

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4455**

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

[Reported February 23, 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 §61-8-19d, all relating to animal abuse generally; prohibiting activities  
3 connected with sexual abuse of an animal; establishing criminal penalties; providing for  
4 forfeiture of animals, payment of associated costs, providing for restrictions on owning  
5 animals upon conviction; and requiring psychiatric evaluation and payment of costs in  
6 certain circumstances.

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

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

**§61-8-19d. Sexual abuse of animal prohibited; penalties.**

1 (a) For the purpose of this section:

2 (1) "Animal" means every nonhuman creature.

3 (2) "Sexual abuse" means to sexually abuse an animal by touching or contacting, or  
4 causing an object or another person to touch or contact, the mouth, anus, or sex organs of an  
5 animal or animal carcass for the purpose of arousing or gratifying the sexual desire of the person.

6 (b) A person is guilty of sexual abuse when such person knowingly and intentionally:

7 (1) Engages in sexual abuse;

8 (2) Causes, aids, or abets another person to engage in sexual abuse;

9 (3) Organizes, promotes, conducts, aids or abets, or participates in as an observer, in an  
10 act involving any sexual abuse;

11 (4) Possesses, sells, transfers, purchases or otherwise obtains an animal with the intent  
12 that it be used for sexual abuse;

13 (5) Permits sexual abuse to be conducted on any premises under his or her charge or  
14 control;

15 (6) Advertises offers, solicits or accepts the offer of an animal with the intent that it be used  
16 for sexual abuse in this state; or

17 (7) Forces or induces a child under 18 years of age to engage in sexual abuse, or engages  
18 in sexual abuse in the presence of a child under 18 years of age.

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to prohibit activities connected with sexual abuse of an animal; establish criminal penalties; provide for forfeiture of animals, payment of associated costs, and restrictions on owning animals upon conviction.

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