

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3130

By Delegates Ferrell, McGeehan, Crouse, Dean,
Stephens, Sheedy, Kimble, T. Howell, and Rohrbach

[Introduced March 04, 2025; referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §7-10-2, §7-10-4, §19-20-22, and §61-8-19, of the Code of West
2 Virginia, 1931, as amended; and to amend the code by adding four new sections,
3 designated §7-10-1a, §19-20-12a, §61-8-19d, and §61-8-19e, relating generally to
4 providing increased protections for the welfare of domestic animals; requiring facilities for
5 the care of stray, abandoned, and surrendered animals and providing for access by the
6 public; defining terms; updating the duties of humane officers; defining an owner's duty of
7 care for companion animals; requiring an owner to confine unspayed female dogs in
8 estrus; increasing the penalty for a second offence of cruelty to animals; defining the
9 criminal offenses of unlawful confinement of domestic animals and hoarding of animals;
10 establishing criminal penalties; and providing for mental health treatment in certain
11 circumstances involving hoarding of animals.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 10. HUMANE OFFICERS.

§7-10-1a. Definitions.

1 As used in this article,

2 (a) "Humane officer" means a person designated pursuant to §7-10-1 of this code to
3 investigate complaints of cruel or inhumane treatment of animals and enforce laws related to the
4 prevention of cruelty to animals.

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

8 (c) "Temporary Enclosure" means a cage or crate designed for short-term, temporary
9 confinement or travel (e.g., airline crates, transport carriers, etc.); dogs and cats may be housed in
10 temporary enclosures for no longer than 48 hours after being taken into custody by an animal

11 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) Humane officers shall prevent the perpetration or continuance of any act of cruelty upon
2 any animal and investigate and, upon probable cause, cause the arrest and assist in the
3 prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable
4 cause, and, as provided by law, such officers have the right to access and inspect records and
5 property reasonably necessary to any investigation. Humane officers also have the duty to enforce
6 the provisions of §7-10-6 of this code.

7 (b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a
8 reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or
9 neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the
10 grounds for the suspicion. In the event of suspected child abuse or neglect, the humane officer
11 shall report to the local child protective services agency of the Department of Health and Human
12 Resources in accordance with the provisions of §49-2-809 of this code. In the event of suspected
13 abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's
14 local adult protective services agency in accordance with the provisions of §9-6-11 of this code. In
15 the event of suspected domestic violence, he or she shall report to the State Police in accordance
16 with the provisions of §48-27-101 *et seq.* of this code.

17 (c) Any person who interferes with, obstructs or resists any humane officer in the discharge
18 of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less
19 than ~~\$100~~ \$500 nor more than ~~\$500~~ \$1,000 or confined in jail not more than 30 days, or both fined
20 and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition
21 to any penalties the person incurs for cruel or inhumane treatment of any animal.

§7-10-4. Custody and care of animals abandoned, neglected or cruelly treated; hearing;

bonds; liability for costs; liens; exclusions.

1 (a) Subject to the provisions of subsection (h) of this section, a humane officer shall take
2 possession of any animal, ~~including birds~~ or wildlife in captivity, known or believed to be
3 abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable
4 protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in §61-8-19
5 and §61-8-19a of this code.

6 (b) The owner or persons in possession, if his or her identity and residence are known, of
7 any animal seized pursuant to subsection (a) of this section shall be provided written notice of the
8 seizure, his or her liability for the cost and care of the animal seized as provided in this section and
9 the right to request a hearing in writing before a magistrate in the county where the animal was
10 seized. The magistrate court shall schedule any hearing requested within 10 working days of the
11 receipt of the request. The failure of an owner or person in possession to request a hearing within
12 five working days of the seizure is prima facie evidence of the abandonment of the animal. At the
13 hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the
14 animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or
15 reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly
16 as set forth in this section.

17 (c) (1) If a hearing is requested and the magistrate finds by a preponderance of the
18 evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is
19 requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit
20 of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the
21 magistrate shall enter an order awarding custody of the animal to any humane officer for further
22 disposition in accordance with reasonable practices for the humane treatment of animals. After
23 hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly
24 treated, he or she may dismiss the action and order the animal be returned to the owner. If the
25 magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the

26 court in an amount sufficient to provide for the reasonable costs of care, medical treatment and
27 provisions for the animal for at least 30 days. The bond shall be filed with the court within five days
28 following the court's finding against the owner. At the end of the time for which expenses are
29 covered by the original bond if the animal remains in the care of the humane officer and the owner
30 desires to prevent disposition of the animal by the humane officer, the owner shall post an
31 additional bond with the court within five days of the expiration of the original bond. During this
32 period the humane officer is authorized to place the animal in a safe private home or other safe
33 private setting in lieu of retaining the animal in an animal shelter. The person whose animal is
34 seized is liable for all costs of the care of the seized animal.

35 (2) If a bond has been posted in accordance with subdivision (1) of this subsection, the
36 custodial animal care agency may draw from the bond the actual reasonable costs incurred by the
37 agency in providing care, medical treatment and provisions to the impounded animal from the date
38 of the initial impoundment to the date of the final disposition of the animal.

39 (d) Any person whose animal is seized and against whom the magistrate enters a finding
40 pursuant to this section is liable during any period it remains in the possession of the humane
41 officer for the reasonable costs of care, medical treatment and provisions for the animal not
42 covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section.
43 The magistrate shall require the person liable for these costs to post bond to provide for the
44 maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be
45 discharged before the animal is released to the owner. Upon dismissal or withdrawal of the
46 complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in
47 favor of the humane officer, all interest in the impounded animal shall transfer to the humane
48 officer for disposition in accordance with reasonable practices for the humane treatment of
49 animals. Any additional expense above the value of the animal may be recovered by the humane
50 officer or custodial agency.

51 (e) After the humane officer takes possession of the animal pursuant to a finding by a

magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f) (1) The term "humanely destroyed" as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of §30-10A-1 *et seq.* of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term "humanely destroyed" does not include euthanizing an animal by means of a gas chamber. ~~Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen, article three, chapter twenty-nine-a of this code~~

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the animal's suffering and to protect other

persons and animals.

(h) The provisions of this section do not apply to farm livestock, as defined in §19-10B-2(d) of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, *et seq.*, and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall ~~promulgate emergency rules~~ propose rules for legislative approval relating to the registration of those performing animal euthanasia, pursuant to §29A-3-15 of this code.

CHAPTER 19. AGRICULTURE.

ARTICLE 20. DOGS AND CATS.

§19-20-12a. Owner's duty of care of companion animals.

(a) As used in this section:

"Adequate care" or "care" means the responsible practice of good animal husbandry, handling, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and when necessary, euthanasia, appropriate for the age, species, condition, size, and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health;

"Adequate exercise" or "exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal, in order to promote good physical and psychological health;

"Adequate feed" mean access to and the provision of food that is of sufficient quantity and

nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size, and type of each animal, is provided in a clean and sanitary manner; is placed so as to minimize contamination from excrement and pests; and is provided at suitable levels for the species, age, and condition of the animal, at least once daily, except as otherwise prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting for that species;

"Adequate shelter" means provision of and access to shelter that is suitable for the species, age, condition, and age of each animal; provides adequate space for each animal, is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, adverse effect of heat or cold, physical suffering, and impairment of health; is properly lighted to provide a regular diurnal cycle and to allow observation of the physical condition of the animal; is properly cleaned by regular removal of excreta and food waste; enables each animal to be clean and dry, except when detrimental to the species; is properly shaded during hot weather and does not readily conduct heat; has a windbreak at its entrance during cold weather and provides a sufficient quantity of bedding material to protect the animal from cold and to promote the retention of body heat; and for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie upon in a normal manner and can be maintained in a sanitary condition;

"Adequate space" means sufficient space to allow each animal to: (1) Easily stand, sit, lie, turn around, and make all other normal body movements in a comfortable, normal position for the animal; and (2) interact safely with other animals in the enclosure. When freedom of movement would endanger the animal, then temporary, appropriate restraints or confinement are permitted within the meaning of "adequate space" according to professionally accepted standard of care and treatment; and

"Adequate water" means provision of and access to clean, fresh, potable water of a drinkable temperature, accessible at all times, and provided in an appropriate manner and amount

37 sufficient to the animal's needs.

38 (b) Each owner shall provide the following for each of his or her companion animals:

39 (1) Adequate feed;

40 (2) Adequate water;

41 (3) Adequate shelter that is clean;

42 (4) Adequate space in the primary enclosure for the particular animal depending upon its
43 age, size, species, and weight;

44 (5) Adequate exercise;

45 (6) Adequate care, treatment, and transportation; and

46 (7) Veterinary care when needed to prevent suffering or disease transmission.

47 (c) Shelters with wire, grid, or slat floor must not permit the animals' feet to pass through
48 the openings, sag under the animals' weight, or otherwise allow the animals' feet or toes to be
49 injured. Shelters and animal enclosures must have sufficient drainage to remove standing water.

§19-20-22. Confinement of female dogs Confinement of unspayed female dogs in estrus.

1 Every person owning or harboring a female dog, whether licensed or unlicensed, which
2 has not been spayed shall keep such dog confined in a building or secure enclosure for 25 days
3 during the period of estrus.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

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;

(ii) Shelter that protects from the elements of weather; or
(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

~~(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;~~

~~(H)~~ (G) Cruelly chain or tether an animal; or

~~(I)~~ (H) Use, train or possess a domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ~~\$300~~ \$500 nor more than \$2,000, or confined in jail not more than six months, or both fined and confined. A person who has a second or subsequent conviction for a violation of subdivision (1) of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than one nor more than five years and be fined not less than \$1,000 nor more than \$5,000. As used in this section, "bodily injury" means substantial physical pain, illness, or any impairment of physical condition.

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

32 (c) A person, other than a licensed veterinarian or a person acting under the direction or
33 with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to
34 be administered to any animal participating in any contest any controlled substance or any other
35 drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a
36 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than
37 \$2,000.

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

42 (e) For the purpose of this section, the term "controlled substance" has the same meaning
43 ascribed to it by §60A-1-101(d) of this code.

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

51 (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted
52 of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and, shall be
53 confined in jail for a period of not less than 90 days nor more than one year, fined not less than
54 \$500 nor more than \$3,000, or both. The incarceration set forth in this subsection is mandatory
55 unless the provisions of subsection (h) of this section are complied with.

56 (h)(1) Notwithstanding any provision of this code to the contrary, no person who has been
57 convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted

58 probation until the defendant has undergone a complete psychiatric or psychological evaluation
59 and the court has reviewed the evaluation. Unless the defendant is determined by the court to be
60 indigent, he or she is responsible for the cost of the evaluation.

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

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

§61-8-19d. Unlawful confinement of domestic animals.

1 (a) It is unlawful for a person to chain, tether, cage, or stake out a domestic animal that is in
2 the person's custody and:

3 (1) With a tether that is not a reasonable length given the size of the animal and available
4 space;

5 (2) With a tether that allows the animal to become entangled in a manner that risks the
6 health and safety of the animal;

7 (3) In such manner that the animal is not able to easily stand, sit, lie, turn around, and make
8 all other, normal body movements in a comfortable, normal position for the animal;

9 (4) In such a manner that the animal may go beyond the property line of the owner or
10 custodian of the animal unless the person has obtained permission from the owner of the affected
11 property; or

12 (5) Leave outside during extreme weather conditions, including, but not limited to, extreme

heat, freezing or near-freezing temperatures, thunderstorms, tornadoes, or floods, unless adequate food, potable water, shade, shelter, and protection is provided based upon the breed, age, general health of the dog, and its ability to handle the environment.

(b) Unlawful confinement of an animal does not include:

(1) Using a handheld leash for the purposes of walking a dog, cat, or other domestic animal;

(2) Securing a dog pursuant to the requirements of a campground, recreational area, or other public area; or

(3) Securing a dog or other domestic animal for transportation.

(c) Any person in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$250 nor more than \$500.

§61-8-19e. Hoarding of animals.

(a) The hoarding of animals is unlawful and is prohibited. A person is guilty of hoarding animals when he or she possesses a large number of companion animals, and:

(1) Fails to, or is unable to provide food and water, adequate shelter and protection from weather, veterinary care, and humane care and treatment, and

(2) Displays an inability to recognize or understand the nature of, or has a reckless disregard for, the conditions under which the companion animals are living and the deleterious impact they have on the companion animals and the owner's health and well-being. A person who is found to be hoarding animals is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.

(b) Animals found to be living under the conditions outlined in this section shall be taken from the hoarder and turned over to an animal shelter for proper care and relocation.

NOTE: The purpose of this bill is to provide increased protections for the welfare of domestic animals in the care of animal shelters and private individuals.

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