

# **TITLE LXII**

## **CRIMINAL CODE**

### **CHAPTER 644**

#### **BREACHES OF THE PEACE AND RELATED OFFENSES**

##### **Section 644:8**

###### **644:8 Cruelty to Animals. –**

I. In this section, "cruelty" shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, "animal" means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, "shelter" or "necessary shelter" for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his or her possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter;

(f) Has in his or her possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old;

(g) Sells an equine colt that is less than 90 days old that is not being nursed by its dam; or

(h) Otherwise negligently permits or causes any animal in his or her possession or custody to be subjected to cruelty, inhumane treatment, or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV. (a)(1) Any person charged with animal cruelty under paragraphs III or III-a may have his or her animals confiscated by the arresting officer. *The investigating officer for a case involving livestock as defined in RSA 427:38, III shall be accompanied by the state veterinarian or their designee who shall set probable cause criteria for the taking of the animal or animals. No animal shall be confiscated unless a person is charged under this section, except when the officer believes that the animal's life is in imminent danger.*

(2) A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332-B of his or her choice at the expense of the person charged. *The person charged shall be made aware of this petition in writing by the arresting officer.*

*(3) If a person is charged under this section and is presented with any document to sign, the arresting officer shall explain the document to the person and the person shall affirm that they understand the document they are signing.*

(4) Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, a status hearing shall be held by the court within 14 days of the confiscation of the animals.

(5) Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal if the court determines it is in the best interest of the animal's health, safety, and wellbeing.

(6) No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal or the owner of the animal agrees in writing to the procedure or

treatment. If the treating veterinarian determines the animal is in a state of extreme suffering, the animal may be euthanized.

(7) Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership if the court determines that such is in the best interest of the animal's health, safety, and wellbeing. If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.

(8) The costs to provide the confiscated animals with humane care and adequate and necessary veterinary services, if any, incurred in boarding and treating the animal, pending disposition of

the case, and in disposing of the animal upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted in accordance with rules adopted by the department of agriculture, markets, and food.

(9) No confiscated animal or animals shall be used in any manner to solicit

donations or to raise funds by any individual or organization that has protective custody

of the animal or animals prior to a conviction for abuse or neglect under this section

(b) In addition, the court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8-aa, RSA 644:8-b, RSA 644:8-c, or RSA 644:8-d, or violation of RSA 644:8-f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8-g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals. For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.

(c) If a person convicted of any offense of cruelty to animals appeals the conviction in an initial de novo or subsequent appeal and any confiscated animal remains in the custody of the arresting officer, the arresting officer's agency, or the arresting officer's agency's designee pending disposition of the appeal, in order for the defendant or appellant to maintain a future interest in the animal, the trial or appellate court, after consideration of the income of the defendant or appellant, may require the defendant or appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the trial, trial de novo, or appeal. Such bond or security shall be posted to the court within 30 days. If such bond or security is not paid within 30 days after the court orders the bond or security to be posted, the animals shall be forfeited to the arresting officer, the arresting officer's agency, or the arresting officer's agency's designee. The court may, for good cause, extend the deadline by no more than 15 days. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal, from the date the animal or animals were originally confiscated, shall be paid to the custodial agency from the posted security and the balance, if any, shall be returned to the person who posted it. A court shall order the return of any bond or security upon a court approved agreement of the parties, a finding of not guilty, or the reversal of a conviction, unless it is a reversal with remand for further proceeding.

IV-a. (a) Except as provided in subparagraphs (b) any appropriate law enforcement officer, *or* animal control officer, may take into temporary protective custody any animal when *the owner or caretaker is not present* and there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department. The department may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court. *An owner of an animal taken into protective custody shall have the right as referenced in subparagraph IV(a)(2).* (b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, shall be accompanied by a veterinarian licensed under RSA 332-B or the state veterinarian *or their designee* who shall set the probable cause criteria for taking the animal or animals. *(c) In cases where one or more lactating animals are confiscated, proof shall be provided by the confiscating party to the attending veterinarian and the owner or caretaker that proper care and facilities shall be provided for adults and offspring. No lactating animal shall be separated from its non-weaned offspring and vice versa.*

*(d) No person, natural or otherwise, who has initiated an animal welfare complaint may take part in or be present during any investigation into such complaint, unless the complainant is an employee of a governmental agency. No person who may be called up on to take possession of any animal seized as a result of a complaint under this section may have taken part in the decision to seize any animal.*

*(e) In order to protect the integrity of complaint investigations an appropriate law enforcement officer shall require any person or their designated agent called upon to take possession of any animal seized or to assist during any complaint investigation, to sign a binding nondisclosure agreement intended to protect any shared or confidential information against unauthorized use pending final adjudication or dismissal of such complaint; provided that information may be disclosed only to officials with a need to know who are subject to confidentiality obligations.*

*(f) The confiscation of an animal without the charging of the owner or caretaker, or without a warrant specifying probable cause, under paragraph IV shall be theft by unauthorized taking under RSA 637:3.*

*(g) No custodian of an animal in temporary protective custody under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal or the owner of the animal agrees in writing to the procedure or treatment. If the treating veterinarian determines the animal is in a state of extreme suffering, the animal may be euthanized.*

V. A veterinarian licensed to practice in the state *and any individual requested to provide assistance by law enforcement or the state veterinarian* shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16. Such a veterinarian, or assisting individual is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

4. State Veterinarian. Amend RSA 436:8 to read as follows:436:8 Powers. The state veterinarian, under the direction of the commissioner, shall have all of the powers of the commissioner and shall have general charge of the enforcement of this chapter. Complaints under RSA 644:8, 644:8-a, 644:8-aa and any other law pertaining to the abuse of domestic animals, as defined under RSA 436:1, shall initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints.

*5 New Paragraph; Assessing Applications Under the Cost of Care Fund; Use for Livestock.*

*Amend RSA 437-B:1 by inserting after paragraph III the following new paragraph:*

*III-a. Applications for reimbursement for the care of livestock shall demonstrate to the commissioner that the livestock were seized properly according to statute with assurance that individuals with experience and professional knowledge in the care of the type of livestock seized*

*were consulted and that proper due process was afforded to the animal owner.*

*6 Committee Established. There is established a committee to study review RSA 644:8 and RSA 644:8-a through 644:8-g to identify elements to clarify, reorganize, and update these sections.*

*7 Membership and Compensation.*

*I. The members of the committee shall be as follows:*

*(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.*

*(b) One member of the senate, appointed by the president of the senate.*

*II. Members of the committee shall receive mileage at the legislative rate when attending to*

*the duties of the committee.*

*8 Duties. The committee shall:*

*I. Review RSA 644:8 and RSA 644:8-a through 644:8-g and address the following:*

*(a) Are these statutes consistent with current regulatory needs and practices?*

*(b) Are there overlapping, redundant, outdated, or conflicting statutes in RSA 644:8 and RSA 644:8-a through 644:8-g?*

*(c) Do any statutes need to be transferred from one chapter to another for clarity and consistency?*

*II. Work with agencies involved in the enforcement of RSA 644:8 and RSA 644:8-a through 644:8-g*

III. Identify any other issues that may be needed to fulfill the mission of this committee.

9 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this

section. Three members of the committee shall constitute a quorum.

10 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2025.

11 Effective Date.

I. Sections 1 - 5 of this act shall take effect January 1, 2026.

II. The remainder of this act shall take effect upon its passage.