

1 AN ACT relating to animals.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in this section and Sections 2 to 6 of this Act:*

6 *(1) "Animal control officer" has the same meaning as in KRS 258.095;*

7 *(2) "Cost of care" means any reasonable expense incurred in the seizure, care,*
8 *keeping, treatment, or disposal of any animal, including but not limited to*
9 *transportation, food, medicine, boarding, shelter, farrier costs, veterinary care, or*
10 *other reasonable costs;*

11 *(3) "Extreme neglect" means failure, as an owner or person otherwise charged with*
12 *the care of a dog or cat, to provide adequate food, water, space, shelter, or*
13 *veterinary care that results in serious physical injury or death to a dog or cat;*

14 *(4) "Owner" or "keeper" means every person having a right of property in the*
15 *animal;*

16 *(5) "Petitioner" means the law enforcement agency or animal control agency that*
17 *seizes an animal and files a petition for forfeiture under Section 4 of this Act;*
18 *and*

19 *(6) "Torture" means an action taken for the primary purpose of inflicting physical*
20 *pain.*

21 ➔SECTION 2. KRS 525.135 IS REPEALED AND REENACTED TO READ AS
22 FOLLOWS:

23 *(1) A person is guilty of animal abuse in the first degree when, except as otherwise*
24 *authorized by law, the person:*

25 *(a) Intentionally, knowingly, wantonly, or recklessly causes serious physical*
26 *injury or death to a dog or cat;*

27 *(b) Intentionally or knowingly tortures a dog or cat; or*

1 (c) Intentionally, knowingly, or recklessly subjects a dog or cat to extreme
2 neglect.

3 (2) Animal abuse in the first degree is a Class D felony.

4 (3) In addition to any other punishment, the court may order that a person convicted
5 of animal abuse in the first degree shall not be released on probation, shock
6 probation, conditional discharge, or parole until he or she has served at least fifty
7 percent (50%) of the sentence imposed if the defendant:

8 (a) Has previously been convicted of any offense under this section, Sections 3,
9 7, 8, and 9 of this Act, or the equivalent laws of another jurisdiction;

10 (b) Committed the animal abuse as part of an incident of domestic violence and
11 abuse under KRS Chapter 403 or dating violence and abuse under KRS
12 Chapter 456; or

13 (c) Knowingly committed the animal abuse in the immediate presence of a
14 minor child. For purposes of this paragraph, a minor child is in the
15 immediate presence of animal abuse if the abuse is directly seen or heard by
16 the minor child.

17 (4) Each act of torture, abuse, or extreme neglect of a dog or cat under this section
18 shall constitute a separate offense.

19 (5) Nothing in this section shall apply to the killing or injuring of a dog or cat as part
20 of:

21 (a) Normal and accepted veterinary practices performed by a licensed
22 veterinarian;

23 (b) Bona fide animal research activities of institutions of higher education, or a
24 business entity registered with the United States Department of Agriculture
25 under the Animal Welfare Act or subject to other federal laws governing
26 animal research;

27 (c) The training or engaging of a dog to accomplish a task or participate in an

1 activity or exhibition carried out in accordance with recognized practices
 2 and in a manner which does not adversely affect the health or safety of the
 3 dog; or

4 (d) The reasonable defense of self, another person, or a domestic animal
 5 against an aggressive or diseased dog or cat.

6 (6) Nothing in Sections 1 to 6 and Sections 7, 8, and 9 of this Act shall be interpreted
 7 to permit training a dog to fight for pleasure or profit.

8 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
 9 READ AS FOLLOWS:

10 (1) A person is guilty of animal abuse in the second degree when, except as otherwise
 11 authorized by law, the person intentionally, knowingly, or recklessly causes
 12 physical injury to a dog or cat.

13 (2) Animal abuse in the second degree is a Class A misdemeanor unless the
 14 defendant:

15 (a) Has previously been convicted of any offense under this section, Sections 2,
 16 7, 8, or 9 of this Act, KRS 525.200, 525.205, or the equivalent laws of
 17 another jurisdiction;

18 (b) Commits animal abuse as part of an incident of domestic violence and
 19 abuse under KRS Chapter 403 or dating violence and abuse under KRS
 20 Chapter 456; or

21 (c) Knowingly commits the animal abuse in the immediate presence of a minor
 22 child. For purposes of this paragraph, a minor child is in the immediate
 23 presence of animal abuse if the abuse is directly seen or heard by the minor
 24 child;

25 in which case it is a Class D felony.

26 (3) Each act of abuse of a dog or cat under this section shall constitute a separate
 27 offense.

1 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) A peace officer, animal control officer, or law enforcement officer who has
4 probable cause to believe there has been a violation of Sections 1 to 6 and
5 Sections 7, 8, and 9 of this Act may seize and take custody of the animal involved.

6 (2) If any animal is seized under this section, the owner or keeper of the animal shall
7 be liable for the cost of care of the animal.

8 (3) (a) If any animal is in the custody of a law enforcement agency or animal
9 control agency pursuant to this section, the law enforcement agency or
10 animal control agency may, pending the outcome of a criminal action
11 charging a violation identified in subsection (1) of this section, and prior to
12 the final disposition of such criminal charge, file a petition in the criminal
13 case requesting that the court issue an order forfeiting the animal to the law
14 enforcement agency or animal control agency; and

15 (b) The petitioner shall serve a true copy of the petition upon the defendant. If
16 the defendant is not able to be served notice after reasonable effort, the
17 petition shall be conspicuously posted by the petitioner at the premises
18 where the animal was seized.

19 (4) After filing of the petition, the court shall set a hearing date within fourteen (14)
20 calendar days unless both parties agree otherwise. The owner or keeper of the
21 seized animal shall be permitted to hire a licensed veterinarian of his or her
22 choosing to examine the animal at a time and place agreed to by the petitioner.

23 (5) (a) At the hearing, the petitioner shall have the burden of establishing probable
24 cause to believe that the animal was subjected to a violation identified in
25 subsection (1) of this section. A prior finding of probable cause by a judge
26 shall create a rebuttable presumption that probable cause exists for the
27 forfeiture proceeding.

1 (b) If the court finds that probable cause exists, the court shall order the
2 immediate forfeiture of the animal to the petitioner, unless the defendant,
3 within seventy-two (72) hours after the hearing, posts a security deposit or
4 bond with the treasurer or chief financial officer of the city or the county
5 treasurer, in an amount determined by the court to be sufficient to repay all
6 reasonable costs incurred, and all reasonable costs anticipated to be
7 incurred, for the care of the animal for at least thirty (30) days inclusive of
8 the day of the initial seizure.

9 (c) If the court finds probable cause does not exist, the animal shall be returned
10 to the defendant and the defendant shall not be responsible for any costs of
11 the seizure, care, or treatment, unless the defendant is later found guilty or
12 pleads guilty in the criminal case.

13 (6) (a) At the end of the thirty (30) days for which expenses are covered by the
14 security deposit or bond, if the defendant desires to prevent disposition of
15 the animal, the defendant shall post a new security deposit or bond with the
16 treasurer or chief financial officer of the city or the county treasurer, which
17 must be received by the expiration of the date of the previous security
18 deposit or bond. The court may correct, alter, or otherwise adjust the new
19 security deposit or bond upon a motion made before the expiration date of
20 the previous security deposit or bond; except however, that no person may
21 file more than one (1) motion seeking an adjustment to the new security
22 deposit or bond.

23 (b) If a security deposit or bond has been posted in accordance with this
24 section, the petitioner may draw from that deposit or bond reasonable costs
25 for keeping and caring for the animal from the date of the seizure to the
26 date of final disposition of the animal in the criminal action.

27 (c) At the end of the time for which expenses are covered by the security deposit

1 or bond, or if no security deposit or bond has been posted in accordance
2 with this section, the animal shall be deemed abandoned, and the petitioner
3 may determine the disposition of the animal. The defendant shall be liable
4 for all unpaid reasonable costs of the care, keeping, or disposal of the
5 animal.

6 (d) Upon resolution of the criminal action, or relinquishment of the animal by
7 the owner or keeper, remaining funds deposited with the municipal or
8 county treasurer which have not and will not be expended in the care,
9 keeping, or disposal of the animal shall be remitted to the defendant.

10 (e) Upon a criminal conviction for any violation of this section, a judge, in
11 addition to any other penalty, shall in all felony convictions, and may in all
12 misdemeanor convictions:

13 1. Order forfeiture of the seized animal or other animals owned or kept
14 by the defendant;

15 2. Order restitution for reasonable unpaid cost of care of the seized
16 animal;

17 3. Prohibit the defendant from having future possession or custody of
18 any animal for a period of time the court deems reasonable and
19 appropriate; and

20 4. Impose any other reasonable restrictions on the defendant's custody,
21 control, or unsupervised access to animals as the court deems
22 necessary for the protection of animals.

23 (7) (a) A law enforcement agency or animal control agency that seizes an animal
24 pursuant to subsection (1) of this section may transfer the animal into the
25 possession of a shelter or other animal care organization for purposes of
26 providing care and shelter to the animal. If such a transfer is made, the law
27 enforcement agency or animal control agency that seized the animal shall

1 retain custody of the animal while the animal is in the possession of a
2 shelter or animal care organization.

3 (b) Any law enforcement agency, animal control agency, or designated shelter
4 or animal care organization holding an animal pursuant to this section
5 shall be immune from liability related to its care and possession of the
6 animal. Immunity shall not extend to any person or organization acting in
7 bad faith or in violation of the law.

8 (8) (a) No seized animal shall be released, adopted, or disposed of if law
9 enforcement or a prosecutor's office is holding the animal as evidence in an
10 ongoing criminal proceeding, unless otherwise agreed upon by the
11 prosecutor's office and the defendant.

12 (b) Notwithstanding any other provision of this section, if, in the written
13 determination of a licensed veterinarian, the seized animal is experiencing
14 extreme pain or suffering, or is severely injured or diseased, and is not
15 likely to recover, the law enforcement agency or animal control agency with
16 custody of the animal may have the animal euthanized.

17 (9) (a) No proceeding under this section shall be used as a basis for a continuance
18 or to delay the criminal case, nor shall proceedings in the criminal case,
19 other than dismissal, be used as a basis to delay or continue the forfeiture
20 proceeding as provided for in this section.

21 (b) Proceedings under this section are of a civil nature and governed by the
22 Kentucky Rules of Civil Procedure except as to limitations upon the
23 discovery process. All discovery requests shall be granted only under the
24 authority of the court. The court shall authorize discovery with the intent to
25 provide the necessary information relating directly to the evidence for the
26 probable cause proceeding under subsection (5) of this section. In no event
27 shall the discovery mechanisms be used to unreasonably burden the

1 opposing party. Discovery mechanisms shall not include the deposition of
2 any party, witness, or representative, the use of interrogatories, or the
3 demand to inspect any records outside of the immediate reports and
4 financial accountings for the animal in question.

5 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) A person who enters the passenger compartment of a car or truck for the purpose
8 of removing a dog or cat shall be immune from civil liability for any resulting
9 damage to the passenger car or truck if the person:

10 (a) 1. Makes a reasonable effort to locate the owner or other person
11 responsible for the dog or cat;

12 2. Contacts local law enforcement, the local fire department, local
13 animal control officers, or a 911 emergency telephone service; and

14 3. Has reason to believe, based on the circumstances at the time,
15 including but not limited to the person's observations and perceptions,
16 that the dog or cat is in immediate danger of death if not removed
17 from the passenger car or truck before emergency responders can
18 arrive;

19 (b) Uses no more force to enter the passenger car or truck and remove the dog
20 or cat than is reasonably necessary under the circumstances; and

21 (c) 1. Remains with the dog or cat in a safe location, out of the elements but
22 reasonably close to the passenger car or truck, until law enforcement,
23 firefighters, animal control officers, or other emergency responders
24 arrive; or

25 2. Reasonably determines that emergency conditions require leaving the
26 scene with the animal, and places written notice on the passenger car
27 or truck containing:

- 1 **a. The person's contact information;**
- 2 **b. The reason entry into the passenger car or truck was made;**
- 3 **c. The location of the dog or cat; and**
- 4 **d. Notice that authorities have been contacted, and specifically**
- 5 **which law enforcement agency or emergency services were**
- 6 **contacted.**

7 **(2) This section shall not limit a person's immunity from civil liability or defenses**
 8 **established under any other section of the Kentucky Revised Statutes, available at**
 9 **common law, or if the person is acting in bad faith.**

10 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
 11 READ AS FOLLOWS:

12 **The provisions of Section 4 of this Act shall apply equally to any offspring born to an**
 13 **animal held in custody in accordance with Sections 1 to 6 and Sections 7, 8, and 9 of**
 14 **this Act when that animal was pregnant at the time of seizure.**

15 ➔Section 7. KRS 525.125 is amended to read as follows:

16 (1) As used in this section:

- 17 (a) "Dog" means a domesticated canid of the genus *canis lupus familiaris*; and
- 18 (b) "Dog fight" or "dog fighting" means any event that involves a fight conducted
- 19 or to be conducted between at least two (2) dogs for purposes of sport,
- 20 wagering, or entertainment, except that the term "dog fight" or "dog fighting"
- 21 shall not be deemed to include any activity the purpose of which involves the
- 22 use of one (1) or more dogs in hunting or taking another animal.

23 (2) The following persons are guilty of cruelty to animals in the first degree:

- 24 (a) Whenever a dog is knowingly caused to dog fight for pleasure or profit:
- 25 1. The owner of the dog;
- 26 2. The owner of the property on which the fight is conducted if the owner
- 27 knows of the dog fight; and

- 1 3. Anyone who participates in the organization of the dog fight; and
- 2 (b) Any person who knowingly owns, possesses, keeps, trains, sells, or otherwise
- 3 transfers a dog for the purpose of dog fighting.
- 4 (3) Activities of dogs engaged in hunting, field trials, dog training, and other activities
- 5 authorized either by a hunting license or by the Department of Fish and Wildlife
- 6 Resources shall not constitute a violation of this section.
- 7 (4) Activities of dogs engaged in working or guarding livestock shall not constitute a
- 8 violation of this section.
- 9 (5) Cruelty to animals in the first degree is a Class D felony.
- 10 **(6) A peace officer or animal control officer who has probable cause to believe there**
- 11 **has been a violation of this section shall seize and take custody of the animal**
- 12 **involved pursuant to Section 4 of this Act.**
- 13 **(7) Upon a criminal conviction for cruelty to animals in the first degree, the court, in**
- 14 **addition to any other penalty, shall:**
- 15 **(a) Order forfeiture of any animal seized under Section 4 of this Act, including**
- 16 **other animals owned or kept by the defendant;**
- 17 **(b) Order restitution for reasonable unpaid costs of care for an animal seized**
- 18 **under Section 4 of this Act;**
- 19 **(c) Prohibit the defendant from having future possession or custody of any**
- 20 **animal for a period of time the court deems reasonable and appropriate;**
- 21 **and**
- 22 **(d) Impose any other reasonable restrictions on the defendant's custody,**
- 23 **control, or unsupervised access to animals as the court deems necessary for**
- 24 **the protection of the animals.**
- 25 ➔Section 8. KRS 525.130 is amended to read as follows:
- 26 (1) A person is guilty of cruelty to animals in the second degree when except as
- 27 authorized by law he **or she** intentionally or wantonly:

- 1 (a) Subjects any animal to or causes cruel or injurious mistreatment through
2 abuse, abandonment, participating~~[participates]~~ other than as provided in
3 KRS 525.125 in causing it to fight for pleasure or profit (including, but not
4 limited to being a spectator or vendor at an event where a four (4) legged
5 animal is caused to fight for pleasure or profit), mutilation, beating, torturing
6 any animal other than a dog or cat, tormenting, failing to provide adequate
7 food, drink, space, or health care, or by any other means;
- 8 (b) Subjects any animal in his custody to cruel neglect; or
- 9 (c) Kills any animal other than a dog or cat~~[domestic animal killed]~~ by poisoning.
10 ~~[This paragraph shall not apply to intentional poisoning of a dog or cat.~~
11 ~~Intentional poisoning of a dog or cat shall constitute a violation of this~~
12 ~~section.]~~
- 13 (2) Nothing in this section shall apply to the killing of animals:
- 14 (a) Pursuant to a license to hunt, fish, or trap;
- 15 (b) Incident to the processing as food or for other commercial purposes;
- 16 (c) For humane purposes;
- 17 (d) For veterinary, agricultural, spaying or neutering, or cosmetic purposes;
- 18 (e) For purposes relating to sporting activities, including but not limited to horse
19 racing at organized races and training for organized races, organized horse
20 shows, or other animal shows;
- 21 (f) For bona fide animal research activities of institutions of higher education; or
22 a business entity registered with the United States Department of Agriculture
23 under the Animal Welfare Act or subject to other federal laws governing
24 animal research;
- 25 (g) In defense of self or another person against an aggressive or diseased animal;
- 26 (h) In defense of a domestic animal against an aggressive or diseased animal;
- 27 (i) For animal or pest control; or

- 1 (j) For any other purpose authorized by law.
- 2 (3) Activities of animals engaged in hunting, field trials, dog training other than
3 training a dog to fight for pleasure or profit, and other activities authorized either by
4 a hunting license or by the Department of Fish and Wildlife shall not constitute a
5 violation of this section.
- 6 (4) Cruelty to animals in the second degree is a Class A misdemeanor.
- 7 (5) If a person is convicted of or pleads guilty to an offense under subsection (1) of this
8 section arising from the person's treatment of an equine, the court may impose one
9 (1) or both of the following penalties against the person, in addition to fines and
10 imprisonment:
- 11 (a) An order that the person pay restitution for damage to the property of others
12 and for costs incurred by others, including reasonable costs, as determined by
13 agreement or by the court after a hearing, incurred in feeding, sheltering,
14 veterinary treatment, and incidental care of any equine that was the subject of
15 the offense resulting in conviction; or
- 16 (b) An order terminating or imposing conditions on the person's right to
17 possession, title, custody, or care of any equine that was the subject of the
18 offense resulting in conviction.
- 19 **(6)** If a person's ownership interest in an equine is terminated by a judicial order under
20 paragraph (b) of this subsection, the court may order the sale, conveyance, or other
21 disposition of the equine that was the subject of the offense resulting in conviction.
- 22 **(7)** **A peace officer, animal control officer, or law enforcement officer who has**
23 **probable cause to believe there has been a violation of this section may seize and**
24 **take custody of the animal involved pursuant to Section 4 of this Act.**
- 25 **(8)** **Upon a criminal conviction for cruelty to animals in the second degree, a judge,**
26 **in addition to any other penalty, may:**
- 27 **(a)** **Order forfeiture of any animal seized under Section 4 of this Act, including**

- 1 *other animals owned or kept by the defendant;*
 2 *(b) Order restitution for reasonable unpaid costs of care of any animal seized*
 3 *under Section 4 of this Act;*
 4 *(c) Prohibit the defendant from having future possession or custody of any*
 5 *animal for a period of time the court deems reasonable and appropriate;*
 6 *and*
 7 *(d) Impose any other reasonable restrictions on the defendant's custody, care,*
 8 *control, or unsupervised access to animals as the court deems necessary for*
 9 *the protection of animals.*

10 ➔Section 9. KRS 525.137 is amended to read as follows:

11 (1) As used in this section:

- 12 (a) "Animal" means any nonhuman creature; and
 13 (b) "Sexual contact" means any act committed between a person and an animal
 14 for the purpose of sexual arousal, sexual gratification, abuse, or financial gain
 15 involving:
- 16 1. Contact between the sex organs or anus of one and the mouth, sex
 17 organs, or anus of another;
 - 18 2. The insertion of any part of the animal's body into the vaginal or anal
 19 opening of the person; or
 - 20 3. The insertion of any part of the body of a person or any object into the
 21 vaginal or anal opening of an animal without a bona fide veterinary or
 22 animal husbandry purpose.

23 (2) A person is guilty of sexual crimes against an animal if he or she:

- 24 (a) Engages in sexual contact with an animal;
 25 (b) Advertises, solicits, offers, or accepts the offer of an animal, or possesses,
 26 purchases, or otherwise obtains an animal, with the intent that the animal be
 27 subject to sexual contact; or

1 (c) Causes, aids, or abets another person to engage in sexual contact with an
2 animal.

3 (3) Sexual crimes against an animal is a Class D felony.

4 (4) Nothing in this section shall apply to:

5 (a) Accepted veterinary practices;

6 (b) Artificial insemination of an animal for reproductive purposes;

7 (c) Accepted animal husbandry practices, including grooming, raising, breeding,
8 or assisting with the birthing process of animals or any other procedure that
9 provides care for an animal; or

10 (d) Generally accepted practices related to the judging of breed conformation.

11 (5) In addition to the penalty imposed in subsection (3) of this section, the court shall
12 order a person convicted of violating this section to:

13 (a) Relinquish custody of all animals under the person's control. If the person
14 convicted of violating this section is not the owner of the animal that was the
15 subject of the violation, then the animal shall be returned to the owner of the
16 animal. An animal returned to an owner under this section shall not be spayed
17 or neutered prior to being returned;

18 (b) Not harbor, own, possess, or exercise control over any animal, reside in any
19 household where animals are present, or work or volunteer in a place where
20 the person has unsupervised access to animals for a minimum of five (5) years
21 after completion of the imposed sentence;

22 (c) Attend an appropriate treatment program or obtain psychiatric or
23 psychological counseling, at the person's expense; and

24 (d) Reimburse the agency caring for the animal for reasonable costs incurred for
25 the care and treatment of the animal from the date of impoundment until the
26 disposition of the criminal proceeding.

27 **(6) A peace officer or animal control officer who has probable cause to believe there**

1 *has been a violation of this section shall seize and take custody of the animal*
2 *involved pursuant to Section 4 of this Act.*