

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2664**

BY DELEGATES KESSINGER, PAYNTER, OVERINGTON,

FOSTER, N., MARTIN AND ISNER

[Introduced February 22, 2017; 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:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §61-8-32, to read as follows:

**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;

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 eighteen years of age to engage in bestiality, or  
21 engages in bestiality in the presence of a child under eighteen years of age.

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

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

26 (A) Has a previous conviction under article eight-b, chapter sixty-one of this code;

27 (B) Has a previous conviction of bestiality in any other jurisdiction; or

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

31 (3) Any person who violates subsection (b)(7) shall be guilty of a felony and, upon  
32 conviction thereof, shall be subject to the penalties set forth in section two of article eight-c of this  
33 chapter.

34 (4) Any person convicted of a violation of this section shall be divested of ownership and  
35 control of all animals in his or her possession and is, in addition to any fine imposed, liable for all  
36 costs of their care and maintenance pursuant to section four, article ten, chapter seven of this  
37 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 fifteen years following entry of a felony  
42 conviction, or any additional time deemed reasonable by the court. A violation under this

43 subsection is a misdemeanor punishable by a fine not exceeding \$2,000 and forfeiture of the  
44 animal.

45 (6) Notwithstanding any provision of this code to the contrary, any person who has been  
46 convicted of a violation of this section shall undergo a complete psychiatric or psychological  
47 evaluation and participate in appropriate counseling. Unless the defendant is determined by the  
48 court to be indigent, he or she is responsible for the cost of the evaluation.

49 (d) Seizure of an animal related to the violation of this section shall be governed by the  
50 procedures established in section four, article ten, chapter seven of this code.

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.