

§1031. Cruelty to animals

1. Cruelty to animals. Except as provided in subsections 1-D and 1-E, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

A-1. Violates paragraph A and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Except for a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

B-1. Violates paragraph B and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. If that person is a licensed veterinarian or a person certified under section 1042, kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

C-1. Violates paragraph C and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs, including, but not limited to, a scheduled drug as defined in Title 17-A, section 1101, subsection 11, to an animal with an intent to harm or intoxicate the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime; [PL 2019, c. 237, §10 (AMD).]

D-1. Violates paragraph D and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D-2. Abandons an animal in violation of paragraph D and that animal dies as a result. Violation of this paragraph is a Class C crime; [PL 2005, c. 422, §10 (NEW).]

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

E-1. Violates paragraph E and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

F-1. Violates paragraph F and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to Title 7, chapter 202-A and Title 12, Part 13, and excluding humane trapping of animals for population control efforts or animal control under Title 7, Part 9. Violation of this paragraph is a Class D crime; [PL 2013, c. 115, §16 (AMD).]

G-1. Violates paragraph G and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition. Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

H-1. Violates paragraph H and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

I. Commits bestiality on an animal. For purposes of this paragraph, "commits bestiality" means that a person:

- (1) Engages in a sexual act with an animal for the purpose of that person's sexual gratification;
- (2) Coerces anyone to engage in a sexual act with an animal;
- (3) Engages in a sexual act with an animal in the presence of a minor;
- (4) Uses any part of the person's body or an object to sexually stimulate an animal;
- (5) Videotapes a person engaging in a sexual act with an animal; or
- (6) For the purpose of that person's sexual gratification, kills or physically abuses an animal.

For purposes of this paragraph, "sexual act" means any act between a person and an animal involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other. A sexual act may be proved without allegation or proof of penetration.

This paragraph may not be construed to prohibit normal and accepted practices of animal husbandry.

Violation of this paragraph is a Class D crime; [PL 2003, c. 452, Pt. I, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

I. **(REALLOCATED TO T. 17, §1031, sub-§1, ¶J)** [RR 2001, c. 1, §20 (RAL); PL 2001, c. 425, §7 (NEW).]

I-1. Violates paragraph I and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; [PL 2003, c. 452, Pt. I, §13 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

J. (REALLOCATED FROM T. 17, §1031, sub-§1, ¶I) Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal. Violation of this paragraph is a Class D crime; [PL 2007, c. 702, §45 (AMD).]

J-1. Violates paragraph J and, at the time of the offense, has 2 or more prior convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime; or [PL 2007, c. 702, §46 (AMD).]

K. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. Violation of this paragraph is a Class D crime. [PL 2007, c. 702, §47 (NEW).]

[PL 2019, c. 237, §10 (AMD).]

1-A. Animal cruelty.

[PL 2003, c. 452, Pt. I, §14 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

1-B. Aggravated cruelty to animals. A person is guilty of aggravated cruelty to animals if that person, in a manner manifesting a depraved indifference to animal life or suffering, intentionally, knowingly or recklessly:

A. Causes extreme physical pain to an animal; [PL 2001, c. 425, §8 (NEW).]

B. Causes the death of an animal; or [PL 2003, c. 405, §24 (AMD).]

C. Physically tortures an animal. [PL 2001, c. 425, §8 (NEW).]

Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, sections 1704 and 1705, the court shall impose a fine of not less than \$1,000 and not more than \$10,000 for a first or subsequent violation of this subsection. The sentencing provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to animals.

[PL 2019, c. 113, Pt. C, §55 (AMD).]

1-C. Cat or dog; exceptions. Except as provided in subsections 1-D and 1-E, a person is guilty of cruelty to animals if that person intentionally, knowingly or recklessly:

A. Kills or attempts to kill a cat or dog. Violation of this paragraph is a Class D crime; or [PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Violates paragraph A and, at the time of the offense, has 2 or more convictions for violations of this section, section 1032 or essentially similar crimes in other jurisdictions. Violation of this paragraph is a Class C crime. [PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

1-D. Licensed veterinarian. A licensed veterinarian or a person certified under section 1042 may kill a cat or dog according to the methods of euthanasia under subchapter 4.

[PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

1-E. Owner or owner's agent. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting it with a firearm if the following conditions are met:

A. The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot; [PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Death is instantaneous; [PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Maximum precaution is taken to protect the general public, employees and other animals; and [PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. Any restraint of the cat or dog during the shooting does not cause undue suffering. [PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. I, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Affirmative defense. It is an affirmative defense to prosecution under this section that:

A. The defendant's conduct conformed to accepted veterinary practice or was a part of scientific research governed by accepted standards; [PL 1987, c. 383, §4 (NEW).]

B. The defendant's conduct or that of the defendant's agent was designed to control or eliminate rodents, ants or other common pests on the defendant's own property; [PL 2007, c. 702, §48 (AMD).]

C. The defendant's conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or [PL 2007, c. 702, §48 (AMD).]

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the Department of Agriculture, Conservation and Forestry. [PL 2007, c. 702, §48 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

Evidence of proper care of any animal is not admissible in the defense of alleged cruelty to other animals.

[PL 2007, c. 702, §48 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

3. Penalty for cruelty to animals.

[PL 2003, c. 452, Pt. I, §18 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

3-A. Penalty for aggravated cruelty to animals.

[PL 2003, c. 452, Pt. I, §19 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

3-B. Penalties. The following apply to violations of this section.

A. In addition to any other penalty authorized by law, the court shall impose a fine of not less than \$500 for each violation of this section. The court may order the defendant to pay the costs of the care, housing and veterinary medical treatment for the animal including the costs of relocating the animal. [PL 2009, c. 573, §2 (AMD).]

B. [PL 2019, c. 99, §1 (RP).]

C. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence under this subsection. [PL 2019, c. 99, §2 (AMD).]

D. The court, as part of the sentence for a violation of this section:

(1) May prohibit a defendant convicted of a Class D crime under this section from owning, possessing or having on the defendant's premises an animal for a period of time that the court determines to be reasonable, up to and including permanent relinquishment;

(2) Shall prohibit a defendant convicted of a Class C crime under this section from owning, possessing or having on the defendant's premises an animal for a period of at least 5 years, up to and including permanent relinquishment;

(3) May impose any other reasonable restrictions on a defendant's future ownership or custody of an animal as determined by the court to be necessary for the protection of animals, including but not limited to reasonable restrictions on future ownership, possession or custody and

prohibiting the person from employment that involves the care of animals or any other contact with animals; and

(4) May order as a condition of probation that probationer be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined to be appropriate by the court, receive psychiatric or psychological counseling at the defendant's expense.

Upon motion by the defendant and upon completion of conditions specified in an order entered under this paragraph, the court may reduce or modify restrictions or conditions imposed under this paragraph. [PL 2019, c. 99, §3 (NEW).]

E. Intentional or knowing violation of a court order issued under paragraph D is a Class D crime. An animal owned or possessed by the defendant or on the defendant's premises in violation of a court order under paragraph D is subject to immediate forfeiture as ordered by the court. [PL 2019, c. 99, §3 (NEW).]

F. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having on the probationer's premises an animal is subject to revocation of probation and removal of the animal at the probationer's expense if this condition is intentionally or knowingly violated. [PL 2019, c. 99, §3 (NEW).]

[PL 2019, c. 99, §§1-3 (AMD).]

3-C. Separate advocate. In any proceeding brought under this section, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice. A decision of the court denying a request to appoint a separate advocate to represent the interests of justice is not subject to appeal. An advocate appointed under this subsection must be appointed from a list provided to the court by the Maine State Bar Association pursuant to paragraph B.

A. The advocate may:

- (1) Monitor the proceeding;
- (2) Consult any individual with information that could aid the judge or fact finder and review records relating to the condition of the animal and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and law enforcement officers;
- (3) Attend hearings; and
- (4) Present information or recommendations to the court pertinent to determinations that relate to the interests of justice, as long as the information and recommendations are based solely on the duties undertaken pursuant to this subsection. [PL 2019, c. 547, §2 (NEW).]

B. The Maine State Bar Association shall maintain a list of attorneys with knowledge of animal issues and the legal system and a list of law schools that have students with an interest in animal issues and the legal system. Attorneys and law students serve on a voluntary basis as advocates under this subsection. [PL 2019, c. 547, §2 (NEW).]

[PL 2019, c. 547, §2 (NEW).]

4. Criminal or civil prosecution. A person may be arrested or detained for the crime of cruelty to animals in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State shall elect to charge a defendant with the crime of cruelty to animals under this section or the civil violation of cruelty to animals under Title 7, section 4011. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this

subsection are not subject to judicial review. The factors involved in such election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under this subsection or adjudication under Title 7, section 4011.

[PL 1999, c. 481, §1 (AMD).]

5. Exception. This section may not be construed to prohibit the shooting of wild game in its wild state. This section may not be construed to prohibit the disposal of farm animals using an acceptable animal husbandry practice.

[PL 2001, c. 425, §11 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §4 (NEW). PL 1989, c. 195 (AMD). PL 1993, c. 81, §2 (AMD). PL 1995, c. 490, §§25,26 (AMD). PL 1997, c. 456, §§13-16 (AMD). PL 1997, c. 690, §§69,70 (AMD). PL 1999, c. 254, §§19-21 (AMD). PL 1999, c. 481, §1 (AMD). PL 1999, c. 765, §11 (AMD). RR 2001, c. 1, §§18-20 (COR). PL 2001, c. 414, §§1-3 (AMD). PL 2001, c. 425, §§5-11 (AMD). PL 2001, c. 617, §11 (AMD). PL 2003, c. 405, §24 (AMD). PL 2003, c. 414, §§B30,31 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 452, §§13-20 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 614, §9 (AFF). PL 2005, c. 281, §8 (AMD). PL 2005, c. 397, §F1 (AMD). PL 2005, c. 422, §10 (AMD). PL 2007, c. 439, §37 (AMD). PL 2007, c. 702, §§45-48 (AMD). PL 2009, c. 573, §2 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 115, §16 (AMD). PL 2019, c. 99, §§1-3 (AMD). PL 2019, c. 113, Pt. C, §55 (AMD). PL 2019, c. 237, §10 (AMD). PL 2019, c. 547, §2 (AMD).

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