

# MISSOURI CRIMINAL ANIMAL PROTECTION LAWS<sup>1</sup>

## INTRODUCTION

Missouri's animal protection statutes consist of the Consolidated Cruelty statutes, animal baiting and fighting statutes, and other offenses. The bulk of the statutes are contained within Chapter 578, Miscellaneous Offenses. Sections 578.005 through 578.050 cover animal abuse, neglect, and animal fighting offenses. Sections 578.170 through 578.179 contain additional statutes covering baiting and fighting of animals. Other statutes cover harm to service animals and bear wrestling.

This document lists the statutes followed by relevant case law from Missouri, where available. Cases from other states are also included where laws are similar. A brief overview of Missouri's sentencing guidelines can be found on the final page of this document.

## Overview of Statutory Provisions

1. **Exemptions** Mo. Rev. Stat. § 578.007
2. **Neglect and Abandonment** Mo. Rev. Stat. §578.009; 578.011
3. **Animal Abuse** Mo. Rev. Stat. §578.012; 578.013; 578.014; 578.021
4. **Dangerous Animal Provisions** Mo Rev. Stat. §578.022; 578.023; 578.024
5. **Animal Fighting Provisions** Mo. Rev. Stat. §578.025; 578.026; 578.027
6. **Miscellaneous Provisions** Mo. Rev. Stat. §578.028; 578.029; 578.030; 578.050
7. **Animal Fighting, Baiting, and Wrestling Provisions** Mo. Rev. Stat. §578.173; 578.176
8. **Service Animals** Mo. Rev. Stat. § 209.202; 209.204
9. **Missouri Consolidated Dog Laws** Mo. Rev. Stat. §273.033
10. **Seizure Provision** Mo. Rev. Stat. §578.17911. **Missouri Sentencing Guidelines** Mo. Rev. Stat. §558.011
12. **Bestiality Provision** Mo. Rev. Stat. §566.111

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## 1. Exemptions

### 578.007. Acts and facilities to which sections 578.005 to 578.023 do not apply

The provisions of sections section 574.130, 578.005 to 578.023 shall not apply to:

1. Care or treatment performed by a licensed veterinarian within the provisions of chapter 340, RSMo;
2. Bona fide scientific experiments;
3. Hunting, fishing, or trapping as allowed by chapter 252, RSMo, including all practices and privileges as allowed under the Missouri Wildlife Code;
4. Facilities and publicly funded zoological parks currently in compliance with the federal “Animal Welfare Act” as amended;
5. Rodeo practices currently accepted by the Professional Rodeo Cowboy's Association;
6. The killing of an animal by the owner<sup>2</sup> thereof, the agent of such owner, or by a veterinarian at the request of the owner thereof;
7. The lawful, humane killing<sup>3</sup> of an animal by an animal control officer, the operator of an animal shelter, a veterinarian, or law enforcement or health official;
8. With respect to farm animals<sup>4</sup>, normal or accepted practices of animal husbandry;
9. The killing of an animal by any person at any time if such animal is outside of the owned or rented property of the owner or custodian of such animal and the animal is injuring any person or farm animal but shall not include police or guard dogs while working;
10. The killing of house or garden pests<sup>5</sup>; or
11. Field trials, training and hunting practices as accepted by the Professional Houndsmen of

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<sup>2</sup> **578.005(8) “Owner”**, in addition to its ordinary meaning, any person who keeps or harbors an animal or professes to be owning, keeping, or harboring an animal;

**578.005(6) “Harbor”**, to feed or shelter an animal at the same location for three or more consecutive days;

<sup>3</sup> **578.005(7) “Humane killing”**, the destruction of an animal accomplished by a method approved by the American Veterinary Medical Association's Panel on Euthanasia (JAVMA 173: 59-72, 1978); or more recent editions, but animals killed during the feeding of pet carnivores shall be considered humanely killed;

<sup>4</sup> **578.005(5) “Farm animal”**, an animal raised on a farm or ranch and used or intended for use in farm or ranch production, or as food or fiber;

<sup>5</sup> **578.005(10) “Pests”**, birds, rabbits, or rodents which damage property or have an adverse effect on the public health, but shall not include any endangered species listed by the United States Department of the Interior nor any endangered species listed in the Wildlife Code of Missouri.

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## **Applicable Case Law**

### ***State v. Hill*, 996 S.W.2d 544 (Mo.App. W.D.,1999)**

**Facts:** A woman who stabbed six cats to death was not precluded from being charged with intentionally causing injury or suffering to an animal by this exemption.

**Holding:** The district court held that the exemption for owners killing their animals under 578.007.6 did not apply to the second element of animal abuse. That element, §578.012.1(2), applies when a person “[p]urposely or intentionally causes injury or suffering to an animal.”

## **2. Neglect and Abandonment**

### **578.009. Animal neglect or abandonment—penalties**

1. A person commits the offense of animal neglect if he or she:

- (1) Has custody or ownership of an animal and fails to provide adequate care; or
- (2) Knowingly abandons an animal in any place without making provisions for its adequate care.

2. The offense of animal neglect is a class C misdemeanor unless the person has previously been found guilty of an offense under this section, or an offense in another jurisdiction which would constitute an offense under this section, in which case it is a class B misdemeanor.

3. All fines and penalties for a first finding of guilt under this section may be waived by the court if the person found guilty of animal neglect shows that adequate, permanent remedies for the neglect have been made. Reasonable costs incurred for the care and maintenance of neglected animals may not be waived. This section shall not apply to the provisions of section 578.007 or sections 272.010 to 272.370.

4. In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect or abandonment to pay all reasonable costs and expenses necessary for:

- (1) The care and maintenance of neglected or abandoned animals within the person's custody or ownership;
- (2) The disposal of any dead or diseased animals within the person's custody or ownership;
- (3) The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and
- (4) The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

### **Applicable Case Law**

***State v. Boshers, 772 S.W.2d 9 (Mo. Ct. App. 1989):*** Willfully is an essential element of animal abuse.

***State v. Marshall, 821 S.W.2d 550 (Mo.App. E.D. 1991)***

**Facts:** The court upheld a conviction for animal neglect where his two pit bulls escaped from a pen and into a woman's backyard, attacking her and causing leg injuries.

**Holding:** Additionally, it found the statute defining "animal neglect," 578.009.1, was a strict liability crime in that it did not require criminal intent. Such statutes were found to be acceptable where:

1. they created public welfare offenses;
2. the penalties involved were small; and
3. conviction of the offense does not do great damage to offender's reputation

***State v. Choate, 976 S.W.2d 45 (App. W.D. 1998)***

**Facts:** Defendant appealed a conviction for animal neglect where his German Shepherd escaped and attacked a five-year-old boy, severely injuring him by tearing his muscle from his bone. No harm was done to the animal.

**Holding:** The court held that while the animal neglect statute's main purpose was to protect animals, the language of the statutory definition of adequate control made clear that the offense could apply where an unrestrained animal injures a human.

***State ex rel. Zobel v. Burrell, 167 S.W.3d 688 (Mo. 2005)***

**Facts:** Defendant filed a writ of mandamus challenging the authority of two Humane Societies to dispose of 120 emaciated horses seized from Zobel's property.

**Holding:** Missouri's Supreme Court held that the terms animal abuse and animal neglect were not unconstitutionally vague in that they were defined in §578.009 and §578.012, respectively. Furthermore, the terms adequate control and adequate care were defined in §578.005.

### **578.011. Animal trespass, penalty**

1. A person is guilty of animal trespass if a person having ownership or custody of an animal knowingly fails to provide adequate control for a period equal to or exceeding twelve hours.
2. Animal trespass is an infraction upon first conviction and for each offense punishable by a fine not to exceed two hundred dollars, and a class C misdemeanor punishable by imprisonment or a fine not to exceed five hundred dollars, or both, upon the second and all subsequent convictions. All fines for a first conviction of animal trespass may be waived by the court provided that the person found guilty of animal trespass shows that adequate, permanent remedies for trespass

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have been made. Reasonable costs incurred for the care and maintenance of trespassing animals may not be waived. This section shall not apply to the provisions of section 578.007 or sections 272.010 to 272.370.

### **No Applicable Case Law**

## **3. Animal Abuse**

### **578.012. Animal abuse--penalties**

1. A person commits the offense of animal abuse if he or she:
  - (1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030;
  - (2) Purposely or intentionally causes injury or suffering to an animal; or
  - (3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.<sup>6</sup>
2. Animal abuse is a class A misdemeanor, unless the defendant has previously been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation consciously inflicted while the animal was alive, in which case it is a class E felony.

### **Applicable Case Law**

#### ***State v. Hirsch* 260 S.W. 557 (Mo. Ct. App. 1924)**

**Facts:** Defendant had a number of ponies and horses that did not have feed available in the area where the animals were fenced in.

**Holding:** Intent can be inferred from impounding animals without food.

#### ***State v. Brookshire* 355 S.W. 2d 333 (Mo. Ct. App. 1962)**

**Facts:** Many of Defendant's cattle were dying. Defendant told the veterinarian that he had very little feed for the cattle. There was evidence that the cattle were completely fenced in. Defendant had the money to buy more feed.

**Holding:** Criminal intent is an essential element of the offense of cruelty to animals. Criminal intent could be inferred from Defendant's act of intentionally impounding and confining animals,

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<sup>6</sup> See footnotes supra for definitions of the terms adequate care and adequate control.

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and failing to supply them with sufficient food.

***State v. Mitts*, 608 S.W.2d 131 (Mo. Ct. App. 1980) (considering Mo. Rev. Stat. § 578.060):**

Holding that the state need not allege that defendants had a malevolent purpose to starve their animals and was not required to show criminal intent. Criminal intent may be inferred from the acts taken against animals.

***State v. Price*, 772 S.W.2d 9 (Mo. Ct. App. 1989)**

**Facts:** Here a woman was convicted of animal abuse under §578.012 for failing to adequately care for approximately eighty cats.

**Holding:** The court reversed and remanded a conviction for animal abuse where the prosecution omitted the word “willfully” in the information. At this time, §578.012.1(3) used the term “willfully” rather than “knowingly.” The court raised this issue *sua sponte* because neither party had raised it.

***State v. Marshall* 821 S.W. 2d 550 (Mo. Ct. App. 1991)**

**Facts:** Defendant owned two pit bulls. The dogs ended up in someone else’s backyard. The dogs attacked the woman, the rabies control officer, and the woman’s son.

**Holding:** The term “willfully” is an essential element of offense of animal abuse. Criminal intent doesn’t have to be shown in order to sustain a conviction for animal neglect.

***State v. Stout*, 958 S.W.2d 32 (Mo. Ct. App. 1997)**

**Facts:** The defendant tied his dog to the bumper of his truck and dragged at 20-25 miles per hour. The Court held that evidence that defendant's actions resulted in the removal of the tough skin of dog's paws and corporal pads was sufficient to show that dog's suffering and injuries were the result of mutilation.

**Holding:** The Court determined that mutilation would exist where “any severe injury that results in the cutting off or removal of an essential part of a person or thing and impairs its completeness, beauty, or function.” The injury did not have to be permanent.

***State v. Hill* 996 S.W. 2d 544 (Mo. Ct. App. 1999)**

**Facts:** Defendant stabbed a pregnant cat out of rage. Defendant then decided to slice the cat open from throat to groin. The cat’s five kittens were also stabbed.

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**Holding:** Statutes that exempt animal owners from criminal prosecution for killing their own animals do not preclude owners from being charged with purposely or intentionally injuring or causing suffering to an animal.

***State v. Roberts*, 8 S.W.3d 124 (Mo. Ct. App. 1999.)**

**Facts:** The defendant had beaten his dog, breaking ribs, severing arteries, and causing significant internal damage.

**Holding:** The Court held that internal injuries could constitute mutilation where ribs are broken so badly that they no longer function to protect internal organs and cause additional internal damage. The court also found that beating the dog for at least an hour constituted torture.

***State v. Blom*, 45 S.W.3d 519 (Mo. Ct. App. 2001):** Defendant was properly convicted of animal abuse where they (ten to fifteen times) failed to properly and regularly maintain a fence and allowed their cattle to escape.

***State v. Berry*, 92 S.W.3d 823 (Mo. Ct. App. 2003):** Defendants' animal abuse conviction were reversed. Police improperly entered without a warrant and without exigent circumstances into a fenced area behind defendants' residence in order to obtain information about possible animal abuse.

***State v. Fackrell*, 277 S.W. 3d 859 (Mo. Ct. App. 2009)**

**Facts:** Defendant noticed that her dog was losing weight and hair. Two months later, Defendant told her estranged husband that the dog was really sick and needed to be put down but she could not afford to take her to the vet because she could not afford a veterinarian bill. The estranged husband took the dog to the veterinarian. The veterinarian said that the dog had mange that took at least a month or two to develop. The dog was put to sleep.

**Holding:** Evidence that defendant knowingly failed to provide adequate care although she indicated that she did not have the money to take the dog to the veterinarian and that she knew that her dog was sick is enough to support a conviction for animal abuse.

***State v. Hammond*, 569 S.W.3d 21 (Mo. Ct. App. 2018):** The "right to farm" amendment includes no language suggesting Missouri voters intended to nullify or limit longstanding laws criminalizing animal cruelty or abuse. **578.013. Recordings of farm animals alleged to be abused or neglected, submission to law enforcement required — violation, penalty**

1. Whenever any farm animal professional videotapes or otherwise makes a digital recording of what he or she believes to depict a farm animal subjected to abuse or neglect under sections 578.009 or 578.012, such farm animal professional shall have a duty to submit such videotape or digital recording to a law enforcement agency within twenty-four hours of the recording.

2. No videotape or digital recording submitted under subsection 1 of this section shall be spliced, edited, or manipulated in any way prior to its submission.

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3. An intentional violation of any provision of this section is a class A misdemeanor.

**No Applicable Case Law**

#### **578.014. Responsibility of parent or guardian of minor owning**

The parent or guardian of a minor child is responsible for the adequate care of any animal owned by, in the control of, or harbored by that minor child.

**No Applicable Case Law**

#### **578.021. Neglected or abused animal not to be returned to owner or custodian, when**

If a person is found guilty of the offense of animal neglect or animal abuse and the court having jurisdiction is satisfied that an animal owned or controlled by such person would in the future be subject to such neglect or abuse, such animal shall not be returned to or allowed to remain with such person, but its disposition shall be determined by the court.

**No Applicable Case Law**

### **4. Dangerous Animal Provisions**

#### **578.022. Dog biting in course of official law enforcement duties**

Any dog that is owned, or the service of which is employed, by a law enforcement agency and that bites another animal or human in the course of their official duties is exempt from the provisions of sections 273.033 and 273.036, , and section 578.024.

**No Applicable Case Law**

#### **578.023. Keeper of dangerous wild animals must register animals, exceptions--penalty**

1. No person may keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, bear, nonhuman primate, coyote, any deadly, dangerous, or poisonous reptile, or any deadly or dangerous reptile over eight feet long, in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless such person has registered such animals with the local law enforcement agency in the county in which the animal is kept.
2. Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

**No Applicable Case Law**



### **578.024. 2017 — Keeping a dangerous dog — penalties**

1. A person commits the offense of keeping a dangerous dog if he or she owns or possesses a dog that has previously bitten a person or a domestic animal without provocation and that dog bites any person on a subsequent occasion.

2. The offense of keeping a dangerous dog is a class B misdemeanor, unless such attack:

(1) Results in serious injury to any person, in which case, it is a class A misdemeanor; or

(2) Results in serious injury to any person and any previous attack also resulted in serious injury to any person, in which case, it is a class E felony; or

(3) Results in the death of any person, in which case, it is a class D felony.

3. In addition to the penalty included in subsection 2 of this section, if any dog that has previously bitten a person or a domestic animal without provocation bites any person on a subsequent occasion or if a dog that has not previously bitten a person attacks and causes serious injury to or the death of any human, the dog shall be seized immediately by an animal control authority or by the county sheriff. The dog shall be impounded and held for ten business days after the owner or possessor is given written notification and thereafter destroyed.

4. The owner or possessor of the dog that has been impounded may file a written appeal to the circuit court to contest the impoundment and destruction of such dog. The owner or possessor shall provide notice of the filing of the appeal to the animal control authority or county sheriff who seized the dog. If the owner or possessor files such an appeal and provides proper notice, the dog shall remain impounded and shall not be destroyed while such appeal is pending and until the court issues an order for the destruction of the dog. The court shall hold a disposition hearing within thirty days of the filing of the appeal to determine whether such dog shall be humanely destroyed. The court may order the owner or possessor of the dog to pay the costs associated with the animal's keeping and care during the pending appeal.

5. Notwithstanding any provision of sections 273.033 and 273.036, section 578.022 and this section to the contrary, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner or possessor is not guilty of any

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crime specified under this section or section 273.036, and is not civilly liable under this section or section 273.036, nor shall such dog be destroyed as provided in subsection 3 of this section, nor shall such person engaged in or attempting to engage in a criminal activity at the time of the attack be entitled to the defenses set forth in section 273.033. For purposes of this section “criminal activity” shall not include the act of trespass upon private property under section 569.150 as long as the trespasser does not otherwise engage in, attempt to engage in, or have intent to engage in other criminal activity nor shall it include any trespass upon private property by a person under the age of twelve under section 569.140.

### **No Applicable Case Law**

## **5. Animal Fighting Provisions**

### **578.025. Dogfighting – Penalty**

1. A person commits the offense of dogfighting if he or she:

(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog;

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other; or

(3) Permits any act as described in subdivision (1) or (2) of this subsection to be done on any premises under his or her charge or control, or aids or abets any such act.

2. The offense of dogfighting is a class E felony.

### **No Applicable Case Law**

### **578.026. Spectating dog fighting — penalty**

1. A person commits the offense of spectating dogfighting if he or she is knowingly present, as a spectator, at any place, building, or structure where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subdivision (2) of subsection 1 of section 578.025, with the intent to be present at such exhibition, fighting, or injuring.

2. The offense of spectating dogfighting is a class A misdemeanor.

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3. Nothing in this section shall be construed to prohibit:

- (1) The use of dogs in the management of livestock by the owner of such livestock, his or her employees or agents, or other persons in lawful custody of such livestock;
- (2) The use of dogs in hunting; or
- (3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

**No Applicable Case Law**

### **578.027. Dogs pursuing live animal propelled by device, causing, penalty**

1. A person commits the offense of causing a dog to pursue a live animal propelled by a device if he or she ties or attaches or fastens any live animal to any machine or device propelled by any power for the purpose of causing such animal to be pursued by a dog or dogs.
2. The offense of causing a dog to pursue a live animal propelled by a device is a class A misdemeanor.

**No Applicable Case Law**

## **6. Miscellaneous Provisions**

### **578.028. Unlawful removal of an electronic dog collar or radio transmitting device — penalty — restitution**

1. A person commits the offense of unlawful removal of an electronic dog collar or radio transmitting device if he or she removes an electronic or radio transmitting collar from a dog without the permission of the owner of the dog with the intent to prevent or hinder the owner from locating the dog.
2. The offense of unlawful removal of an electronic dog collar or radio transmitting device is a class A misdemeanor. The court shall order any person found guilty under this section to pay as restitution the actual value of any dog lost or killed as a result of such removal. The court may also order restitution to the owner for any lost breeding revenues.

**No Applicable Case Law**

### **578.029. 2017 -- Knowingly releasing an animal – penalty**

1. A person commits the crime of knowingly releasing an animal if he or she, acting without

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the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.

2. As used in this section “animal” means every living creature, domesticated or wild, but not including Homo sapiens.
3. The provisions of this section shall not apply to a public servant acting in the course of such servant's official duties.
4. The offense of intentionally releasing an animal is a class B misdemeanor unless the defendant has previously been found guilty of a violation under this section, in which case it is a class E felony.

### **No Applicable Case Law**

#### **578.030. State highway patrol and other law enforcement officers, powers and duties to enforce animal protection**

1. The provisions of section 43.200 notwithstanding, any member of the state highway patrol or other law enforcement officer may apply for and serve a search warrant, and shall have the power of search and seizure in order to enforce the provisions of sections 578.025 to 578.050.

2. Any member of the state highway patrol or other law enforcement officer making an arrest under section 578.025 shall lawfully take possession of all dogs or other animals and all paraphernalia, implements, or other property or things used or employed, or about to be employed, in the violation of any of the provisions of section 578.025. Such officer, after taking possession of such dogs, animals, paraphernalia, implements or other property or things, shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in such complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed, or was about to be used or employed, in such violation of section 578.025. He or she shall thereupon deliver the property so taken to the court, which shall, by order in writing, place the same in the custody of an officer or other proper person named and designated in such order, to be kept by him or her until the conviction or final discharge of such person complained against, and shall send a copy of such order without delay

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to the prosecuting attorney of the county. The officer or person so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which such person so complained against may be required to appear for trial. Upon the conviction of the person so charged, all property so seized shall be adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed of as the court may order. In the event of the acquittal or final discharge without conviction of the person so charged, such court shall, on demand, direct the delivery of such property so held in custody to the owner thereof.

### **No Applicable Case Law**

#### **578.050. Bullbaiting and cockfighting--penalty**

1. A person commits the offense of bullbaiting or cockfighting if he or she:

(1) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other creature, except dogs;

(2) Encourages, aids, assists, or is present at any place kept or used for such purpose; or

(3) Permits or suffers any place belonging to him or her, or under his or her control, to be so kept or used.

2. The offense of bullbaiting or cockfighting is a class A misdemeanor.

### **Applicable Case Law:**

***State v. Young*, 695 S.W.2d 882 (Mo. 1985)**

**Facts:** Defendant was convicted for being present at a cockfight.

**Holding:** The court held that the statute was unconstitutionally vague and contravened due process. Writing that the “to be present thereat” language was vague, unclear and imprecise, the court decided that the statute failed to “provide a person of ordinary intelligence with adequate notice of the proscribed conduct.”

## 7. Animal Fighting, Baiting, and Wrestling Provisions

### 578.173. Baiting or fighting animals—penalty [Effective Jan. 1, 2017]

1. A person commits the offense of baiting or fighting animals if he or she:

- (1) Baits or fights animals;
- (2) Permits baiting or animal fighting to be done on any premises under his or her charge or control;
- (3) Promotes, conducts, or stages a baiting or fight between two or more animals;
- (4) Advertises a baiting or fight between two or more animals;
- (5) Collects any admission fee for a baiting or fight between two or more animals;
- (6) Knowingly attends the baiting or fighting of animals;
- (7) Knowingly sells, offers for sale, ships, or transports any animal which has been bred or trained to bait or fight another animal;
- (8) Owns or possesses any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock; or
- (9) Manufactures, sells, barter, or exchanges any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock.

2. The offense of baiting or fighting animals is a class E felony.

#### Applicable Case Law

#### *United Gamefowl Breeders Ass'n of Missouri v. Nixon*, 19 S.W.3d 137 (Mo. 2000)

**Facts:** Association felt that this statute harmed their business, their lifestyle, and the Association.

**Holding:** The court held that animal-fighting prohibition statute did not violate the constitutional one-subject rule. The purpose of the statute was found to be the prohibition of all kinds of animal-fighting and related issues.

*Op. Atty. Gen.* No. 81, Sherman, 6-12-56.

Encouraging dogs to attack raccoon chained to log constituted baiting violations under this section.

### 578.176. Bear wrestling—penalty

1. A person commits the offense of bear wrestling if he or she:

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- (1) Wrestles a bear;
  - (2) Permits bear wrestling to be done on any premises under his or her charge or control;
  - (3) Promotes, conducts, or stages bear wrestling;
  - (4) Advertises bear wrestling;
  - (5) Collects any admission fee for bear wrestling;
  - (6) Purchases, sells, or possesses a bear which he or she knows will be used for bear wrestling;
  - (7) Trains a bear for bear wrestling;
  - (8) Subjects a bear to surgical alteration for bear wrestling.
2. The offense of bear wrestling is a class A misdemeanor.

### **Applicable Case Law**

#### ***United Gamefowl Breeders Ass'n of Missouri v. Nixon*, 19 S.W.3d 137 (Mo. 2000)**

**Facts:** The Breeders Association of Missouri sought an injunction against animal fighting statutes §§578.170-188, arguing that it violated one-subject and clear-title requirements of the Missouri Constitution. These statutes were adopted through a voter proposition.

**Holding:** The court held that the statutes had one subject that was clearly expressed in the title, and were therefore constitutionally valid.

## **8. SERVICE ANIMALS**

### **209.202. Causing injury to or death of service dog--misdemeanor--civil damages**

1. Any person who knowingly, intentionally, or recklessly causes substantial physical injury to or the death of a service dog<sup>7</sup> is guilty of a class A misdemeanor. The provisions of

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<sup>7</sup> **MO ST 209.200 (2) “Service dog”**, a dog that is being or has been specially trained to do work or perform tasks which benefit a particular person with a disability. Service dog includes:

- (a) “Guide dog”, a dog that is being or has been specially trained to assist a particular blind or visually impaired person;

this subsection shall not apply to the destruction of a service dog for humane purposes.

2. Any person who knowingly or intentionally fails to exercise sufficient control over an animal such person owns, keeps, harbors, or exercises control over to prevent the animal from causing the substantial physical injury to or death of a service dog, or the subsequent inability to function as a service dog as a result of the animal's attacking, chasing, or harassing the service dog is guilty of a class A misdemeanor.
3. Any person who harasses or chases a dog known to such person to be a service dog is guilty of a class B misdemeanor.
4. Any person who owns, keeps, harbors, or exercises control over an animal and who knowingly or intentionally fails to exercise sufficient control over the animal to prevent such animal from chasing or harassing a service dog while such dog is carrying out the dog's function as a service dog, to the extent that the animal temporarily interferes with the service dog's ability to carry out the dog's function is guilty of a class B misdemeanor.
5. An owner of a service dog or a person with a disability<sup>8</sup> who uses a service dog may file a cause of action to recover civil damages against any person who:
  - (1) Violates the provisions of subsection 1 or 2 of this section; or
  - (2) Steals a service dog resulting in the loss of the services of the service dog.
6. Any civil damages awarded under subsection 5 of this section shall be based on the following:
  - (1) The replacement value of an equally trained service dog, without any differentiation for the age or experience of the service dog;
  - (2) The cost and expenses incurred by the owner of a service dog or the person with a disability who used the service dog, including:
    - (a) The cost of temporary replacement services, whether provided by another service dog or by a person;
    - (b) The reasonable costs incurred in efforts to recover a stolen service dog;

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(b) "Hearing dog", a dog that is being or has been specially trained to assist a particular deaf or hearing-impaired person;

(c) "Medical alert or respond dog", a dog that is being or has been trained to alert a person with a disability that a particular medical event is about to occur or to respond to a medical event that has occurred;

(d) "Mobility dog", a dog that is being or has been specially trained to assist a person with a disability caused by physical impairments.

<sup>8</sup> **MO ST 213.010 (4) "Disability"**, a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question...



and

(c) Court costs and attorney's fees incurred in bringing a civil action under subsection 5 of this section.

7. An owner of a service dog or a person with a disability who uses a service dog may file a cause of action to recover civil damages against a person who:
  - (1) Violates the provisions of subsections 1 to 4 of this section resulting in injury from which the service dog recovers to an extent that the dog is able to function as a service dog for the person with a disability; or
  - (2) Steals a service dog and the service dog is recovered resulting in the service dog being able to function as a service dog for the person with a disability.
8. Any civil damages awarded under subsection 7 of this section shall be based on the following:
  - (1) Veterinary medical expenses;
  - (2) Retraining expenses;
  - (3) The cost of temporary replacement services, whether provided by another service dog or by a person;
  - (4) Reasonable costs incurred in the recovery of the service dog; and
  - (5) Court costs and attorney's fees incurred in bringing the civil action under subsection 7 of this section.
9. The provisions of this section shall not apply if a person with a disability, an owner, or a person having custody or supervision of a service dog commits criminal or civil trespass.
10. Nothing in this section shall be construed to preclude any other remedies available at law.

**No Applicable Case Law 209.204. Crime of impersonating a person with a disability for the purpose of receiving certain accommodations, penalty, civil liability — misrepresentation of dog as service dog — misrepresentation of any animal as assistance animal**

1. Any person who knowingly impersonates a person with a disability for the purpose of receiving the accommodations regarding service dogs under the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., is guilty of a class C misdemeanor and shall also be civilly liable for the amount of any actual damages resulting from such impersonation. Any second or subsequent violation of this section is a class B misdemeanor. For purposes of this section, “impersonates a person with a disability” means a representation by word or action as a person with a disability.

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2. No person shall knowingly misrepresent a dog as a service dog for the purpose of receiving the accommodations regarding service dogs under the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq. For purposes of this section, “misrepresent a dog as a service dog” means a representation by word or action that a dog has been trained as a service dog, as defined in section 209.200. Misrepresentation of a service dog shall include, but shall not be limited to:

- (1) Knowingly creating documents that falsely represent that a dog is a service dog;
- (2) Knowingly providing to another person documents falsely stating that a dog is a service dog;
- (3) Knowingly fitting a dog, if the dog is not a service dog, with a harness, collar, vest, or sign of the type commonly used by a person with a disability to indicate a dog is a service dog; or
- (4) Knowingly representing that a dog is a service dog if the dog has not completed training to perform disability-related tasks or do disability-related work for a person with a disability.

A person who violates this subsection is guilty of a class C misdemeanor and shall also be civilly liable for any actual damages resulting from such misrepresentation. Any second or subsequent violation of this subsection is a class B misdemeanor.

3. No person shall knowingly misrepresent any animal as an assistance animal for the purpose of receiving the accommodations regarding assistance animals under the Fair Housing Act, 42 U.S.C. Section 3601, et seq., or the Rehabilitation Act, 29 U.S.C. Section 701, et seq. For the purposes of this section an “assistance animal” is an animal that works, provides assistance, or performs tasks, or is being trained to work, provide assistance, or perform tasks, for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person’s disability. While dogs are the most common type of assistance animal, other animals can and may also be assistance animals. Misrepresentation of an assistance animal includes, but is not limited to:

- (1) Knowingly creating documents that falsely represent that an animal is an assistance animal;
- (2) Knowingly providing to another person documents falsely stating that an animal is an assistance animal;

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(3) Knowingly fitting an animal, if the animal is not an assistance animal, with a harness, collar, vest, or sign of the type commonly used by a person with a disability to indicate an animal is an assistance animal; or

(4) Knowingly and intentionally misrepresenting a material fact to a health care provider for the purpose of obtaining documentation from the health care provider necessary to designate an animal as an assistance animal. All documentation for an assistance animal shall be from a qualified professional as permitted under the Fair Housing Act, 42 U.S.C. Section 3601, et seq., or the Rehabilitation Act, 29 U.S.C. Section 701, et seq.

A person who violates this subsection is guilty of a class C misdemeanor and shall also be civilly liable for any actual damages resulting from such misrepresentation. Any second or subsequent violation of this subsection is a class B misdemeanor.

4. The governor's council on disability shall prepare and make available online a placard suitable for posting in a front window or door, stating that service dogs are welcome and that misrepresentation of a service dog is a violation of Missouri law, and as well as a brochure detailing permissible questions as allowed by the Americans with Disabilities Act, a business owner may ask in order to determine whether a dog is a service dog, and guidelines defining unacceptable behavior.

5. The governor's council on disability shall prepare and make available online a brochure for landlords and tenants regarding laws relating to service dogs, assistance animals, and housing under federal and Missouri law.

#### **No Applicable Case Law**

## **9. MISSOURI CONSOLIDATED DOG LAWS**

### **273.033. Killing or injuring a dog--reasonable apprehension of imminent harmful contact**

1. In any action for damages or a criminal prosecution against any person for killing or

injuring a dog<sup>9</sup>, a showing by a preponderance of the evidence that such person was in reasonable apprehension of imminent harmful contact by the dog or was acting to prevent such imminent harmful contact against another person by the dog shall constitute an absolute defense to criminal prosecution or civil liability for the killing or injuring of such animal.

2. If a person has, on at least two occasions, complained to the county sheriff or to the appropriate animal control authority in his or her jurisdiction that a dog, not on a leash, has trespassed on property that such person owns, rents, or leases or on any property that constitutes such person's residence, and when at least one of the prior two complaints was motivated by reasonable apprehension for such person's safety or the safety of another person or apprehension of substantial damage to livestock or property, then any subsequent trespass by such dog shall constitute prima facie evidence that such person was in reasonable apprehension of imminent harmful contact. The county sheriff or animal control authority to which any complaint under this section is made shall notify the owner of the alleged trespassing dog of such complaint. Failure by a county sheriff or animal control authority to notify a dog owner under this subsection shall not invalidate or be construed in any way to limit any other provision of this subsection.
3. The court shall award attorney's fees, court costs, and all reasonable expenses incurred by the defendant in defense of any criminal prosecution or in any civil action brought by a plaintiff if the court finds that the defendant has an absolute defense as provided in subsection 1 of this section.
4. This section shall not be construed to provide an absolute defense to a person who is engaged in or attempting to engage in a criminal activity at the time of the apprehension of imminent harmful contact, or to a person for any damage or injury to any person or property other than the dog itself that may result from actions taken in an attempt to injure or kill such dog.

#### **No Applicable Case Law**

### **10. Seizure Provision**

#### **578.179. Seizure and disposition of animals**

Procedure. — Whenever an indictment is returned or a complaint is filed alleging a violation of section 578.173 or 578.176 and, in the case of a complaint, a magistrate finds probable cause that a violation has occurred, the court shall order the animals seized and shall provide for appropriate and humane care or disposition of the animals pursuant to section 578.018. This provision shall not be construed as a limitation on the power to seize animals as evidence at the time of arrest.

#### **No Applicable Case Law**

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<sup>9</sup>MO ST 273.010. **Dog** defined: The word “dog”, as used in sections 273.010 to 273.030, shall be held and construed to mean all animals of the canine species, both male and female.

## **11. Missouri Sentencing Guidelines**

Missouri's sentencing guidelines are contained in Title XXXVIII. Chapter 558 deals with matters of imprisonment. The relevant portions of the guidelines are outlined below.

### **558.002. Fines for felonies**

1. Except as otherwise provided for an offense outside this code, a person who has been convicted of an offense may be sentenced to pay a fine which does not exceed:

(1) For a class C, D, or E felony, ten thousand dollars;

(2) For a class A misdemeanor, two thousand dollars;

(3) For a class B misdemeanor, one thousand dollars;

(4) For a class C misdemeanor, seven hundred fifty dollars;

(5) For a class D misdemeanor, five hundred dollars;

(6) For an infraction, four hundred dollars; or

(7) If the person has gained money or property through the commission of the offense, to pay an amount, fixed by the court, not exceeding double the amount of the person's gain from the commission of the offense.

2. A sentence to pay a fine, when imposed on a corporation for an offense defined in this code or for any offense defined outside this code for which no specific corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, which does not exceed:

(1) For a felony, twenty thousand dollars;

(2) For a misdemeanor, ten thousand dollars;

(3) For an infraction, one thousand dollars; or

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(4) If the corporation has gained money or property through the commission of the offense, to pay an amount, fixed by the court, not exceeding double the amount of the corporation's gain from the commission of the offense.

3. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the offense. The amount of money or value of property returned to the victim of the offense or seized by or surrendered to lawful authority prior to the time sentence is imposed shall be deducted from the fine. When the court imposes a fine based on gain the court shall make a finding as to the amount of the offender's gain from the crime. If the record does not contain sufficient evidence to support such a finding, the court may conduct a hearing upon the issue.

#### **No Applicable Animal Cruelty Case Law**

#### **558.011. Sentence of imprisonment, terms--conditional release**

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

- (1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;
- (2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;
- (3) For a class C felony, a term of years not less than three years and not to exceed ten years;
- (4) For a class D felony, a term of years not to exceed seven years;
- (5) For a class E felony, a term of years not to exceed four years;
- (6) For a class A misdemeanor, a term not to exceed one year;
- (7) For a class B misdemeanor, a term not to exceed six months;
- (8) For a class C misdemeanor, a term not to exceed fifteen days.

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2. In cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class D or E felony, it shall commit the person to the custody of the department of corrections.

3.

(1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4.

(1) Except as otherwise provided, a sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036 shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of

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probation and parole. The conditions of release shall include avoidance by the offender of any other offense, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

## **No Applicable Animal Cruelty Case Law**

### **11. Bestiality Provision**

#### **566.111. Unlawful sex with an animal, crime, penalty**

1. A person commits the offense of sex with an animal if he or she engages in sexual conduct with an animal.
2. The offense of sex with an animal is a class A misdemeanor unless the person has previously been found guilty of an offense under this section or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this section, in which case the offense is a class E felony.
3. In addition to any penalty imposed or as a condition of probation the court may:



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(1) Prohibit the offender from harboring animals or residing in any household where animals are present during the period of probation; or

(2) Order all animals in the offender's possession subject to a civil forfeiture action under chapter 513; or

(3) Order psychological evaluation and counseling of the offender at the offender's expense.

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

5. For purposes of this section, the following terms mean:

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

**No Applicable Case Law**