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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2005

ENROLLED

Committee Substitute for

SENATE BILL NO. 588

(By Senators Unger and Hunter)

PASSED April 9, 2005

In Effect 90 days from **Passage**

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 588

(SENATORS UNGER AND HUNTER, *original sponsors*)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-5-13f; and to amend and reenact §61-8-19 of said code, all relating to Animal Cruelty Early Intervention Program for juveniles; expanding the definition of cruelty to animals; increased criminal penalties for cruelty to animals; and allowing judges to require that offenders complete an anger management program.

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 section, designated §49-5-13f; and that §61-8-19 of said code be amended and reenacted, all to read as follows:

CHAPTER 49. CHILD WELFARE.

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-13f. Animal Cruelty Early Intervention Program.

1 (a) Notwithstanding any provision of this article to the
2 contrary, a juvenile who has been alleged to have commit-
3 ted an act of delinquency which involved causing harm to
4 an animal shall be given the option of proceeding in the
5 Animal Cruelty Early Intervention Program as an alterna-
6 tive to the filing of a formal petition under section seven of
7 this article, as the case may be. The decision to extend the
8 option to enter the Animal Cruelty Early Intervention
9 Program shall be made by the circuit court if the court
10 finds that the offender is a suitable candidate for the
11 program. No juvenile may enter the Animal Cruelty Early
12 Intervention Program unless he or she and his or her
13 parent or guardian consent. Any juvenile who does not
14 successfully cooperate in and complete the Animal Cruelty
15 Early Intervention Program shall be returned to the circuit
16 court for further disposition as provided by section eleven-
17 a or thirteen of this article, as the case may be.

18 (b) The Department of Juvenile Services shall establish
19 a task force to create an Animal Cruelty Early Interven-
20 tion Program. Services provided by the Department for
21 Juvenile Services in the Animal Cruelty Early Intervention
22 Program shall be consistent with the provisions of article
23 five-b of this chapter and shall be designed to develop
24 skills and supports within families and to resolve problems
25 related to the juveniles who have engaged in animal
26 cruelty. Services may include, but are not limited to,
27 referral of juveniles and parents, guardians or custodians
28 and other family members to services for psychiatric or
29 other medical care, or psychological, welfare, legal,
30 educational or other social services, as appropriate to the
31 needs of the juvenile and his or her family.

32 (c) The effective date for this section is the first day of
33 July, two thousand six.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

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

1 (a) If any person cruelly mistreats, abandons or with-
2 holds proper sustenance, including food, water, shelter or
3 medical treatment, necessary to sustain normal health and
4 fitness or to end suffering or abandons any animal to die,
5 or intentionally, knowingly or recklessly leaves an animal
6 unattended and confined in a motor vehicle when physical
7 injury to or death of the animal is likely to result, or rides
8 an animal when it is physically unfit, or baits or harasses
9 any animal for the purpose of making it perform for a
10 person's amusement, or cruelly chains any animal or uses,
11 trains or possesses any domesticated animal for the
12 purpose of seizing, detaining or mistreating any other
13 domesticated animal, he or she is guilty of a misdemeanor
14 and, upon conviction thereof, shall be fined not less than
15 three hundred nor more than two thousand dollars or
16 confined in jail not more than six months, or both.

17 (b) If any person intentionally tortures, or mutilates or
18 maliciously kills an animal, or causes, procures or autho-
19 rizes any other person to torture, mutilate or maliciously
20 kill an animal, he or she is guilty of a felony and, upon
21 conviction thereof, shall be confined in a correctional
22 facility not less than one nor more than five years and be
23 fined not less than one thousand dollars nor more than five
24 thousand dollars. For the purposes of this subsection,
25 "torture" means an action taken for the primary purpose
26 of inflicting pain.

27 (c) Any person, other than a licensed veterinarian or a
28 person acting under the direction or with the approval of
29 a licensed veterinarian, who knowingly and willfully
30 administers or causes to be administered to any animal
31 participating in any contest any controlled substance or
32 any other drug for the purpose of altering or otherwise
33 affecting said animal's performance is guilty of a misde-

34 meanor and, upon conviction thereof, shall be fined not
35 less than five hundred nor more than two thousand
36 dollars.

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

44 (e) For the purpose of this section, the term "controlled
45 substance" has the same meaning ascribed to it by subsec-
46 tion (d), section one hundred one, article one, chapter
47 sixty-a of this code.

48 (f) The provisions of this section do not apply to lawful
49 acts of hunting, fishing, trapping or animal training or
50 farm livestock, poultry, gaming fowl or wildlife kept in
51 private or licensed game farms if kept and maintained
52 according to usual and accepted standards of livestock,
53 poultry, gaming fowl or wildlife or game farm production
54 and management, nor to humane use of animals or activi-
55 ties regulated under and in conformity with the provisions
56 of 7 U. S. C. §2131, *et seq.*, and the regulations promul-
57 gated thereunder, as both statutes and regulations are in
58 effect on the effective date of this section.

59 (g) Notwithstanding the provisions of subsection (a) of
60 this section, any person convicted of a second or subse-
61 quent violation of said subsection is guilty of a misde-
62 meanor and shall be confined in jail for a period of not less
63 than ninety days nor more than one year, fined not less
64 than five hundred dollars nor more than three thousand
65 dollars, or both. The incarceration set forth in this subsec-
66 tion shall be mandatory unless the provisions of subsection
67 (h) of this section are complied with.

68 (h) (1) Notwithstanding any provision of this code to the
69 contrary, no person who has been convicted of a violation
70 of the provisions of subsection (a) or (b) of this section may
71 be granted probation until the defendant has undergone a
72 complete psychiatric or psychological evaluation and the
73 court has reviewed the evaluation. Unless the defendant
74 is determined by the court to be indigent, he or she shall be
75 responsible for the cost of said evaluation.

76 (2) For any person convicted of a violation of subsection
77 (a) or (b) of this section, the court may, in addition to the
78 penalties provided in this section, impose a requirement
79 that he or she complete a program of anger management
80 intervention for perpetrators of animal cruelty. Unless the
81 defendant is determined by the court to be indigent, he or
82 she shall be responsible for the cost of the program.

83 (i) In addition to any other penalty which can be imposed
84 for a violation of this section, a court shall prohibit any
85 person so convicted from possessing, owning or residing
86 with any animal or type of animal for a period of five
87 years following entry of a misdemeanor conviction and
88 fifteen years following entry of a felony conviction. A
89 violation under this subsection is a misdemeanor punish-
90 able by a fine not exceeding two thousand dollars and
91 forfeiture of the animal.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *was approved* this the *3rd*
May Day of, 2005.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 20 2005

Time 2:50 pm