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State Animal Anti-Cruelty Statutes: An Overview

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Pamela D. Frasch, Stephan K. Otto, Kristin M. Olsen
and Paul A. Ernest

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STATE ANIMAL ANTI-CRUELTY STATUTES: AN OVERVIEW

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PAMELA D. FRASCH*
STEPHAN K. OTTO**
KRISTEN M. OLSEN†
Paul A. Ernest‡

This article provides an introduction to the current status of state animal anti-cruelty laws throughout the United States. Extensive exploration of the similarities and differences between these statutes, combined with detailed statutory citations, enables this article to serve as a useful resource for research and statistical purposes. Additionally, the article offers an opportunity to review many of the provisions contained within these anti-cruelty statutes and to identify those in need of improvement.¹

I. INTRODUCTION

Every state has an animal anti-cruelty statute. Although these laws do not afford animals legal rights, state anti-cruelty statutes provide the principal, and in some cases the only, legal protection available to animals in our society. Most anti-cruelty laws are misdemeanor offenses, although twenty-three states have at least one form of a felony anti-cruelty law.² Unfortunately, no national database currently exists to provide a statistical analysis of how many animal cruelty cases are criminally charged and prosecuted each year. There is anecdotal evidence, however, to indicate

¹ Attorney and Director of the Anti-Cruelty Division of the Animal Legal Defense Fund. Ms. Frasch also teaches Animal Law at Northwestern School of Law of Lewis & Clark College.
	² Northwestern School of Law of Lewis & Clark College, J.D. expected 2000; San Diego State University, B.A. 1994. Mr. Otto is on staff at the Animal Legal Defense Fund in the Anticruelty Division.
	† University of Minnesota Law School, J.D. expected 2000. Ms. Olsen helped prepare this article while she was a law clerk at the Humane Society of the United States, in Washington, D.C.
	‡ Senior Legal Analyst, Lexis Law Publishing, Charlottesville, Virginia

¹ This overview includes information on general state animal cruelty laws as of April 1, 1999. Each state may have other more specific statutes in addition to those referenced within this overview. Additionally, be advised that many states employ similar provisions within their general criminal and civil statutes. Because the law is constantly evolving, please review an official source for the most current version of any statute.


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that some prosecutors are less likely to charge or prosecute animal cruelty compared to other violent crimes, except in the most extreme cases. This apparent reluctance to prosecute stems from many factors including: real or perceived limited resources; inexperienced staff; incomplete or botched investigations; pressure from the community to focus on other crimes; and personal or political bias against taking animal abuse seriously as a violent crime.

In recent years, a number of studies have been conducted showing a critical link between animal abuse and human violence. The results of these studies have been used to educate legislatures about the importance of increasing penalties for violent animal cruelty. Almost half of the states have taken the important first step in strengthening their anti-cruelty laws by passing a felony provision for the most heinous forms of animal abuse. From the definition of "animal," to what type of activity is considered to be criminal "neglect," "abuse," or "cruelty," each state has developed unique anti-cruelty laws. Notwithstanding the singular nature of each state's law, there are a few common provisions found in anti-cruelty laws throughout the nation. The following section discusses these provisions.

II. COMMON PROVISIONS

A. Counseling

Eight states authorize evaluations and psychological or psychiatric treatment within their animal cruelty statutes. Many other states have similar provisions in their general sentencing guidelines. California requires psychological counseling if probation is granted after a conviction for animal abuse. Colorado requires counseling for the second and subse-

3 Joshua Marquis, District Attorney for Clatsop County, Or. & Don Coceck, Deputy City Attorney for the City of Los Angeles, Cal., Helping Prosecutors Put a Case Together, Presentation at the American Humane Association National Conference (Oct. 7, 1998); Interview with William Gardner, Chief Deputy City Attorney for the City of Reno, Nev., in Ixtapa, Mex. (Feb. 28, 1999).

4 Joshua Marquis, supra note 3; Interview with William Gardner, supra note 3.


7 CAL. PEN. CODE § 597(g) (West 1998).
quent animal abuse offenses.\textsuperscript{8} West Virginia requires a psychiatric evaluation as a condition of parole after the second animal abuse offense.\textsuperscript{9}

\section*{B. Community Service}

Six states have provisions within their animal cruelty laws allowing the judge to order community service as part of the sentencing or as a condition of parole.\textsuperscript{10} Minnesota authorizes the court to order community service be completed in an animal shelter.\textsuperscript{11} Other states employ similar provisions within their general criminal codes.

\section*{C. Restitution}

Eight states have provisions within their animal cruelty laws allowing the judge to order restitution as part of sentencing.\textsuperscript{12} Many states employ similar provisions within their general criminal codes. An order for restitution typically means the person convicted must pay the owner of the affected animal for economic loss, damages, or both.

\section*{D. Seizure}

Forty-four states and the District of Columbia have provisions within their animal cruelty laws providing for the seizure of animals being cruelly treated or neglected.\textsuperscript{13} Thirty-four of these states and the District of Co-

\begin{footnotesize}
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\item \textsuperscript{8} COLO. REV. STAT. ANN. § 18-9-202(2)(a.5)(V) (West 1998).
\item \textsuperscript{9} W. VA. CODE § 61-8-19(g) (1995).
\item \textsuperscript{11} MINN. STAT. § 343.21(10)(3) (Supp. 1999).
\item \textsuperscript{12} Alabama, Mississippi, Nevada, New Jersey, Ohio, Rhode Island, West Virginia, and Wisconsin. ALA. CODE § 3-1-10 (1975); MISS. CODE ANN. § 97-41-16 (1994); REV. REV. STAT. ALA. CODE ANN. § 574.150 (1997); N.J. STAT. ANN. § 4:22-17(c)(2) (West 1998); OHIO REV. CODE ANN. § 1717.11 (West 1994); R.I. GEN. LAWS § 4-1-5 (1997); W. VA. CODE § 19-20-12 (1995); Wis. STAT. § 951.18 (1996).
columbia permit an authorized humane agent to seize cruelly treated or neglected animals or to obtain a search warrant. In some states, humane agents may remove neglected animals, but only a law enforcement officer may remove abused animals. California and Minnesota make it a duty for peace officers to seize abused or neglected animals. Nevada and West Virginia require humane officers to seize abused or neglected animals. Hawaii and North Carolina authorize seizure only after conviction. Arizona only authorizes seizure of abused or neglected horses.

E. Reimbursement for Costs of Care

Forty-two states and the District of Columbia have some variation of a provision to reimburse expenses for the care of an animal during the


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prosecution of an animal cruelty or neglect case. There are three principal methods of obtaining reimbursement for the cost of care: bonding, liens, or court-ordered reimbursement. Some states employ more than one method.


Eleven states have provisions in their animal cruelty laws that allow the defendant to post a bond (sometimes called a security) to prevent the adoption or euthanasia of the animal while the case is being prosecuted.¹⁹

2. Reimbursement for Costs of Care as a Lien Upon Seized Animals

Twenty-five states and the District of Columbia have provisions in their animal cruelty laws requiring the defendant to reimburse the cost of care of the animal(s) seized in order to repossess them.²⁰

3. Court-ordered Reimbursement

Thirty-three states have statutory provisions allowing the court to order reimbursement of cost of care.²¹


F. Forfeiture

Thirty-six states have provisions in their animal cruelty laws that either require or allow the court to order defendants to forfeit their right to possess animals upon conviction. Many states employ similar provisions within their general criminal and civil codes.

G. Cross Reporting

Four states and the District of Columbia have provisions in their animal cruelty laws or in their child protection laws that either require or permit humane officers and investigators to report suspected or known child abuse. Florida authorizes child protection officers to report known or suspected animal abuse.

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22 The states that either allow or require forfeitures are: Alabama, California, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.


24 FLA. STAT. ANN. § 828.03(1) (West 1977).
II. Veterinarian Reporting

Nine states have provisions either requiring veterinarians to report suspected or known animal cruelty or providing immunity for investigations of suspected cruelty. Out of these states, Minnesota and West Virginia require veterinarians to report suspected animal cruelty. Illinois provides a procedure for veterinarians to report cruelty to the state Department of Agriculture, the agency responsible for seizure of animals. Six of these states provide at least partial immunity from lawsuits to veterinarians who investigate cases of suspected or known animal abuse or neglect.

I. Arrest Policies

Twenty-five states have provisions in their animal cruelty laws allowing approved humane agents to make arrests. Three states and the District of Columbia have provisions specifying that a law enforcement officer is needed to issue an arrest warrant.

III. Common Exemptions

Most anti-cruelty laws include one or more exemptions. Exemptions can significantly weaken an otherwise strong animal protection law by excluding whole classes of animals, such as wildlife or farm animals, from its application.

Special interest groups, such as hunting associations and agricultural lobbies, often claim certain practices need to be exempt in order to protect against frivolous lawsuits. Anti-cruelty statutes, however, are

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25 MINN. STAT. § 346.37 (Supp. 1999); W. VA. CODE § 7-10-4a(a) (1997).
26 510 ILL. COMP. STAT. 70-12 (West Supp. 1998).
tended to protect animals from the kinds of behavior that no responsible hunter or farmer would defend. By exempting wildlife or farm animals, a state greatly reduces its ability to prosecute someone who slowly kills and tortures an animal caught in the wild or allows livestock to starve to death.

As long as they obey the relevant laws of their state and society accepts practices such as hunting and slaughtering livestock, special interest groups have nothing to fear. Unless society deems these practices unacceptable, anti-cruelty laws will not prevent animals from being hunted, raised and killed for food, used in entertainment, or used in research laboratories. Prosecution of animal cruelty cases is at the discretion of the prosecutor and is usually reserved for extreme cases. The following are typical exemptions found in anti-cruelty laws.

A. Veterinary Practices

Twenty-six states provide an exemption in their animal cruelty laws for traditional veterinary practices.30

B. Research Animals

Thirty states and the District of Columbia provide an exemption in their animal cruelty laws for research animals.31 Many states require the


exempted animals be in a laboratory conforming to the federal standards defined in the Animal Welfare Act.\textsuperscript{32}

\section*{C. Wildlife}

Thirty-four states provide an exemption in their animal cruelty laws for wildlife. The exemptions typically stipulate that hunting, fishing, and trapping animals must be done in accordance with state game laws.\textsuperscript{33}

\section*{D. Farm Animals}

Thirty states provide an exemption in their animal cruelty laws for commonly accepted animal husbandry practices, including activities such as dehorning, castrating, and branding.\textsuperscript{34}

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\item \textsuperscript{32} Animal Welfare Act, 7 U.S.C. §§ 2131-2159 (1994).
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E. Slaughtering Animals for Food

Eighteen states provide an exemption for the practice of slaughtering animals for food.35 Some of these states specify that a humane method of slaughtering must be used. Two other states, Iowa and Utah, exclude livestock from their definition of "animal," thereby depriving livestock of any coverage from the cruelty statutes.36

F. Pest Control

Sixteen states provide an exemption in their animal cruelty statutes for killing pests, including insects, vermin, rodents, and sometimes birds.37

G. Rodeo

Ten states provide an exemption in their animal cruelty laws for rodeo practices. Several statutes require the practices be approved by the Professional Rodeo Cowboy’s Association. Some states include other exhibitions or shows in their exemption.38


H. Zoos and Circuses

Michigan, Missouri, and North Dakota exempt zoos and circuses from their animal cruelty laws.39

I. Other Exemptions

Thirty-five states specify other exemptions to their animal cruelty laws.40 These statutes exempt a wide range of actions. For example, Maine exempts the killing of one’s own cats and dogs on one’s own property.41 Kansas exempts the killing of dogs that are threatening one’s own livestock or property.42 Idaho exempts animal training methods.43

J. No Exemptions

Minnesota, Mississippi, and Oklahoma do not provide any exemptions to their animal cruelty laws.

IV. Conclusion

This overview, together with forthcoming supplements, provides an opportunity to compare and contrast current state anti-cruelty laws. It is


our hope this information will be used as a resource for those interested in improving laws that affect animals.