine imposed, liable for all  
37 costs of their care and maintenance pursuant to §61-8-19(d) of this code.

38 (5) In addition to any other penalty which can be imposed for a violation of this section, a  
39 court shall prohibit any person so convicted from possession, owning, exercising control over, or  
40 residing with any animal or type of animal for a minimum period of five years following entry of a  
41 misdemeanor conviction and a minimum period of 15 years following entry of a felony conviction,  
42 or any additional time deemed reasonable by the court. A violation under this subsection is a  
43 misdemeanor punishable by a fine not exceeding \$2,000 and forfeiture of the animal.

44           (6) Notwithstanding any provision of this code to the contrary, any person who has been  
45 convicted of a violation of this section may not be granted probation until that person has  
46 undergone a complete psychiatric or psychological evaluation and the court has reviewed the  
47 evaluation. Unless the defendant is determined by the court to be indigent, he or she is  
48 responsible for the cost of the evaluation.

NOTE: The purpose of this bill is to prohibit activities connected with bestiality; establish criminal penalties; provide for forfeiture of animals, payment of associated costs, and restrictions on owning animals upon conviction; and require psychiatric evaluation and counseling.

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