

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

**House Bill Number**

By Delegate Williams

Introduced January 23, 2024; 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, relating to  
 2 cruelty to animals; defining food, water, shelter, and treatment; providing specifics for  
 3 tethering an animal; providing for seizure of an animal for violations; increasing criminal  
 4 penalties; and providing that a person in violation of this statute for a second time shall be  
 5 added to a state-wide, publicly available, do not adopt or sell, registry.

*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 a cruel manner;

3 (B) Abandon an animal;

4 (C) Withhold;

5 (i) Proper sustenance, including food or water. "Food" as used in this section means being  
 6 of sufficient quantity and quality to allow for normal growth or the maintenance of body weight.  
 7 Animal food shall meet or exceed National Research Council Standards and American  
 8 Association of Feed Company Officials, Inc., (AAFCO) processing standards. Animals shall be  
 9 provided wholesome food suitable for the species at a frequency and amount appropriate for the  
 10 species and age. Animals over the age of 20 weeks shall be offered food at least once every 12  
 11 hours. Animals under the age of 20 weeks shall be offered food at least once every eight hours.

12 "Water" as used in this section means being clean, fresh, potable, and in a liquid state.  
 13 Animals shall be provided access to water at least once every four hours in an amount appropriate  
 14 for the species and age. Snow and ice are not acceptable water sources;

15 (ii) ~~Shelter that protects from the elements of weather; or~~ for a tethered animal or an animal  
 16 roaming free: Shelter shall consist of a four-sided structure, with a roof and one opening only wide  
 17 enough for the animal to enter into the structure unimpeded, and it shall be a suitable size to  
 18 accommodate the animal in both standing and lying positions; It shall be moisture-proof,

19 windproof, ventilated, and in cold temperatures, it shall promote the retention of body heat; It shall  
20 be made of solid, durable material with a solid, moisture-proof floor raised at least two inches from  
21 the ground;

22 It shall have a sufficient quantity of suitable clean bedding material consisting of hay, straw,  
23 cedar shavings, or the equivalent to provide insulation and protection against cold and dampness.  
24 Blankets that can retain moisture and freeze are not an acceptable bedding. The structure and the  
25 surrounding area shall be free from excessive waste, dirt, and trash. Each animal tethered or  
26 roaming free shall have their own individual shelter. For an animal in a confinement area  
27 (including, but not limited to, outdoor pens or any other area used to house an animal: There shall  
28 be at least 100 square feet of floor space in such area for each animal over four months of age kept  
29 in the area. The same requirements for shelter apply for tethered or roaming free animals.  
30 Examples of inadequate shelters include, but are not limited to, lean-tos, metal drums, plastic  
31 drums, cardboard or other disposable boxes, vehicles, or the area on or beneath exposed porches  
32 or exposed decks;

33 (iii) Exercise appropriate for the species and age;

34 (iii) (iv) ~~Medical treatment~~ Veterinary care by a licensed doctor of veterinary medicine,  
35 established and maintained for rabies and disease control prevention as well as for treatment  
36 necessary to sustain normal health and fitness or to end the suffering of any animal. In addition,  
37 an effective program established and maintained for the control of insects, ectoparasites, rodents,  
38 and other pests;

39 (D) Abandon an animal to die;

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

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

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

- 45 (H) Cruelly chain or tether an animal: or
- 46 (i) The animal shall be properly fitted with and wearing a nonchoke harness or collar made
- 47 of leather, nylon, or similar material. Collars such as, but not limited to, choke, prong, martingale,
- 48 and greyhound shall not be used;
- 49 (ii) The tether shall be attached to the animal's harness or collar by means of a swivel
- 50 anchor, swivel latch, or other mechanism designed to prevent the animal from becoming
- 51 entangled, and not directly to the animal's neck;
- 52 (iii) The tether shall be three times the length of the animal, as measured from the tip of its
- 53 nose to the base of its tail or 10 feet, whichever is longer, free from tangles, and weigh no more
- 54 than 1/8 of the animal's weight;
- 55 (iv) The animal shall be tethered so as to prevent injury, strangulation, or entanglement;
- 56 (v) Each animal shall be tethered separately;
- 57 (vi) The animal shall be six months of age or older;
- 58 (vii) The animal shall not be sick or injured or have any open sores or wounds;
- 59 (viii) If using a pulley system, all previous conditions shall apply; and
- 60 (ix) The running line shall be at least 15 feet in length and at least four feet high, and no
- 61 more than seven feet above ground, sufficient for the animal to move about freely; and the animal
- 62 shall be tethered at sufficient distance from any other objects to prohibit the tangling of the cable,
- 63 from extending over an object or an edge that could result in injury of strangulation of the animal,
- 64 and be of sufficient distance from any fence so as to prohibit the animal's access to the fence;
- 65 (x) Tether, cage, confine, leave free roaming, or in any way leave an animal outside for
- 66 more than 15 minutes during extreme weather, including, but not limited to, extreme heat (85
- 67 degrees Fahrenheit) or freezing temperatures (32 degrees Fahrenheit), thunderstorms,
- 68 tornadoes, or floods; or
- 69 (I) Use, train, or possess a domesticated animal for the purpose of seizing, detaining, or
- 70 maltreating any other domesticated animal.

71 (2) Any person in violation of subdivision (1) of this subsection shall have their animal  
72 seized immediately, if risk of harm or death is likely, and for a first offense is guilty of a  
73 misdemeanor and, upon conviction thereof, shall be fined not less than \$300 nor more than \$2,000  
74 or confined in jail not more than six months, or both fined and confined.

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

81 (c) A person, other than a licensed veterinarian or a person acting under the direction or  
82 with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to  
83 be administered to any animal participating in any contest any controlled substance or any other  
84 drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a  
85 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than  
86 \$2,000.

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

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

93 (f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or  
94 animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game  
95 farms if kept and maintained according to usual and accepted standards of livestock, poultry,  
96 gaming fowl or wildlife or game farm production and management, nor to humane use of animals

97 or activities regulated under and in conformity with the provisions of 7 U.S.C. §2131, *et seq.*, and  
98 the regulations promulgated thereunder, as both statutes and regulations are in effect on the  
99 effective date of this section.

100 (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted  
101 of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and, shall be  
102 confined in jail for a period of not less than ~~ninety days~~ six months nor more than one year, fined  
103 not less than ~~\$500~~ \$1,000 nor more than ~~\$3,000~~, \$5,000 or both fined and confined. The  
104 incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of  
105 this section are complied with.

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

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

116 (i) In addition to any other penalty which can be imposed for a violation of this section, a  
117 court shall prohibit any person so convicted from possessing, owning or residing with any animal  
118 or type of animal for a period of five years following entry of a misdemeanor conviction and 15  
119 years following entry of a felony conviction. A violation under this subsection is a misdemeanor  
120 punishable by a fine not exceeding \$2,000 and forfeiture of the animal.

121 (j) Any person(s) in violation of any subsection of this section for a second time shall be  
122 added to a state-wide, publicly available, do not adopt or sell registry.

NOTE: The purpose of this bill is to amend the statute relating to cruelty to animals. The bill provides definitions of "food", "water", "shelter", and "treatment". It provides specifics for tethering an animal. The bill includes for seizure of an animal for violations in addition to increasing criminal penalties. Finally, the bill provides that a person in violation of this statute for a second time shall be added to a state-wide, publicly available, do not adopt or sell registry.

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