

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3060

BY DELEGATES GRIFFITH, BOOTH, B. WARD AND ROWAN

[Introduced March 11, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended; and to
 2 amend the code by adding thereto a new section, designated §61-8-19c, all relating to
 3 animal cruelty; defining standards for unlawful animal tethering.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-19. Cruelty to animals; penalties; exclusions.

1 (a)(1) It is unlawful for any person to intentionally, knowingly or recklessly,
 2 (A) Mistreat an animal in cruel manner;
 3 (B) Abandon an animal;
 4 (C) Withhold;
 5 (i) Proper sustenance, including food or water;
 6 (ii) Shelter that protects from the elements of weather; or
 7 (iii) Medical treatment, necessary to sustain normal health and fitness or to end the
 8 suffering of any animal;
 9 (D) Abandon an animal to die;
 10 (E) Leave an animal unattended and confined in a motor vehicle when physical injury to
 11 or death of the animal is likely to result;
 12 (F) Ride an animal when it is physically unfit;
 13 (G) Bait or harass an animal for the purpose of making it perform for a person's
 14 amusement;
 15 (H) Cruelly chain or tether an animal as further described in §61-8-19c of this code; or
 16 (I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or
 17 maltreating any other domesticated animal.
 18 (2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor
 19 and, upon conviction thereof, shall be fined not less than \$300 nor more than \$2,000 or confined
 20 in jail not more than six months, or both.

21 (b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or
22 causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal,
23 is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less
24 than one nor more than five years and be fined not less than \$1,000 nor more than \$5,000. For
25 the purposes of this subsection, "torture" means an action taken for the primary purpose of
26 inflicting pain.

27 (c) A person, other than a licensed veterinarian or a person acting under the direction or
28 with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to
29 be administered to any animal participating in any contest any controlled substance or any other
30 drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a
31 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than
32 \$2,000.

33 (d) Any person convicted of a violation of this section forfeits his or her interest in any
34 animal and all interest in the animal vests in the humane society or county pound of the county in
35 which the conviction was rendered and the person is, in addition to any fine imposed, liable for
36 any costs incurred or to be incurred by the humane society or county pound as a result.

37 (e) For the purpose of this section, the term "controlled substance" has the same meaning
38 ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

39 (f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or
40 animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game
41 farms if kept and maintained according to usual and accepted standards of livestock, poultry,
42 gaming fowl or wildlife or game farm production and management, nor to humane use of animals
43 or activities regulated under and in conformity with the provisions of 7 U.S.C. §2131, *et seq.*, and
44 the regulations promulgated thereunder, as both statutes and regulations are in effect on the
45 effective date of this section.

46 (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted

47 of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and, shall be
48 confined in jail for a period of not less than ninety days nor more than one year, fined not less
49 than \$500 nor more than \$3,000, or both. The incarceration set forth in this subsection is
50 mandatory unless the provisions of subsection (h) of this section are complied with.

51 (h)(1) Notwithstanding any provision of this code to the contrary, no person who has been
52 convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted
53 probation until the defendant has undergone a complete psychiatric or psychological evaluation
54 and the court has reviewed the evaluation. Unless the defendant is determined by the court to be
55 indigent, he or she is responsible for the cost of the evaluation.

56 (2) For any person convicted of a violation of subsection (a) or (b) of this section, the court
57 may, in addition to the penalties provided in this section, impose a requirement that he or she
58 complete a program of anger management intervention for perpetrators of animal cruelty. Unless
59 the defendant is determined by the court to be indigent, he or she is responsible for the cost of
60 the program.

61 (i) In addition to any other penalty which can be imposed for a violation of this section, a
62 court shall prohibit any person so convicted from possessing, owning or residing with any animal
63 or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen
64 years following entry of a felony conviction. A violation under this subsection is a misdemeanor
65 punishable by a fine not exceeding \$2,000 and forfeiture of the animal.

§61-8-19c. Unlawful animal tethering.

1 (a) It shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause an
2 animal to be fastened, chained, tied or restrained to houses, trees, fences, garages or other
3 stationary or highly immobile objects by means of a rope, chain, strap or other physical restraint
4 for the purpose of confinement, except in circumstances where all of the following requirements
5 are met:

6 (1) The tethering shall be for a reasonable period of time such that is necessary for the

7 animal's caretaker or owner to complete a task that requires the animal to be physically restrained;

8 (2) The animal is visible to the responsible party at all times and the responsible party is
9 outside with the animal: *Provided*, That for a period not exceeding 15 consecutive minutes in any
10 one period, for a total of no more than four such periods in a 24 hour period, the animal may
11 remain out of the sight of the responsible party;

12 (3) The animal must be properly fitted with and wearing a nonchoke harness or collar
13 made of leather, nylon, or similar material. Choke, prong, martingale or greyhound collars shall
14 not be used;

15 (4) The tether must be attached to the animal's harness or collar and not directly to the
16 animal's neck;

17 (5) The tether must be at least 10 feet long, free from tangles and weigh no more than 1/8
18 of the animal's weight;

19 (6) The animal is tethered so as to prevent injury, strangulation, or entanglement;

20 (7) The animal is not tethered outside during extreme weather, including, but not limited
21 to, extreme heat or near-freezing temperatures, thunderstorms, tornadoes, or floods, unless
22 adequate food, potable water, shade, shelter and protection is provided;

23 (8) The animal must be at least 15 feet from the edge of any public road or sidewalk;

24 (9) The animal is six months of age or older;

25 (10) The animal is not sick or injured.

26 (b) If using a pulley, running line or trolley system, all the conditions of subsection (a) of
27 this section must be met, and:

28 (1) The running line or trolley system must be at least 15 feet in length and at least four
29 feet and no more than seven feet above ground;

30 (2) If there are multiple animals, each animal is tethered separately;

31 (3) The animal must be tethered at sufficient distance from any other objects to prohibit
32 the tangling of the cable, from extending over an object or an edge that could result in injury of

- 33 strangulation of the animal and be of sufficient distance from any fence so as to prohibit the
34 animal's access to the fence.

NOTE: The purpose of this bill is to define unlawful animal tethering.

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