

VIRGINIA ANIMAL CRUELTY LAWS

Introduction

In Virginia, criminal animal protection laws are contained primarily within Title 3.2, the Comprehensive Animal Care laws, which include the state's anti-cruelty and animal fighting provisions. However, there are also other laws related to animal cruelty defined elsewhere within the Code of Virginia. This document lists each animal protection law currently in place and the procedural sections of each law with which officers must comply when enforcing a provision of that law. When available, relevant case law from Virginia follows each law. This summary begins with the basic cruelty to animal statute and moves on to the neglect of companion animals, followed by relative statutes involving abandonment, animal fighting, and sexual assault. The remaining portion of the summary details penalties, punishments, and enforcement.

Overview of Statutory Provisions and Case Law

1. Cruelty to animals: VA. CODE ANN. § 3.2-6570
2. Companion animal neglect: VA. CODE ANN. § 3.2-6503
3. Abandonment: VA. CODE ANN. § 3.2-6504
4. Malicious injury, killing, or poisoning animals owned by another: VA. CODE ANN. § 18.2-144
5. Animal Fighting: VA. CODE ANN. § 3.2-6571
6. Sexual assault: VA. CODE ANN. § 18.2-361
7. Penalties, Punishment, and Enforcement: VA. CODE ANN. §§ 18.2-403, 18.2-10, 18.2-11
8. Seizure of Animals: VA. CODE ANN. §§ 3.1-796.115, 3.2-6569,
9. Reporting Animal Cruelty: VA. CODE ANN. § 3.2-6564-6468

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1. CRUELTY TO ANIMALS

VA. CODE ANN. § 3.2-6570 (2024). Cruelty to animals; penalty

A. Any person who: (i) overrides, overdrives, overloads, ill-treats, or abandons any animal, whether belonging to himself or another; (ii) tortures any animal, willfully inflicts inhumane² injury or pain not connected with bona fide scientific or medical experimentation on any animal, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal,³ whether belonging to himself or another; (iii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment;⁴ (iv) sores⁵ any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (v) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (vi) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (vii) carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (viii) causes any of the above things, or being the owner⁶ of such animal permits such acts to be done by another is guilty of a Class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

² "Humane" means any action taken in consideration of and with the intent to provide for the animal's health and well-being." VA. CODE ANN. § 3.2-6500 (2022).

³ "Animal" means any nonhuman vertebrate species except fish . . . For the purposes of § 3.2-6570, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner." VA. CODE ANN. § 3.2-6500 (2022).

⁴ "Emergency veterinary treatment" means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression." VA. CODE ANN. § 3.2-6500 (2022).

⁵ "Sore" means, when referring to an equine, that an irritating or blistering agent has been applied, internally or externally, by a person to any limb or foot of an equine; any burn, cut, or laceration that has been inflicted by a person to any limb or foot of an equine; any tack, nail, screw, or chemical agent that has been injected by a person into or used by a person on any limb or foot of an equine; any other substance or device that has been used by a person on any limb or foot of an equine; or a person has engaged in a practice involving an equine, and as a result of such application, infliction, injection, use, or practice, such equine suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of an equine by or under the supervision of a licensed veterinarian.

Notwithstanding anything contained herein to the contrary, nothing shall preclude the shoeing, use of pads, and use of action devices as permitted by 9 C.F.R. Part 11.2." VA. CODE ANN. § 3.2-6500 (2022).

⁶ "Owner" means any person who: (i) has a right of property in an animal; (ii) keeps or harbors an animal; (iii) has an animal in his care; or (iv) acts as a custodian of an animal." VA. CODE ANN. § 3.2-6500 (2022)

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care; (iv) maliciously deprives any companion animal⁷ of necessary food, drink, shelter or emergency veterinary treatment; (v) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or (vi) causes any of the actions described in clauses (i) through (v), or being the owner of such animal permits such acts to be done by another; and has been within five years convicted of a violation of this subsection or subsection A, is guilty of a Class 6 felony if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Title 29.1, or to farming activities as provided under this title or regulations adopted hereunder.

E. It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes serious bodily injury to such dog or cat that is a companion animal, the death of such dog or cat that is a companion animal, or the euthanasia of such animal on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, is guilty of a Class 6 felony. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at

⁷ "'Companion animal' means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. No agricultural animals or game species, or animal actively involved in bona fide scientific or medical experimentation shall be considered a companion animal for the purposes of this chapter." VA. CODE ANN. § 3.2-6500 (2024).

the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary

and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not overrule § 3.2-6540, 3.2-6540.1 or 3.2-6552.

For the purposes of this subsection, “serious bodily injury” means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

G. Any person convicted of a violation of this section that is punishable as a felony may be prohibited by the court from possession or ownership of companion or equine animals for life, and any person convicted of a violation of this section that is punishable as a misdemeanor may be prohibited by the court from possession or ownership of such animals for a period of up to five years. In addition, a violation of any prohibition or restriction imposed by the sentencing court pursuant to this subsection is a Class 1 misdemeanor, and all animals under the court’s order may be seized and forfeited. The court may order that any animal possessed or owned by such person may be disposed of by a local governing body pursuant to subsection D of § 3.2-6546 or delivered to another person with a right of property in the animal.

H. Any person who has his rights to possession or ownership of companion or equine animals prohibited pursuant to a felony conviction in accordance with subsection G may petition the court where such conviction occurred for a restoration of his rights after five years from the date of conviction.

Applicable Case Law:

***Evans v. Commonwealth*, No. 0809-23-3, 2024 WL 3657053 (Va. Ct. App. Aug. 6, 2024).**

Facts: The incident occurred on April 3, 2022, when Lynchburg Police Officers Reed and Williams responded to a disorderly conduct call. Officer Reed, accompanied by his police dog Knox, approached Evans's residence. Evans, appearing agitated, repeatedly told the officers to leave, using profane language, but did not physically threaten them. Officer Reed decided to arrest Evans for disorderly conduct, believing Evans was under the influence of narcotics. When Evans retreated into his home, Officer Reed, with Knox, forced entry, leading to a confrontation where Knox bit Evans, and Evans struck Knox. Evans was eventually subdued and arrested. The trial court found Evans guilty of the charges and sentenced him to 14 months of active incarceration.

Holding: On appeal, Evans argued that the trial court erred in denying his motion to strike the charges due to insufficient evidence. The Court of Appeals analyzed each charge separately:

1. **Disorderly Conduct:** The court found that Evans's actions did not have a direct tendency to cause acts of violence, as required by Code § 18.2-415(A)(1). Evans's use of profanity and demands for the officers to leave did not incite violence or breach the peace, and there was no evidence that the officers felt threatened. The court reversed the disorderly conduct conviction.
2. **Resisting Arrest:** The court determined that Evans was never within Officer Reed's immediate span of control, as required by Code § 18.2-460(E). The arrest attempt involved Officer Reed forcing entry into Evans's home, indicating that Evans did not flee or resist in a manner that met the statutory requirements. The court reversed the resisting arrest conviction.
3. **Animal Cruelty:** The court found that Evans's actions did not constitute willful infliction of inhumane injury on Knox, as required by Code § 3.2-6570(A)(ii). Evans's response to being bitten

was reflexive and not intended to harm the dog. The court noted the lack of serious injury to Knox and reversed the animal cruelty conviction.

Ultimately, the Court of Appeals reversed the trial court's judgment and dismissed all convictions against Evans.

***Glenn v. Commonwealth*, No. 1626-22-3, 2023 WL 6976682 (Va. Ct. App. Oct. 24, 2023).**

Facts: Wesley Allen Glenn was convicted of animal cruelty following a jury trial. The conviction was based on an incident that occurred on August 12, 2021, in Pittsylvania County, where Glenn shot a dog named Titus, owned by Monice Barbour and Travis Michael. Titus was a one-and-a-half-year-old Australian Shepherd-Alaskan Malamute mix. The incident was witnessed by Abbey Bogert, who lived across the street from Barbour and Michael. Bogert observed Titus and other dogs playing in the neighborhood and later saw Titus fall to the ground after hearing a gunshot, which she believed came from Glenn's front porch. Titus survived the shooting after receiving treatment.

The following day, Animal Control Officer J.L. Keatts and Sheriff's Deputy Laura Edmiston investigated the shooting. Glenn admitted to shooting Titus, claiming the dog was attacking his cat, Vada, who allegedly died from her injuries. However, no evidence of the cat's body or any struggle was found during the investigation. Glenn's son and wife did not corroborate his story about the cat.

At trial, Glenn argued that he shot Titus to protect his cat and that the evidence was insufficient to support a conviction for animal cruelty. The trial court denied his motion to strike the charge, and the jury ultimately found him guilty. Glenn was sentenced to three years' incarceration, with the sentence suspended.

Holding: On appeal, Glenn contended that the evidence was insufficient to support his conviction, arguing that the Commonwealth's evidence was in conflict. However, the Court of Appeals of Virginia affirmed the trial court's judgment, finding that the evidence was sufficient to convict Glenn of animal cruelty. The court noted that the jury had the responsibility to determine the credibility of witnesses and that the evidence supported the conclusion that Glenn shot Titus without just cause.

***Reid v. Commonwealth*, No. 0413-22-3, 2023 WL 2761582 (Va. Ct. App. Apr. 4, 2023).**

Facts: Sandra Denise Campbell Reid, the appellant, was convicted by the Circuit Court of Augusta County of felony animal cruelty under Code § 3.2-6570(F) and sentenced to two years' imprisonment, which was suspended. Reid appealed the conviction, challenging the sufficiency of the evidence to sustain her conviction.

In early spring 2019, Reid moved to an Augusta County campground with her pit bull mix, Tora. Initially, Tora appeared healthy, but over a few months, she lost weight and appeared lean. Reid's neighbor, Dawn Bridget Jones, observed Tora outside daily and never saw anyone feed her. On July 5, 2019, Tora approached Jones with a swollen hind leg, stumbling and appearing to want something. Jones provided Tora with water and observed her trying to eat nuts from the ground. Jones reported Tora's condition to Augusta County Animal Control.

Animal Control Officer Bill Hobgood found Tora under Jones's camper and took her to a veterinary clinic. Dr. Weston Mims, an expert in dog diagnosis and prognosis, examined Tora and found her to be

non-ambulatory and completely emaciated, with a heavy flea infestation, mild fever, dehydration, cardiac insufficiency, and severe leg enlargement. Dr. Mims concluded that Tora's condition had developed over months. Reid acknowledged ownership of Tora and, after consulting with Dr. Mims, decided to have Tora euthanized due to her poor prognosis.

Reid testified that she had taken responsibility for Tora after her mother's death, feeding her twice a day and taking her for walks. She noticed Tora's lack of appetite in late April 2019 and switched to canned food. Despite eating four large cans of food daily, Tora did not gain weight. Reid claimed she applied ice and heat to Tora's leg and administered Tylenol when she noticed swelling. She stated that she and her boyfriend considered euthanasia the night before Tora was seized and had attempted to schedule a veterinary appointment. Reid maintained that she provided food and water for Tora and kept her inside an air-conditioned camper. Dr. Mims rebutted Reid's claims, stating it was unusual for a dog to be emaciated while eating four cans of food daily. He suggested that Tora's condition could be due to not eating or not absorbing nutrients.

Holding: The court found Reid's testimony not credible, given the evidence of Tora's condition. The court concluded that Reid's failure to seek veterinary care, despite knowing Tora's deteriorating condition, demonstrated reckless disregard for the dog's well-being. The court found sufficient circumstantial evidence to support the conviction, determining that Reid willfully inflicted inhumane injury and pain on Tora, causing serious bodily injury. The court affirmed Reid's conviction for felony animal cruelty.

***Huffman v. Commonwealth*, No. 0797-21-3, 2022 WL 2308273 (Va. Ct. App. June 28, 2022).**

Facts: This case involves the conviction of Richard Andrew Huffman for felony animal cruelty under Code § 3.2-6570(F). The incident occurred on January 15, 2020, when Deputy K. Gosney was dispatched to perform a welfare check on three children in a vehicle. Upon stopping the vehicle for an expired registration, Gosney found Huffman in the driver's seat, his wife Megan Harner in the front passenger seat, and three children in the back seat. The car was filled with refuse and emitted a strong odor of feces, urine, and trash. A dog, Roscoe, was found in the vehicle, covered in trash and unable to move his back legs, appearing partially paralyzed. Huffman and Harner claimed the dog had been struck by a car a week prior. The dog was in a severely neglected state, sitting in feces and urine, with visible injuries. Dr. Walter Logan, a veterinarian, examined Roscoe and found him to be in a dire condition, with necrotic skin and a serious infection. Dr. Logan noted that the dog's injuries were severe enough to necessitate euthanasia. The trial court found that Huffman's treatment of the dog amounted to torture and sentenced him to two years' imprisonment, with all but two months suspended.

Holding: Huffman appealed the conviction, arguing that the evidence was insufficient to prove he acted with the "willfulness" required under the statute and that the injury to Roscoe was not "inhumane." The court analyzed the terms "willfully inflict," "inhumane injury," and "serious bodily injury" as used in the statute. The court found that Huffman's actions, or lack thereof, created a situation where injury to Roscoe was not improbable, and he knew or should have known the probable consequences of his acts. The court concluded that Huffman's omissions led to uncivilized conditions that directly caused serious bodily injury to Roscoe, thus satisfying the elements of the offense under Code § 3.2-6570(F).

The court affirmed Huffman's conviction, emphasizing that the statute's language is broad enough to support a conviction based on inaction or omission where such conduct willfully inflicts inhumane injury and causes serious bodily injury to a companion animal.

***Harner v. Commonwealth*, No. 0756-21-3, 2022 WL 2308459 (Va. Ct. App. June 28, 2022).**

Facts: The case involves the conviction of Megan Lin Harner for felony animal cruelty under Code § 3.2-6570(F) in Virginia. The case centers on the mistreatment of a family pet, a dog named Roscoe, and the application of a statute that makes torturing or willfully inflicting inhumane injury on a companion animal a felony, even if the animal survives the abuse. The primary issue on appeal was whether Harner's inaction and lack of care for Roscoe's grievous condition satisfied the elements of the statute to support her felony conviction.

The incident began when Deputy K. Gosney was dispatched to perform a welfare check on three children in a vehicle in Raphine, Virginia. Upon stopping the vehicle for an expired registration, Gosney found Harner, her husband Richard Huffman, and three children in the car, which was filled with refuse and emitted a strong odor of feces and urine. A dog, Roscoe, was found in the vehicle, covered in trash and unable to move his back legs. Harner and Huffman claimed the dog had been struck by a car a week prior. The dog was in a severely neglected state, with necrotic skin and a serious infection. Dr. Walter Logan, the veterinarian who examined Roscoe, testified that the dog had a back injury, was covered in urine and feces, and had developed an infection. Dr. Logan indicated that Roscoe's condition was so severe that euthanasia was necessary.

The trial court convicted Harner of felony animal cruelty, emphasizing that the case was not about failing to take the dog to the vet but about willfully putting the dog in the condition it was found. Harner was sentenced to two years' imprisonment, with all but two months suspended.

Holding: On appeal, Harner argued that the evidence was insufficient to establish that she tortured or willfully inflicted inhumane injury on Roscoe. The court reviewed the sufficiency of the evidence, noting that the judgment of the trial court is presumed correct unless plainly wrong or without evidence to support it. The court found that Harner's actions, or lack thereof, constituted willful infliction of inhumane injury, as she created a situation where injury to Roscoe was not improbable, and she knew or should have known the probable consequences of her acts.

The court also addressed the statutory language, noting that “inhumane injury” and “serious bodily injury” are distinct terms. The evidence showed that Roscoe suffered serious bodily injury, and the conditions he was subjected to were inhumane. The court concluded that Harner's omissions led to uncivilized conditions that directly caused serious bodily injury to Roscoe, supporting the conviction under the statute.

Ultimately, the court affirmed the trial court's judgment, finding the evidence sufficient to convict Harner under Code § 3.2-6570(F). The statute's language was deemed broad enough to support a conviction based on inaction or omission where such conduct willfully inflicts inhumane injury and causes serious bodily injury to a companion animal.

***Hillmon v. Commonwealth*, No. 1027-21-4, 2022 WL 1215519 (Va. Ct. App. Apr. 26, 2022).**

Facts: Stephanie Denise Hillmon was convicted of misdemeanor animal cruelty in violation of Code § 3.2-6570(A)(i) after her dog, Bones, died from heatstroke. The incident occurred on September 10, 2019, when Hillmon walked her two small dogs for about an hour in humid 92-degree weather. Bones, an older and obese dog, was visibly distressed during the walk. Witnesses observed Hillmon dragging Bones, who was lying on his side, across a six-lane intersection despite warnings from bystanders. Detective Amon

Weaver, who witnessed the incident, noted that Bones was in severe distress and later died despite emergency treatment.

Initially charged with felony animal cruelty under Code § 3.2-6570(F), the charge was amended to a misdemeanor under subsection (A) after the trial court found insufficient evidence to prove a direct causal link between the dragging and the dog's death. Hillmon objected to the amendment, arguing it changed the nature of the offense, but the court allowed it, and she was arraigned and pleaded not guilty. Hillmon testified that she did not realize she was dragging Bones and claimed a psychiatric condition affected her awareness. The trial court, however, found her testimony not credible and concluded that she knowingly ill-treated the dog. Hillmon was sentenced to six months in jail, suspended.

Holding: On appeal, Hillmon argued that the trial court erred in allowing the indictment amendment and in applying a strict liability standard. The appellate court found her challenge to the amendment procedurally barred under Rule 5A:18 because she did not specifically argue that the amendment changed the nature of the offense at trial. Regarding strict liability, the court noted that the trial court had made an alternative finding that Hillmon knowingly ill-treated the dog, which supported the conviction regardless of any strict liability ruling. Consequently, the appellate court affirmed the conviction.

***Ingram v. Commonwealth*, 866 S.E.2d 55, 74 Va. App. 59 (Va. Ct. App. 2021).**

Facts: The appellant, Chelsey Danielle Ingram, was convicted of thirteen counts of animal cruelty and one count of dumping trash on the highway. The convictions were made by the Circuit Court of Rockbridge County on September 22, 2020. Ingram appealed the circuit court's denial of her motion to suppress evidence and challenged the sufficiency of the evidence supporting her animal cruelty convictions.

The case began when officers from the Rockbridge County Sheriff's Office responded to reports of a dog running loose and another dog being struck and killed by a vehicle near Ingram's residence. Upon arrival, the officers attempted to contact the owner of the animals by approaching the home, which had two paths of approach: a driveway and a set of wooden stairs leading to the front door. The officers knocked on the door but received no response. They then observed a dog through a missing window frame in a first-floor door, which led them to discover a dead dog and unsanitary conditions inside the home. Deputy Knick, one of the officers, also observed dogs in poor health on a hill approximately forty to fifty yards from the home. The hill was not enclosed and was considered an open field, not part of the curtilage of the home. Based on these observations, a search warrant was obtained, and officers seized ten live dogs and one deceased dog from the property.

Holding: Ingram argued that Deputy Knick violated the Fourth Amendment by conducting a warrantless search of the curtilage of her home. However, the court found that Deputy Knick was within the scope of an implied license to approach the home and did not conduct an unlawful search. The court also determined that the hill where the dogs were found was an open field, not protected by the Fourth Amendment.

Regarding the sufficiency of the evidence, the court found that the Commonwealth presented substantial evidence of animal cruelty. The evidence showed that the dogs were kept in deplorable conditions without access to food or water, and Ingram admitted to not feeding the dogs when the owner did not provide money for food. The court concluded that a rational trier of fact could infer that the conditions of the dogs were due to Ingram's deprivation of care.

Ultimately, the Court of Appeals affirmed the circuit court's denial of the motion to suppress and upheld Ingram's convictions for animal cruelty.

***Blankenship v. Commonwealth*, 838 S.E.2d 568, 71 Va. App. 608 (Va. Ct. App. 2020).**

Facts: On May 26, 2017, Blankenship was involved in an incident at the home of Wally Andrews. Despite being previously ordered not to come onto Andrews's property, Blankenship appeared and engaged in threatening behavior, including cursing and threatening to kill Andrews while moving towards him. This prompted Andrews to call the police. When the police arrived, Blankenship was visibly upset and engaged in aggressive behavior towards the officers, including shaking his fists, cursing, and making threatening statements. The officers, fearing a physical altercation, attempted to arrest Blankenship, who resisted by taking a fighting stance and refusing to comply with commands. Officer O'Brien pepper-sprayed Blankenship, and Officer Engle released a police K-9, Titan, to apprehend him. Blankenship responded by physically assaulting Titan, which led to charges of animal cruelty.

Blankenship was indicted on multiple charges, including three counts of assault and battery on a law enforcement officer, assault on a law enforcement animal, obstruction of justice, and animal cruelty. He pled not guilty and waived his right to a jury trial. The circuit court granted a motion to strike some charges but convicted Blankenship of two counts of assault and battery on a law enforcement officer, assault and battery, and animal cruelty. He was sentenced to a total of eleven years and twenty-four months' incarceration, with all but two years and eight months suspended.

Holding: On appeal, Blankenship challenged the sufficiency of the evidence for his convictions. The Court of Appeals reviewed the evidence in the light most favorable to the Commonwealth, as the prevailing party at trial. The court found that Blankenship's actions and words demonstrated an intent to place the officers and Andrews in fear of bodily harm, which was sufficient to support the assault and battery convictions. The court also found sufficient evidence to support the animal cruelty conviction, noting that Blankenship's actions were not necessary to resist arrest and that he acted with a consciousness that inhumane injury or pain would result.

The court identified multiple scrivener's errors in the sentencing order, including incorrect sentences for the misdemeanor assault and battery charge and discrepancies in the number of convictions listed. The case was remanded for correction of these errors.

The Court of Appeals affirmed the convictions and remanded the case for correction of the sentencing order.

***Sutter v. Commonwealth*, No. 0977-17-2, 2018 WL 4567680 (Va. Ct. App. Sept. 25, 2018).**

Facts: Jerelyn Sutter, was convicted of misdemeanor animal cruelty and the malicious killing of a pig, which is considered livestock of another, a felony under Virginia law. The case was heard by the Court of Appeals of Virginia, Richmond, with the opinion delivered by Judge Randolph A. Beales. The appellant raised six assignments of error on appeal, primarily challenging the trial court's rulings on jury instructions, the exclusion of certain testimony as hearsay, and the sufficiency of the evidence supporting her convictions.

Background

On July 3, 2016, officers from the Albemarle County Police Department captured a pig running loose in a

residential neighborhood and brought it to the Charlottesville-Albemarle Society for the Prevention of Cruelty to Animals (SPCA), where Sutter was employed as a veterinary assistant. The officers instructed the shelter staff to keep the pig until further instructions were provided. The next day, it was discovered that Sutter had taken the pig to her home. When questioned, Sutter and her fiancé, Lee Oakes, initially claimed they had given the pig to a friend to take to a butcher, but did not disclose that they had already killed the pig. It was later revealed through security footage that Sutter and Oakes had killed the pig at the shelter on July 3, 2016.

During the trial, evidence was presented that Sutter and Oakes attempted to hogtie the pig and, after it bit through Oakes's boot, Sutter retrieved a hunting knife for Oakes, who then stabbed the pig multiple times. Expert testimony indicated that the pig suffered during the process, which was not consistent with typical slaughter techniques. Sutter testified that they intended to slaughter the pig for a neighborhood party and claimed they had no other option for safety reasons.

Holding: Sutter challenged several jury instructions, arguing that the trial court erred in refusing to issue her proposed instructions and in issuing an instruction that allowed the jury to infer malice from the use of a deadly weapon. The court found that the instructions given were accurate statements of law and that the proposed instructions were unnecessary or incorrect.

Sutter also argued that the trial court erred in excluding testimony about statements made by the officers, which she claimed were not hearsay. The court assumed, without deciding, that excluding the testimony was an error but deemed it harmless given the overwhelming evidence of guilt. The court also found the evidence sufficient to support the convictions, noting that Sutter acted as a principal in the second degree by aiding Oakes in the killing of the pig.

The court affirmed Sutter's convictions, emphasizing that the case should not be interpreted as criminalizing lawful livestock slaughter but rather addressed the specific circumstances of Sutter's actions, which involved killing an animal that did not belong to her at an animal shelter

***Baker v. Commonwealth*, No. 151120, 2016 WL 6304567 (Va. Ct. App. Oct. 27, 2016).**

Facts: The case involved an appeal from a judgment by the Court of Appeals of Virginia, which had affirmed Baker's conviction for felony animal cruelty under Code § 3.2-6570. The incident began on September 20, 2013, when Kristin Jarman, Baker's girlfriend, reported to People for the Ethical Treatment of Animals (PETA) that Baker's dog, Majesty, had been hit by a car and was unable to move her back legs. Jarman sent photographs of Majesty to PETA, and it was evident that Majesty's leg was broken and required veterinary attention. PETA advised Jarman to take Majesty to a veterinarian and offered financial assistance for the treatment.

On September 21, 2013, PETA employee Jessica Cochran visited Baker's home and found Majesty in a severe condition, unable to get up and with several wounds. Cochran advised Baker and his family to seek immediate veterinary care and arranged for an examination at Acredale Animal Hospital, offering \$100 towards the costs. However, when Baker and Jarman took Majesty to Acredale, the hospital did not admit her due to the severity of her injuries and the late hour.

Majesty did not receive any veterinary care for seven weeks until November 7, 2013, when Animal Control officers seized her and took her to Cove Veterinary Hospital. Dr. Kelly Watham examined Majesty and found severe injuries, including a broken vertebra and leg, a urinary tract infection, and

severe pain. Majesty was euthanized due to the severity of her injuries.

Baker was indicted on February 6, 2014, for maliciously depriving Majesty of necessary emergency veterinary treatment, a felony under Code § 3.2–6570. During the trial, Baker admitted that Majesty needed treatment but claimed he was trying to get money for her care. The court found him guilty and sentenced him to two years' incarceration, to run concurrently with a previous sentence for a probation violation.

Holding: Baker appealed, arguing that the evidence did not prove he acted with malice. The Court of Appeals denied his appeal, and the Supreme Court of Virginia granted an appeal to determine if the Court of Appeals erred. The statute under which Baker was convicted requires malice, which is defined as doing a wrongful act intentionally or without just cause. The court found that Baker's failure to obtain veterinary care for Majesty over seven weeks, despite knowing her severe condition and having financial means, constituted malice.

The Supreme Court of Virginia affirmed the judgment of the Court of Appeals, concluding that the evidence was sufficient to support the finding of malice. Baker was ordered to pay \$250 in damages to the Commonwealth of Virginia.

***Pelloni v. Commonwealth*, 781 S.E.2d 368, 65 Va. App. 733 (Va. Ct. App. 2016).**

Facts: Nicholas David Pelloni was convicted of felony cruelty to animals under Code § 3.2–6570(F) following a bench trial in the Circuit Court of the City of Portsmouth. He was sentenced to twelve months in jail. Pelloni appealed the conviction, arguing that the evidence was insufficient to prove beyond a reasonable doubt that he willfully inflicted inhumane injury or pain on a puppy named Hannibal. The Court of Appeals of Virginia affirmed the conviction.

The case arose when Deputy Animal Control Officer Heather Harrison responded to a call about several puppies at Jennifer Mason's home. Mason informed Harrison that the puppies were in her garage, where Pelloni, the owner of the puppies, was living. Upon inspection, Harrison found several boxer puppies and an adult female boxer in poor condition, with no food or water available. A deceased puppy, Hannibal, was found in a storage container. The live animals were taken to a veterinarian, who found them to be emaciated, dehydrated, and suffering from various preventable conditions.

Pelloni admitted to not taking the dogs to a veterinarian due to cost and acknowledged that Hannibal had been sick for about a week before dying. He claimed to have provided food and water, but the evidence suggested otherwise. The trial court found Pelloni guilty, reasoning that withholding food from an animal could be considered willful neglect.

Holding: On appeal, Pelloni contended that the evidence did not prove he intended for Hannibal to suffer. The Court of Appeals examined the statutory language and relevant case law, concluding that “willful” conduct involves a voluntary and intentional act or omission with knowledge that injury will likely result. The court found that Pelloni's actions met this standard, as he was the sole caregiver, aware of the animals' conditions, and failed to provide necessary care over several weeks.

The court distinguished this case from others where negligence was not deemed willful, noting that Pelloni's prolonged inaction and admissions demonstrated a conscious disregard for the animals' welfare. Consequently, the evidence was deemed sufficient to support the conviction, and the trial court's ruling

was affirmed.

***Sullivan v. Commonwealth*, 701 S.E.2d 61, 64, 280 Va. 672 (2010).**

Facts: Sufficient evidence supported the conviction of the president of a horse rescue organization for animal cruelty. The evidence indicated that president failed to provide emergency veterinary treatment for her horse, who was extremely thin, sick, dehydrated, and unable to move off the ground. Two veterinarians testified that the horse was in such a condition during a period of 30 to 48 hours before its death that emergency veterinary care was immediately necessary to alleviate suffering, during which time no such treatment was provided. The only veterinary care the horse received came at the behest of a person passing by the property, not the president, and the veterinarian testified that the horse was in serious need of emergency care long before he got there. Appellant did not starve horse of food or drink in violation of the statute. Instead, the horse's illness or some combination of her many illnesses—prevented her from acquiring nourishment from the food and drink that Sullivan gave to her.

Holding: Even if the evidence in the record is insufficient to prove that Sullivan starved the horse of food or water, Sullivan violated the statute for failing to provide the horse with necessary emergency veterinary treatment. Conviction affirmed based on veterinarian testimony that the horse was becoming progressively weaker and emaciated over a period of weeks before she went down.

Sentencing: The court sentenced Sullivan to 12 months in jail, with six months suspended, for a period of 24 months. The court also ordered that the defendant not possess any horses.

***Ryan v. Commonwealth*, No. 1818-05-1, 2006 WL 2050915 (Va. Ct. App. July 25, 2006).**

Facts: Defendant lured cat into garage and commanded pit bull to attack cat and used a broom to knock cat off shelves and car parked in garage when cat tried to escape. The pit bull severely mauled cat, there was blood on walls and floor of garage, and defendant made no effort to contact Animal Control to seek attention for badly mutilated cat. Veterinarian also testified that cat's lethal injuries were caused by blunt force trauma and “puncture wounds that entered into the skull above the neck that would appear to be associated with a bite wound.”

Holding: Evidence was sufficient to show that defendant engaged in conduct that directly led to cat's death. The indictment for killing a companion animal was not ambiguous, nor was there a question as to whether defendant's conduct constituted misdemeanor or felony offense. Felony killing of cat required proof that defendant willfully inflicted inhumane injury that directly led to death and was not connected with bona fide scientific or medical experimentation. Conviction sustained for killing a companion animal based on defendant's testimony and the presence of blood on walls of garage. Use of a broom to prevent the cat from escaping the pit bull's attack, which the defendant commanded, engaged in conduct that directly led to the cat's death.

Sentencing: Defendant sentenced to five years imprisonment, with four years and eight months suspended.

***Buskey v. Commonwealth*, No. 0919-02-1, 2003 WL 1873643 (Va. Ct. App. Apr. 15, 2003).**

Facts: Dog was found lethargic, severely emaciated with parasites, minor skin abrasions, and a respiratory infection. Owner found guilty of animal cruelty for “failing to provide the emergency

veterinary treatment necessary for this particular case.” Due to the prolonged period in which the worms infested the dog's body, the trial judge concluded: “I can't say that Mr. Buskey failed to provide food and drink or shelter during this time period, but what I can say is that he failed to provide the emergency veterinary treatment necessary for this particular case.” So serious was the dog's parasite problem that the trial judge rejected Buskey's claim that Brutus's condition had deteriorated merely in the time the dog had been missing.

Holding: A rational fact finder could have found that Buskey violated Code § 3.1-796.122(A)(ii), which prohibits a person from depriving “any animal of necessary food, drink, shelter, or emergency medical treatment.” Conviction affirmed based on veterinarian testimony that the presence of worm eggs in stool indicated that the dog had adult worms in his system for “three months to three weeks.”

Sentencing: The court sentenced Buskey to ninety days in jail, with thirty days suspended.

***Lewis v. Commonwealth*, No. 2520-92-2, 1994 WL 259286 (Va. Ct. App. June 14, 1994).**

Facts: 162 dogs, 26 cats, and 2 birds were seized from appellant's home. Many of these animals died shortly thereafter. Their overall appearance was “atrocious.” Additionally, the evidence established that many of the animal cages had more than one animal in them and were stacked in such a manner that excrement leaked from one cage to another; that the animals lacked adequate food, water, and ventilation; and that the stench from uncleaned urine and feces was overwhelming.

Holding: Conviction of operating a kennel without a special exception and one count of cruelty to animals, in violation of Hanover County Ordinance Title 1, art. 5, § 2.6-1(c) and Code § 3.1-796.122 was affirmed. Appellant's inability to care adequately for a large number of animals was readily apparent from the record in this case and was a reasonable basis for the limitations on ownership and operation of a kennel. Nothing in this record suggested that the limitation on the numbers of animals owned, the inability to operate another kennel without prior court permission, or the restitution amount ordered by the trial court, constitutes an unreasonable condition of the suspended sentence or an abuse of the trial court's discretion. The amount of restitution ordered is supported by the record, which established that the county spent over \$40,000 caring for the animals prior to trial. The judge's award of \$10,000 to the party who sustained the loss required by appellant's illegal actions is clearly a reasonable probationary condition. Conditions of probation frequently involve some forfeiture of an appellant's rights, and if they are reasonably related to the offense proved, such conditions are valid.

Sentencing: The amount of restitution ordered is supported by the record, which established that the county spent over \$40,000 caring for the animals prior to trial. The judge's award of \$10,000 to the party who sustained the loss required by appellant's illegal actions is clearly a reasonable probationary condition. Conditions of probation frequently involve some forfeiture of an appellant's rights, and if they are reasonably related to the offense proved, such conditions are valid.

2. COMPANION ANIMAL NEGLECT

VA. CODE ANN. § 3.2-6503 (2014). Care of animals by owner; penalty

A. Each owner shall provide for each of his companion animals:

1. Adequate feed;⁸
2. Adequate water;⁹

⁸ "'Adequate feed' means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species." VA. CODE ANN. § 3.2-6500 (2022).

⁹ "'Adequate water' means provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices." VA. CODE ANN. § 3.2-6500 (2022).

3. Adequate shelter¹⁰ that is properly cleaned;¹¹
4. Adequate space¹² in the primary enclosure¹³ for the particular type of animal depending upon its age, size, species, and weight;
5. Adequate exercise;¹⁴
6. Adequate care¹⁵, treatment¹⁶, and transportation; and
7. Veterinary care when needed to prevent suffering or disease transmission.

The provisions of this section shall also apply to every public or private animal shelter,¹⁷ or other releasing agency,¹⁸ and every foster care provider,¹⁹ dealer, pet shop,²⁰ exhibitor,²¹ kennel,²² groomer,²³ and boarding establishment.²⁴ This section shall not require that animals used as food for other animals be euthanized.

B. Violation of this section is a Class 4 misdemeanor. A second or subsequent violation of subdivision A 1, 2, 3, or 7 is a Class 2 misdemeanor and a second or subsequent violation of subdivision A 4, 5, or 6 is a Class 3 misdemeanor.

¹⁰ "'Adequate shelter' means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of hay, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter. The outdoor tethering of an animal shall not constitute the provision of adequate shelter (a) unless the animal is safe from predators and well suited and well equipped to tolerate its environment; (b) during the effective period for a hurricane warning or tropical storm warning issued for the area by the National Weather Service; or (c)(1) during a heat advisory issued by a local or state authority, (2) when the actual or effective outdoor temperature is 85 degrees Fahrenheit or higher or 32 degrees Fahrenheit or lower, or (3) during the effective period for a severe weather warning issued for the area by the National Weather Service, including a winter storm, tornado, or severe thunderstorm warning, unless an animal control officer, having inspected an animal's individual circumstances in clause (c)(1), (2), or (3), has determined the animal to be safe from predators and well suited and well equipped to tolerate its environment." VA. CODE ANN. § 3.2-6500 (2022).

¹¹ "'Properly cleaned' means that carcasses, debris, food waste, and excrement are removed from the primary enclosure with sufficient frequency to minimize the animals' contact with the abovementioned contaminants; the primary enclosure is sanitized with sufficient frequency to minimize odors and the hazards of disease; and the primary enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with the stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants." VA. CODE ANN. § 3.2-6500 (2022).

¹² "'Adequate space' means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means that the tether to which the animal is attached permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness that is configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; is at least 15 feet in length or four times the length of the animal, as measured from the tip of its nose to the base of its tail, whichever is greater, except when the animal is being walked on a leash or is attached by a tether to a lead line or when an animal control officer, having inspected an animal's individual circumstances, has determined that in such an individual case, a tether of at least 10 feet or three times the length of the animal, but shorter than 15 feet or four times the length of the animal, makes the animal more safe, more suited, and better equipped to tolerate its environment than a longer

tether; does not, by its material, size, or weight or any other characteristic, cause injury or pain to the animal; does not weigh more than one-tenth of the animal's body weight; and does not have weights or other heavy objects attached to it. The walking of an animal on a leash by its owner shall not constitute the tethering of the animal for the purpose of this definition. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space. The provisions of this definition that relate to tethering shall not apply to agricultural animals." VA. CODE ANN. § 3.2-6500 (2022).

¹³ "'Primary enclosure' means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether." VA. CODE ANN. § 3.2-6500 (2022).

¹⁴ "'Adequate exercise' or 'exercise' means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal." VA. CODE ANN. § 3.2-6500 (2022).

¹⁵ "'Adequate care' or 'care' means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health." VA. CODE ANN. § 3.2-6500 (2022).

¹⁶ "'Treatment' or 'adequate treatment' means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal." VA. CODE ANN. § 3.2-6500 (2022).

¹⁷ "'Private animal shelter' means a facility operated for the purpose of finding permanent adoptive homes for animals that is used to house or contain animals and that is owned, or operated by an incorporated, nonprofit, and nongovernmental entity including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other similar organization." VA. CODE ANN. § 3.2-6500 (2022).

"'Public animal shelter' means a facility operated by the Commonwealth, or any locality, for the purpose of impounding or sheltering seized, stray, homeless, abandoned, unwanted, or surrendered animals or a facility operated for the same purpose under a contract with any locality." VA. CODE ANN. § 3.2-6500 (2022).

¹⁸ "'Releasing agency' means (i) a public animal shelter or (ii) a private animal shelter, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption." VA. CODE ANN. § 3.2-6500 (2022).

¹⁹ "'Foster care provider' means a person who provides care or rehabilitation for companion animals through an affiliation with a public or private animal shelter, home-based rescue, or releasing agency, or other animal welfare organization." VA. CODE ANN. § 3.2-6500 (2022).

²⁰ "'Pet shop' means a retail establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the general public." VA. CODE ANN. § 3.2-6500 (2022).

²¹ "'Exhibitor' means any person who has animals for or on public display, excluding an exhibitor licensed by the U.S. Department of Agriculture." VA. CODE ANN. § 3.2-6500 (2022).

²² "'Kennel' means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing." VA. CODE ANN. § 3.2-6500 (2024).

²³ "'Groomer' means any person who, for a fee, cleans, trims, brushes, makes neat, manicures, or treats for external parasites any animal." VA. CODE ANN. § 3.2-6500 (2022).

²⁴ "'Boarding establishment' means a place or establishment other than a public or private animal shelter where companion animals not owned by the proprietor are sheltered, fed, and watered in exchange for a fee. 'Boarding establishment' shall not include any private residential dwelling that shelters, feeds, and waters fewer than five companion animals not owned by the proprietor." VA. CODE ANN. § 3.2-6500 (2022).

Applicable Case Law:

***Settle v. Commonwealth*, 692 S.E.2d 641, 56 Va. App. 222 (Va. Ct. App. 2010).**

Facts: Charles E. Settle, Jr. was convicted in a bench trial of two counts of inadequate care by owner of companion animals, pursuant to Code § 3.1-796.68, and one count of dog at large, pursuant to Fauquier County Code §§ 4-22 and 13-1. Witness testimony was sufficient to prove beyond a reasonable doubt that the defendant, who was sitting in court in the witnesses' presence, was the same person with whom the witnesses dealt on numerous occasions.

Holding: Pursuant to Code § 3.1-796.115, all of the dogs at issue were seized from appellant's control and placed in the care of local animal shelters. Additionally, the trial court declared three of the dogs dangerous pursuant to Code § 3.1-796.93:1. Settle was convicted of two counts of inadequate care by an owner, in violation of Virginia Code § 3.1-796.68 and allowing a dog to run at large, in violation of Va. Code § 3.1-796.128. In addition, pursuant to Code § 3.1-796.115, Settle was adjudicated unfit to own a companion animal and his dogs. Three dogs were declared to be “dangerous dogs” under Code § 3.1-796.93. Remaining dogs were ordered forfeited to the Fauquier County SPCA and/or the Middleburg Humane Foundation. Conviction affirmed.

Sentencing: Settle was ordered to pay a total of \$300.00 in fines and \$423.00 court costs. The trial court awarded a monetary judgment pursuant to the Middleburg Humane Foundation in the amount of \$45,261.51.

***Hillman v. Commonwealth*, No. 1211-01-3, 2002 WL 496982 (Va. Ct. App. Apr. 2, 2002).**

Facts: Appellant convicted in trial court for failure to provide care for her animals under Code § 3.1-796.68. Appellant contends her conviction for these offenses in circuit court violated both Code § 19.2–294 and the double jeopardy prohibitions of the United States and Virginia Constitutions.

Holding: Convictions for cruelty to animals in circuit court did not violate Code § 19.2–294 because those convictions occurred as part of the same prosecution as her convictions for failure to provide care for those animals. Appellant’s convictions for cruelty to animals after she already had been convicted for failure to provide care for those animals did not violate double jeopardy prohibitions because the offenses are not the same. The failure to care offense is not included in the cruelty offense.

Sentencing: Individual was convicted of both a Class 4 misdemeanor under Code § 3.1–796.68(A)(7) for the lesser offense of failing to provide “veterinary treatment to prevent disease transmission” **and** a Class 1 misdemeanor under Code § 3.1–796.122(A)(ii) for the greater offense of failing to provide “emergency veterinary treatment.”

VA. CODE ANN. § 3.2-6570.1 (2009). Sale of animals after cruelty or neglect conviction; penalty
Any person who has been convicted of a violation of any law concerning abuse, neglect, or cruelty to animals that sells, offers for sale, or trades any companion animal is guilty of a Class 1 misdemeanor. However, a person may dispose of animals under the provisions of a court order.

No Applicable Case Law

3. ABANDONMENT

VA. CODE ANN. § 3.2-6504 (2018). Abandonment of animal; penalty

No person shall abandon²⁵ or dump²⁶ any animal. Violation of this section is a Class 1 misdemeanor. Nothing in this section shall be construed to prohibit the release of an animal by its owner to a public or private animal shelter or other releasing agency.

No Applicable Case Law

4. MALICIOUS KILLING

VA. CODE ANN. § 18.2-144 (2024). Maiming, killing or poisoning animals, fowl, etc.

Except as otherwise provided for by law, if any person maliciously shoot, stab, wound or otherwise cause bodily injury to, or administer poison to or expose poison with intent that it be taken by, any horse, mule, pony, cattle, swine or other livestock²⁷ of another, with intent to maim, disfigure, disable or kill the same, or if he do any of the foregoing acts to any animal of his own with intent to defraud any insurer thereof, he shall be guilty of a Class 5 felony. If any person do any of the foregoing acts to any fowl or to any companion animal with any of the aforesaid intents, he shall be guilty of a Class 1 misdemeanor, except that any second or subsequent offense shall be a Class 6 felony if the current offense or any previous offense resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this section.

²⁵ "'Abandon' means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in § 3.2-6503 for a period of four consecutive days. VA. CODE ANN. § 3.2-6500 (2022).

²⁶ "'Dump' means to knowingly desert, forsake, or absolutely give up without having secured another owner or custodian any dog, cat, or other companion animal in any public place including the right-of-way of any public highway, road or street or on the property of another." VA. CODE ANN. § 3.2-6500 (2022).

²⁷ "'Livestock' includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; caprae animals; animals of the genus Lama or Vicugna; ratites; fish or shellfish in aquaculture facilities, as defined in § 3.2-2600; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals." VA. CODE ANN. § 3.2-6500 (2022).

Applicable Case Law:

***Haefele v. Commonwealth*, 878 S.E.2d 422, 75 Va. App. 591 (Va. Ct. App. 2022).**

Facts: Andrew J. Haefele was convicted by the Circuit Court of Spotsylvania County of two counts of maliciously maiming the livestock of another and two counts of conspiring to maliciously maim the livestock of another, in violation of Code § 18.2-144. Haefele appealed the convictions, arguing that he acted with the permission and consent of the owner of the animals, and that the Commonwealth failed to prove the underlying felony offense for the conspiracy charge.

The case arose when Halie Morgan, the owner of two small goats, was informed by a Code Enforcement Officer that keeping livestock was not permitted on her property due to zoning regulations. On June 18, 2020, a neighbor observed Morgan and three men, including Haefele, inside the goat pen. Haefele was seen swinging a spiked club at the goats, while Morgan ordered her dogs to attack them. Another neighbor reported the incident to law enforcement, and upon investigation, two deceased goats were found on Morgan's property. Videos from Compton's cell phone showed Haefele using a spiked mace to attack the goats and later using a machete to kill them.

At trial, expert testimony established that the goats suffered before they died and that the methods used to kill them were not acceptable according to veterinary guidelines. The trial court found Haefele guilty, and he appealed, arguing that the statute required proof of trespass against the owner's property and that he acted with the owner's consent.

Holding: The Court of Appeals analyzed Code § 18.2-144, which criminalizes maliciously maiming the livestock of another, regardless of the owner's consent. The court held that the statute's plain language did not require the act to be against the owner's will and that the General Assembly did not include such a limitation. The court also found sufficient evidence to support the finding of malice, as Haefele's actions were cruel and purposeful, causing unnecessary suffering to the goats.

The court affirmed Haefele's convictions, concluding that the evidence supported the trial court's findings and that the statute criminalizes the malicious maiming of livestock regardless of the owner's permission. The case was remanded for the limited purpose of correcting a scrivener's error in the sentencing order.

***Compton v. Commonwealth*, No. 0502-21-2, 2022 WL 10219873 (Va. Ct. App. Oct. 18, 2022).**

Facts: The case involves the appeal of Donald R. Compton, Jr. against his conviction by the Circuit Court of Spotsylvania County for two counts of maliciously maiming the livestock of another, two counts of conspiring to maliciously maim the livestock of another, and one count of possession of a firearm by a convicted felon.

The incident occurred in May 2020 when Halie Morgan, who owned two small goats, was informed by a Code Enforcement Officer that keeping livestock on her property was not permitted due to zoning regulations. On June 18, 2020, a neighbor, C.P., witnessed Morgan and three men, including Compton, inside the goat pen. One of the men, Andrew Haefele, was seen swinging a spiked two-by-four at the goats, while Morgan ordered her dogs to attack them. Compton was observed recording the attack on his cell phone. Another neighbor, M.J., reported the incident to law enforcement, leading to Deputy A. Mele's involvement. Despite initial denials from Compton and Charles McKinney, a search of Morgan's

property revealed two deceased goats.

Further investigation uncovered videos on Compton's cell phone showing the attack, where Haefele used a spiked mace to hit the goats, and Compton made comments encouraging the violence. The videos also showed McKinney using a machete to kill one of the goats. Expert testimony at trial confirmed the brutal nature of the injuries inflicted on the goats.

Holding: Compton's appeal raised three assignments of error, challenging the sufficiency of the evidence for his convictions. The court analyzed the relevant statute, Code § 18.2-144, which criminalizes maliciously maiming the livestock of another. Compton argued that the statute should include the phrase “against the will of the owner,” but the court found no such language in the statute and upheld the conviction, stating that the statute criminalizes all malicious maiming of livestock, regardless of the owner's consent.

The court also addressed Compton's role as a principal in the second degree, finding that his actions, such as filming the attack and encouraging the perpetrators, demonstrated his participation and shared criminal intent. The court affirmed his conviction for maliciously maiming the livestock of another. Regarding the conspiracy charges, the court found that Compton's argument, based on acting per the owner's wishes, was without merit, and upheld the convictions for conspiracy.

Finally, the court addressed the firearm possession charge. Compton, a convicted felon, was found to have constructive possession of a Winchester 1300 Series 12-gauge, pump-action shotgun, as evidenced by his statements and a picture of the firearm on his phone. The court affirmed his conviction for possession of a firearm by a convicted felon.

The Court of Appeals of Virginia affirmed Compton's convictions on all counts, finding sufficient evidence to support the trial court's decisions. The court concluded that Compton's actions and statements demonstrated his involvement and intent in the malicious maiming of the livestock and possession of a firearm.

***Sutter v. Commonwealth*, No. 0977-17-2, 2018 WL 4567680 (Va. Ct. App. Sept. 25, 2018)**, on Page 9 of this document.

***Ford v. Commonwealth*, 630 S.E.2d 332, 48 Va. App. 262 (Va. Ct. App. 2006).**

Facts: Defendant admitted he was driving a four-wheel vehicle and saw child witnesses by barn where witnesses and their dogs were playing on the day the dog was shot. Child witness saw defendant shoot a firearm toward the barn, other child witness saw defendant with a firearm right after dog was shot, and both child witnesses were certain the defendant was the man they saw at the barn with the firearm.

Holding: Jury convicted defendant of animal cruelty, specifically malicious killing. Testimony of children, ages 13 and 15 was sufficient evidence to establish animal cruelty on behalf of defendant. Upon finding the defendant guilty, the trial court conducted a separate proceeding “limited to the ascertainment of punishment.” Code § 19.2-295.1; Rule 3A:17.1. During the penalty phase, the jury was instructed as to punishment and counsel made statements and presented evidence relevant to the penalty to be imposed. Commonwealth was allowed to introduce the defendant's prior criminal convictions.

Sentencing: Details of sentencing is unclear from case record, but it appears that D was convicted of

Class 1 Misdemeanor for the animal cruelty charge.

***Smith v. Commonwealth*, No. 0492-01-2, 2002 WL 1611519 (Va. Ct. App., July 23, 2002).**

Facts: Appellant shot two dogs that did not belong to him. Trial court refused to allow Smith's counsel to question one of the witnesses regarding the potential civil suit. The evidence presented before the trial court rendered its verdict with regard to Smith proved: 1) the hunting dogs belonging to Gilliam and Collins ran onto the Smith property; 2) shortly thereafter, three gunshots were heard and the dogs went silent; 3) the truck was observed parked with its driver's side alongside the woods, only a few yards from where the bodies of the dogs were found; 4) only the driver's side door was open as the truck was parked next to the woods; 5) the driver then got into the truck, closed the driver's side door and drove the truck toward Gilliam and Collins; 5) Smith was then seen driving the truck, while Mrs. Smith sat in the passenger side; 6) a .22 rifle was found in the truck bed; 7) Smith had a clip of .22 bullets in his pocket; and 8) a .22 bullet matching the rifle was taken from one dog.

Holding: Trial court's error in restricting Smith's right to cross-examination of witness regarding potential civil suit was harmless beyond a reasonable doubt. Prosecutor was not required to prosecute under Code § 18.2–144, but could choose instead to prosecute under Code § 18.2–137, which provides that unlawful destruction on a person's property, real or personal, is a Class 1 misdemeanor. Dogs and cats are personal property under Code § 3.1–796.127

Sentencing: Details of sentencing unclear from case history.

***Slade v. Commonwealth*, No. 2664-98-3, 2000 WL 979938 (Va. Ct. App., July 18, 2000).**

Facts: Slade fired several gunshots at a dog, which sustained several wounds. Slade was charged with violating Danville City Ordinance § 40–3, which makes it unlawful to discharge a firearm within the corporate limits of the city. He was convicted of this offense in general district court.

The grand jury subsequently returned an indictment against Slade. The indictment charged that Slade “did unlawfully and cruelly ill-treat, maim, mutilate, or torture a dog . . . by shooting said dog. At trial, Slade moved to dismiss the indictment, arguing that it violated Code § 19.2–294 because the indictment involved the same act and set of facts that had been the basis of the discharging a firearm conviction. The circuit court denied the motion and convicted Slade of the cruelty to an animal charge.

Holding: Conviction reversed and dismissed because discharging a firearm and the animal cruelty charges involved the same act and set of facts. Thus, he could not be retried on the same facts

***Willeroy v. Commonwealth*, 27 S.E.2d 211, 181 Va. 779 (1943).**

Facts: Evidence that accused killed dog which charged against chicken wire fence with every prospect of breaking it down, and which had killed the accused's chickens the day before, did not sustain conviction of cruelly and unnecessarily killing a dog.

Holding: When dogs become a public nuisance and menace, ordinary rules of self-defense apply. The owner of a domestic animal or fowl which is placed in jeopardy by the attack of a dog has the right to kill a dog for the protection of his property.

***Winckler v. Commonwealth*, 156 S.E. 364, 155 Va. 1146 (1931).**

Facts: Appellant and his injured cow were attacked or charged by neighbor's cow, but he threw himself against the wall of the stable in time to avoid being injured. The neighbor's cow turned and attacked appellant or his cow again, when he kicked at her 'and threw up his axe which struck her on the side or back. The cow ran off a few steps and fell to the ground. She had a cut or wound near the backbone of considerable size from which she died on that afternoon of the attack. The accused at once sent for the owner of the injured cow and went himself to the home of his landlord to ask that a veterinarian be sent for. He stated that he had no ill will for the neighbors and was not angry with the cow but struck at her to defend himself, or his cow, as he thought that he was in danger of being hurt. In a prosecution for wounding, cutting, etc., a neighbor's cow, an instruction given by the court at the request of the Commonwealth was objected to by the accused on the ground that unlawful intent was an element of the offense charged, and such intent must be proven to sustain a conviction.

Holding: The statute makes the offense consist of an act combined with a particular intent, and that intent cannot be presumed but must be proven. The instruction in question was to the effect that the law presumes a man to intend the natural and probable consequence of his act and if the accused struck the cow with a deadly weapon. The subsequent presumptions that he unlawfully intended to maim, disfigure, and kill the cow constituted error.

***Breedlove v. Hardy*, 110 S.E. 358, 132 Va. 11 (1922).**

Facts: Dogs had been disturbing plaintiff's turkeys every day or two during the whole summer, and one morning, the dogs drove the turkeys over on a neighbor's premises. Plaintiff followed with a gun and found the dogs going after the turkeys, though they had stopped chasing the turkeys when he got close enough to shoot.

Holding: The owner of domestic animals or fowls has the right to defend them from injury, but the extent of such right of defense necessarily depends on whether the right is reasonably exercised, so as to make it lawful and justifiable. While an owner of turkeys had a right to kill dogs, if necessary, in defense of his property, he had no right to kill them wantonly, or if his property could be reasonably protected without such killing. The court reversed judgment for defendant, finding that defendant's act of killing dog while not engaged in the act of "worrying the livestock," was not authorized within the statute.

Sentencing: The actual sentencing is unclear from the record. It may be irrelevant here, given the date of the case.

5. ANIMAL FIGHTING

VA. CODE ANN. § 3.2-6571 (2019). Animal fighting; penalty

A. No person shall knowingly:

1. Promote, prepare for, engage in, or be employed in, the fighting of animals for amusement, sport, or gain;
2. Attend an exhibition of the fighting of animals;
3. Authorize or allow any person to undertake any act described in this section on any premises under his charge or control; or
4. Aid or abet any such acts.

Except as provided in subsection B, any person who violates any provision of this subsection is guilty of a Class 1 misdemeanor.

B. Any person who violates any provision of subsection A in combination with one or more of the following is guilty of a Class 6 felony:

1. When a dog is one of the animals;
2. When any device or substance intended to enhance an animal's ability to fight or to inflict injury upon another animal is used, or possessed with intent to use it for such purpose;
3. When money or anything of value is wagered on the result of such fighting;
4. When money or anything of value is paid or received for the admission of a person to a place for animal fighting;
5. When any animal is possessed, owned, trained, transported, or sold with the intent that the animal engage in an exhibition of fighting with another animal; or
6. When he permits or causes a minor to (i) attend an exhibition of the fighting of any animals or (ii) undertake or be involved in any act described in this subsection.

C.1. Any animal control officer, as defined in § 3.2-6500, shall confiscate any tethered cock or any other animal that he determines has been, is, or is intended to be used in animal fighting and any equipment used in training such animal or used in animal fighting.

2. Upon confiscation of an animal, the animal control officer shall petition the appropriate court for a hearing for a determination of whether the animal has been, is, or is intended to be used in animal fighting. The hearing shall be not more than 10 business days from the date of the confiscation of the animal. If the court finds that the animal has not been used, is not used, and is not intended to be used in animal fighting, it shall order the animal released to its owner. However, if the court finds probable cause to believe that the animal has been, is, or is intended to be used in animal fighting, the court shall order the animal forfeited to the locality unless the owner posts bond in surety with the locality in an amount sufficient to compensate the locality for its cost of caring for the animal for a period of nine months. He shall post additional bond for each successive nine-month period until a final determination by the trial court on any criminal charges brought pursuant to subsections A or B.

3. Upon a final determination of guilt by the trial court on criminal charges brought pursuant to subsections A or B, the court shall order that the animal be forfeited to the locality. Upon a final determination of not guilty by the trial court on the underlying criminal charges, a confiscated animal shall be returned to its owner and any bond shall be refunded to him.

D. Any person convicted of violating any provision of subsection A or B shall be prohibited by the court from possession or ownership of companion animals or fowl.

E. In addition to fines and costs, the court shall order any person who is convicted of a violation of this section to pay all reasonable costs incurred in housing, caring for, or euthanizing any confiscated animal. If the court finds that the actual costs are reasonable, it may order payment of actual costs.

F. The provisions of this section shall not apply to any law-enforcement officer in the performance of his duties. This section shall not prohibit (i) authorized wildlife management activities or hunting, fishing, or trapping authorized under any title of the Code of Virginia or regulations promulgated thereto or (ii) farming activities authorized under Title 3.2 of the Code of Virginia or regulations promulgated thereto.

Applicable Case Law:

***Hawkins v. Commonwealth*, No. 1863-15-2, 2016 WL 7368107 (Va. Ct. App., Dec. 20, 2016).**

Facts: Darryl Lamont Hawkins, the appellant, was convicted of promoting or preparing for dogfighting, in violation of Code § 3.2-6571. On appeal, Hawkins argued that the trial court erred in denying his motion for a mistrial, that the matter is barred from retrial, and that the evidence was insufficient to support the conviction. The court ultimately reversed and remanded the case for further proceedings.

Background

Hawkins was indicted on January 2, 2014, for promoting or preparing for dogfighting. A series of pre-trial motions were denied, including those for prosecutorial vindictiveness and pre-indictment delay. The first trial on June 25, 2014, ended in a mistrial due to the Commonwealth's failure to disclose exculpatory evidence. A second trial was held on June 17 and 18, 2015.

During the investigation, Deputy Rachel Carty and Senior Deputy Richard Samuels executed a search warrant at Hawkins' property, seizing items associated with dogfighting, such as a flirt pole, spring pole, breeding stand, and bite stick. Dogfighting publications and pedigree registrations were also found, linking Hawkins to the practice. Jermain Trueheart testified that he had seen Hawkins act as a referee at dogfights. Hawkins' family testified in his defense, and a veterinarian found no physical evidence of dogfighting on the seized dogs.

Holding:

1. Motion for Mistrial: Hawkins argued that the Commonwealth's Attorney's cross-examination of his wife and remarks during closing arguments were prejudicial. The trial court denied the motion for a mistrial, but the appellate court found that the closing argument comments were prejudicial enough to warrant a mistrial. The court held that the trial court abused its discretion in denying the mistrial motion.
2. Double Jeopardy: Hawkins claimed that the Commonwealth's Attorney's conduct was intended to provoke a mistrial, thus barring retrial under the Double Jeopardy Clause. The appellate court remanded the case for a determination of whether the prosecutor's actions were intended to subvert the protections of the Double Jeopardy Clause.
3. Sufficiency of the Evidence: The court addressed the sufficiency of the evidence to ensure that a retrial would not violate double jeopardy principles. The court found that the evidence was sufficient to support the conviction, as the jury could reasonably conclude that Hawkins was guilty based on the physical evidence and testimony presented.

The appellate court concluded that while the evidence was sufficient to support Hawkins' conviction, the trial court erred in denying the motion for a mistrial. The conviction was reversed, and the case was remanded for further proceedings to determine if the Commonwealth's conduct barred retrial under the standard set forth in *Kennedy*.

***Robinson v. Commonwealth*, No. 0792-10-2, 2011 WL 2802901 (Va. Ct. App., July 19, 2011).**

Facts: Appellant convicted of three felony counts of dog fighting. The raid on Robinson's property turned up syringes, breed charts, photos, videos, a scale and other dogfighting paraphernalia. 12 dogs, including 11 pit bulls were confiscated from the property. 10 of the dogs had to be euthanized.

Robinson was charged with cruelty and dogfighting. Robinson has a prior dog fighting conviction.

Holding: Jury conviction for three felony counts of dogfighting and one misdemeanor for animal cruelty. Trial court did not violate Double Jeopardy clauses of the Federal and State Constitutions when it failed to dismiss two of the three felony indictments.

Sentencing: Robinson was sentenced to 10 years in prison and ordered to pay a \$2,500 fine and \$4,008 in restitution to Richmond Animal Care and Control.

6. SEXUAL ASSAULT

VA. CODE ANN. § 18.2-361 (2014). Crimes against nature; penalty

A. If any person carnally knows in any manner any brute animal, or voluntarily submits to such carnal knowledge, he is guilty of a Class 6 felony.

B. Any person who performs or causes to be performed cunnilingus, fellatio, anilingus or anal intercourse upon or by his daughter or granddaughter, son or grandson, brother or sister, or father or mother is guilty of a Class 5 felony. However, if a parent or grandparent commits any such act with his child or grandchild and such child or grandchild is at least 13 but less than 18 years of age at the time of the offense, such parent or grandparent is guilty of a Class 3 felony.

C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes step-child and grandchild includes step-grandchild.

Applicable Case Law:

***Warren v. Commonwealth*, 822 S.E.2d 395, 69 Va. App. 659 (Va. Ct. App. 2019).**

Facts: Arthur Anderson Warren was convicted in a bench trial for soliciting another person to engage in bestiality, in violation of Virginia Code §§ 18.2-29 and 18.2-361(A). The conviction arose from Warren videotaping sexual encounters involving a woman, K.H., and her dog, where Warren encouraged the acts. Warren appealed, arguing that the statute under which he was convicted was unconstitutional, claiming it criminalized private sexual conduct between consenting adults.

Holding: The Court of Appeals of Virginia, in an opinion by Judge Wesley G. Russell, Jr., affirmed the trial court's decision. The court held that the bestiality provision of the anti-sodomy statute was not facially invalid, as it did not criminalize conduct protected by the liberty interests guaranteed by the Due Process Clause, as interpreted in *Lawrence v. Texas*. The court also found that Warren had no fundamental right under the due process clause to engage in bestiality, as it was a crime at common law and not equated with private sexual acts between consenting adults.

The court further determined that the bestiality provision was rationally related to legitimate government interests, such as preventing cruelty to animals and protecting public health from infectious diseases that could be spread through sexual contact with animals. Therefore, the statute did not violate the Due Process Clause, and Warren's constitutional challenges, both facial and as applied, were rejected.

***Ward v. Commonwealth*, No. 0071-10-2, 2011 WL 780356 (Va. Ct. App., Mar. 8, 2011).**

Facts: Evidence sufficiently corroborated defendant's extrajudicial confession, that he “would stick his finger in the dog's vagina,” to establish the corpus delicti of the offense of carnal knowledge of a brute animal. Defendant was the only person in house and was alone with the dog for each day while his daughter, the dog's owner, was away at work, and daughter testified that during that same time period the dog developed problems with its “anal glands” and demonstrated odd behavioral and eating patterns, but those problems ceased almost immediately after defendant was removed from the house.

Holding: Defendant's digital penetration of dog's vagina constituted “carnal knowledge,” as required to support his conviction for carnal knowledge of a brute animal. Conviction affirmed based on owner’s testimony of dog developing problems with anal glands and change in dog’s behavior when defendant was in the home. Further corroborated by defendant’s admission that he had “done something” by “inappropriately touching” the dog and having the dog lick his own genitalia and anus.

Sentencing: Sentencing is unclear from case record, but it appears that the Defendant was convicted of a Class 6 felony

7. PUNISHMENTS/PENALTIES

VA. CODE ANN. § 18.2-403.1 (2020). Offenses involving animals - Class 1 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 1 misdemeanor:

1. Violation of subsection A of § 3.2-6570 pertaining to cruelty to animals, except as provided for second or subsequent violations in that section.
2. Violation of § 3.2-6508 pertaining to transporting animals under certain conditions.
3. Making a false claim or receiving money on a false claim under § 3.2-6553 pertaining to compensation for livestock and poultry killed by dogs.
4. Violation of § 3.2-6518 pertaining to boarding establishments and groomers as defined in § 3.2-6500.
5. Violation of § 3.2-6504 pertaining to the abandonment of animals.
6. Violation of subdivision B 3 of § 3.2-6587 pertaining to an animal confinement agreement or plan set forth in § 3.2-6562.1.

No Applicable Case Law.

VA. CODE ANN. § 18.2-403.2 (2019). Offenses involving animals - Class 3 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 3 misdemeanor:

1. Violation of § 3.2-6511 pertaining to the failure of a shopkeeper or pet dealer to provide adequate care to animals.
2. Violation of § 3.2-6509 pertaining to the misrepresentation of an animal's condition by the shopkeeper or pet dealer.
3. Violation of § 3.2-6510 pertaining to the sale of baby fowl.
4. Violation of clause (iv) of subsection A of § 3.2-6570 pertaining to soring horses.
5. Violation of § 3.2-6519 pertaining to notice of consumer remedies required to be supplied by boarding establishments.

No Applicable Case Law.

VA. CODE ANN. § 18.2-403.3 (2020). Offenses involving animals - Class 4 misdemeanors.

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 4 misdemeanor:

1. Violation of § 3.2-6566 pertaining to interference of agents charged with preventing cruelty to animals.
2. Violation of § 3.2-6573 pertaining to shooting pigeons.
3. Violation of § 3.2-6554 pertaining to disposing of the body of a dead companion animal.
4. Unless otherwise punishable under subsection B of § 3.2-6587, violation of ordinances passed pursuant to §§ 3.2-6522 and 3.2-6525 pertaining to rabid dogs and preventing the spread of rabies and the running at large of vicious dogs.
5. Violation of an ordinance passed pursuant to § 3.2-6539 requiring dogs to be on a leash.
6. Failure by any person to secure and exhibit the permits required by § 29.1-422 pertaining to field trails, night trails and foxhounds.
7. Diseased dogs.-- For the owner of any dog with a contagious or infectious disease, other than rabies, to permit such dog to stray from his premises if such disease is known to the owner.
8. License application.-- For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.
9. License tax.-- For any dog or cat owner to fail to pay any license tax required by subsection A or C of § 3.2- 6530 within one month after the date when it is due. In addition, the court may order confiscation and the proper disposition of the dog or cat.
10. Concealing a dog or cat.-- For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.
11. Removing collar and tag.-- For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.
12. Violation of § 3.2-6503 pertaining to care of animals by owner.

No Applicable Case Law.

VA. CODE ANN. § 18.2-10 (2021). Punishment for conviction of felony, penalty

The authorized punishments for conviction of a felony are:

- (a) For Class 1 felonies, imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. Any person who was 18 years of age or older at the time of the offense and who is sentenced to imprisonment for life upon conviction of a Class 1 felony shall not be eligible for (i) parole, (ii) any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1, or (iii) conditional release pursuant to § 53.1-40.01 or 53.1-40.02.
- (b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$ 100,000.
- (c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$ 100,000.
- (d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$ 100,000.
- (e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$ 2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$ 2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of incarceration of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

No Applicable Case Law.

VA. CODE ANN. § 18.2-11 (2024). Punishment for conviction of misdemeanor

The authorized punishments for conviction of a misdemeanor are:

(a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.

(b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1,000, either or both.

(c) For Class 3 misdemeanors, a fine of not more than \$500.

(d) For Class 4 misdemeanors, a fine of not more than \$250.

For a misdemeanor offense prohibiting proximity to children as described in subsection A of §18.2-370.2, the sentencing court is authorized to impose the punishment set forth in subsection B of that section in addition to any other penalty provided by law.

No Applicable Case Law.

8. SEIZURE OF ANIMALS

Va. CODE ANN. § 3.2-6569 (2022). [*Formerly cited as Va. CODE ANN. § 3.1-796.115*]. **Seizure and impoundment of animals; notice and hearing; disposition of animal; disposition of proceeds upon sale**

A. Any humane investigator,²⁸ law-enforcement officer or animal control officer may lawfully seize and impound any animal that has been abandoned, has been cruelly treated, or is suffering from an apparent violation of this chapter that has rendered the animal in such a condition as to constitute a direct and immediate threat²⁹ to its life, safety or health. The seizure or impoundment of an equine resulting from a violation of clause (iv) of subsection A or clause (ii) of subsection B of § 3.2-6570 may be undertaken only by the State Veterinarian or State Veterinarian's representative who has received training in the examination and detection of sore horses as required by 9 C.F.R. Part 11.7.

B. Before seizing or impounding any agricultural animal³⁰, the humane investigator, law-enforcement officer or animal control officer shall contact the State Veterinarian or a State Veterinarian's representative, who shall recommend to the person the most appropriate action for effecting the seizure and impoundment. The humane investigator, law-enforcement officer or animal control officer shall notify the owner of the agricultural animal and the local attorney for the Commonwealth of the recommendation. The humane investigator, law-enforcement officer or animal control officer may impound the agricultural animal on the land where the agricultural animal is located if:

1. The owner or tenant of the land where the agricultural animal is located gives written permission;
2. A general district court so orders; or
3. The owner or tenant of the land where the agricultural animal is located cannot be immediately located, and it is in the best interest of the agricultural animal to be impounded on the land where it is located until the written permission of the owner or tenant of the land can be obtained. If there is a direct and immediate threat to an agricultural animal, the humane investigator, law enforcement officer or animal control officer may seize the animal, in which case the humane investigator, law-enforcement officer or animal control officer shall file within five business days on a form approved by the State Veterinarian a report on the condition of the animal at the time of the seizure, the location of impoundment, and any other information required by the State Veterinarian.

C. Upon seizing or impounding an animal, the humane investigator, law-enforcement officer or animal control officer shall petition the general district court in the city or county where the animal is seized for a hearing. The hearing shall be not more than 10 business days from the date of the seizure of the animal. The hearing shall be to determine whether the animal has been abandoned, has been cruelly treated, or has not been provided adequate care.

²⁸ "'Humane investigator' means a person who has been appointed by a circuit court as a humane investigator as provided in § 3.2-6558."

²⁹ "'Direct and immediate threat' means any clear and imminent danger to an animal's health, safety or life."

³⁰ "'Agricultural animals' means all livestock and poultry."

D. The humane investigator, law-enforcement officer, or animal control officer shall cause to be served upon the person with a right of property in the animal or the custodian of the animal notice of the hearing. If such person or the custodian is known and residing within the jurisdiction wherein the animal is seized, written notice shall be given at least five days prior to the hearing of the time and place of the hearing. If such person or the custodian is known but residing out of the jurisdiction where such animal is seized, written notice by any method or service of process as is provided by the Code of Virginia shall be given. If such person or the custodian is not known, the humane investigator, law-enforcement officer, or animal control officer shall cause to be published in a newspaper of general circulation in the jurisdiction wherein such animal is seized notice of the hearing at least one time prior to the hearing and shall further cause notice of the hearing to be posted at least five days prior to the hearing at the place provided for public notices at the city hall or courthouse wherein such hearing shall be held.

E. The procedure for appeal and trial shall be the same as provided by law for misdemeanors, except that unless good cause is determined by the court, an appeal shall be heard within 30 days. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

F. The humane investigator, law-enforcement officer, or animal control officer shall provide for such animal until the court has concluded the hearing. Any locality may require the owner of any animal held pursuant to this subsection for more than thirty days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time set by ordinance, not to exceed nine months.

In any locality that has not adopted such an ordinance, a court may order the owner of an animal held pursuant to this subsection for more than 30 days to post a bond in surety with the locality for the amount of the cost of boarding the animal for a period of time not to exceed nine months. The bond shall not be forfeited if the owner is found to be not guilty of the violation.

If the court determines that the animal has been neither abandoned, cruelly treated, nor deprived of adequate care, the animal shall be returned to the owner. If the court determines that the animal has been (i) abandoned or cruelly treated, (ii) deprived of adequate care, as that term is defined in § 3.2-6500, or (iii) raised as a dog that has been, is, or is intended to be used in dogfighting in violation of § 3.2-6571, then the court shall order that the animal be: (a) sold by a local governing body, if not a companion animal; (b) disposed of by a local governing body pursuant to subsection D of § 3.2-6546, whether such animal is a companion animal or an agricultural animal; or (c) delivered to the person with a right of property in the animal as provided in subsection G.

G. In no case shall the owner be allowed to purchase, adopt, or otherwise obtain the animal if the court determines that the animal has been abandoned, cruelly treated, or deprived of adequate care. The court shall direct that the animal be delivered to the person with a right of property in the animal, upon his request, if the court finds that the abandonment, cruel treatment, or deprivation of adequate care is not attributable to the actions or inactions of such person.

H. The court shall order the owner of any animal determined to have been abandoned, cruelly treated, or deprived of adequate care to pay all reasonable expenses incurred in caring and providing for such animal from the time the animal is seized until such time that the animal is disposed of in accordance with the provisions of this section, to the provider of such care.

I. The court may prohibit the possession or ownership of other companion animals by the owner of any companion animal found to have been abandoned, cruelly treated, or deprived of adequate care. In making a determination to prohibit the possession or ownership of companion animals, the court may take into consideration the owner's past record of convictions under this chapter or other laws prohibiting cruelty to animals or pertaining to the care or treatment of animals and the owner's mental and physical condition.

J. If the court finds that an agricultural animal has been abandoned or cruelly treated, the court may prohibit the possession or ownership of any other agricultural animal by the owner of the agricultural animal if the owner has exhibited a pattern of abandoning or cruelly treating agricultural animals as evidenced by previous convictions of violating § 3.2-6504 or 3.2-6570. In making a determination to prohibit the possession or ownership of agricultural animals, the court may take into consideration the owner's mental and physical condition.

K. Any person who is prohibited from owning or possessing animals pursuant to subsection I or J may petition the court to repeal the prohibition after two years have elapsed from the date of entry of the court's order. The court may, in its discretion, repeal the prohibition if the person can prove to the satisfaction of the court that the cause for the prohibition has ceased to exist.

L. When a sale occurs, the proceeds shall first be applied to the costs of the sale then next to the unreimbursed expenses for the care and provision of the animal, and the remaining proceeds, if any, shall be paid over to the owner of the animal. If the owner of the animal cannot be found, the proceeds remaining shall be paid into the Literary Fund.

M. Nothing in this section shall be construed to prohibit the humane destruction of a critically injured or ill animal for humane purposes by the impounding humane investigator, law enforcement officer, animal control officer, or licensed veterinarian.

Applicable Case Law:

***Mosca v. Commonwealth*, No. 1084-11-4, 2012 WL 5906715 (Va. Ct. App. Nov. 27, 2012).**

Facts: The Court of Appeals of Virginia reviewed a decision from the Circuit Court of Warren County, which found Carol Mosca in violation of Virginia Code §§ 3.2-6569 and -6500 due to inadequate care of her dog, Bellaluna, which was deemed a direct and immediate threat to the animal's life, safety, or health. The trial court had granted custody of Bellaluna to the Humane Society of Warren County and ordered Mosca to pay \$1,350 to the Humane Society. Mosca appealed, arguing that the trial court applied the wrong standard of proof, using a preponderance of the evidence instead of the required beyond a reasonable doubt standard.

The background of the case involves Mosca moving to a rental property in Warren County, where her dogs were reported running at large multiple times. Deputies from the Warren County Sheriff's Office had several encounters with Mosca and her dogs, noting that the dogs were often unconfined and found off Mosca's property. Despite efforts to confine the dogs, Bellaluna was eventually captured by animal control and gave birth to puppies shortly thereafter.

During the trial, the Commonwealth argued that the case was civil and should be decided by a preponderance of the evidence. Mosca's counsel conceded to this standard but requested a higher standard similar to child custody cases. The trial court ruled in favor of the Commonwealth, applying the preponderance of the evidence standard, and ordered Bellaluna into the custody of the Humane Society. Mosca filed a motion for rehearing, arguing that the correct standard of proof was beyond a reasonable doubt, as required by Code § 3.2-6569(E). However, the trial court did not act on this motion within the required time, and the appeal followed.

Holding: The Court of Appeals reviewed the case de novo and found that the trial court erred in applying the preponderance of the evidence standard. The statute clearly required proof beyond a reasonable doubt. The court also determined that this error was not harmless, as the evidence against Mosca was insufficient to meet the higher standard of proof. The evidence showed that while Bellaluna was often found off Mosca's property, there was no indication of injury or malnourishment, and the threat to the dog's life, safety, or health was not clearly established.

The Court of Appeals reversed the trial court's decision and remanded the case for a new trial, applying the correct standard of proof.

Judge McCullough concurred in part and dissented in part, agreeing that the wrong standard was applied but arguing that the error was harmless given the evidence presented. He believed that the evidence established beyond a reasonable doubt that Mosca's actions violated the relevant statutes, as Bellaluna was constantly exposed to dangers due to Mosca's refusal to confine her.

***Settle v. Commonwealth*, 692 S.E.2d 641, 56 Va. App. 222 (Va. Ct. App. 2010).**

Facts: Charles E. Settle, Jr. was convicted in a bench trial of two counts of inadequate care by owner of companion animals, pursuant to Code § 3.1-796.68, and one count of dog at large, pursuant to Fauquier County Code §§ 4-22 and 13-1. Witness testimony was sufficient to prove beyond a reasonable doubt that the defendant, who was sitting in court in the witnesses' presence, was the same person with whom the witnesses dealt on numerous occasions.

Holding: Pursuant to Code § 3.1-796.115, all of the dogs at issue were seized from appellant's control and placed in the care of local animal shelters. Additionally, the trial court declared three of the dogs dangerous pursuant to Code § 3.1-796.93:1. Settle was convicted of two counts of inadequate care by an owner, in violation of Virginia Code § 3.1-796.68 and allowing a dog to run at large, in violation of Va. Code § 3.1-796.128. In addition, pursuant to Code § 3.1-796.115, Settle was adjudicated unfit to own a companion animal and his dogs. Three dogs were declared to be “dangerous dogs” under Code § 3.1-796.93. Remaining dogs were ordered forfeited to the Fauquier County SPCA and/or the Middleburg Humane Foundation. Conviction affirmed.

Sentencing: Settle was ordered to pay a total of \$300.00 in fines and \$423.00 court costs. The trial court awarded a monetary judgment pursuant to the Middleburg Humane Foundation in the amount of \$45,261.51.

5. REPORTING

VA. CODE ANN. § 3.2-6564 (2008). Complaint of suspected violation; investigation

A. Upon receiving a complaint of a suspected violation of this chapter, any ordinance enacted pursuant to this chapter or any law for the protection of domestic animals, any animal control officer, law-enforcement officer, or State Veterinarian's representative may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment. Upon receiving a complaint of a suspected violation of any law or ordinance regarding care or treatment of animals or disposal of dead animals, any humane investigator may, for the purpose of investigating the allegations of the complaint, enter upon, during business hours, any business premises, including any place where animals or animal records are housed or kept, of any dealer, pet shop, groomer, or boarding establishment.

Upon obtaining a warrant as provided for in § 3.2-6568, the law-enforcement officer, animal control officer, State Veterinarian's representative, or humane investigator may enter upon any other premises where the animal or animals described in the complaint are housed or kept. Attorneys for the Commonwealth and law-enforcement officials shall provide such assistance as may be required in the conduct of such investigations.

B. If the investigation discloses that a violation of § 3.2-6503 has occurred, the investigating official shall notify the owner or custodian of the complaint and of what action is necessary to comply with this chapter.

No Applicable Case Law.

VA. CODE ANN. § 3.2-6565 (2008). Impoundment; expenses; lien; disposition of animal

When an animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative finds that an apparent violation of this chapter has rendered an animal in such a condition as to constitute a direct and immediate threat to its life, safety or health that the owner or custodian has failed to remedy, such animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative may impound the animal pursuant to § 3.2-6569 in a facility that will provide the elements of good care as set forth in § 3.2-6503 and shall then proceed to take such steps as are required to dispose of the animal pursuant to § 3.2-6569.

Applicable Case Law:

Mosca v. Commonwealth, No. 1084-11-4, 2012 WL 5906715 (Va. Ct. App. Nov. 27, 2012), on Page 31 of this document.

VA. CODE ANN. § 3.2-6566 (2010). Preventing cruelty to animals; interference; penalty

Each animal control officer, humane investigator or State Veterinarian's representative shall interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct or resist any humane investigator or State Veterinarian's representative in the discharge of his rights, powers, and duties as authorized and prescribed by law is guilty of a Class 4 misdemeanor.

No Applicable Case Law.

VA. CODE ANN. § 3.2-6567 (2008). Enforcement authority

All law-enforcement officers in the Commonwealth and State Veterinarian's representatives shall enforce the provisions of this chapter to the same extent other laws in the Commonwealth are enforced.

No Applicable Case Law

VA. CODE ANN. § 3.2-6568 (2014). Power of search for violations of statutes against cruelty to animals.

When an affidavit is made under oath before a magistrate or court of competent jurisdiction by any animal control officer, humane investigator, law-enforcement officer or State Veterinarian's representative that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in any particular building or place, such magistrate or judge, if satisfied that there is reasonable cause for such belief, shall issue a warrant authorizing any sheriff, deputy sheriff or police officer, to search the building or place. After issuing a warrant under this section, the magistrate or judge shall file the affidavit in the manner prescribed by § 19.2-54. After executing the warrant, the animal control officer, humane investigator, law-enforcement officer, or State Veterinarian's representative shall return the warrant to the clerk of the circuit court of the city or county wherein the search was made.

No Applicable Case Law